

## TITLE 9. PUBLIC PEACE AND SAFETY

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### Chapter 9.01. Police Department.

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#### 9.01.010. Police Department; Chief of Police.

(1) There shall be a Police Department consisting of a Chief of Police and subordinate police officers and other employees.

(2) The Mayor shall, subject to the advice and consent of the Municipal Council, appoint a person to act as Chief of Police. The Chief of Police may be removed from office by the Mayor as otherwise provided by law. (Am 1987-07, Ren 1990-19)

#### 9.01.020. Police Department: Organization and Assignments.

(1) The Chief of Police may, with the consent of the Mayor, organize and from time to time reorganize the Police Department.

(2) The Chief of Police may assign any subordinate officer or employee in the department to any duty which in the judgment of the Chief the good of the service may require, and may change such

assignment from time to time whenever in the judgment of the Chief the good of the service requires. (Am 1989-10, Ren 1990-19)

#### 9.01.030. Chief of Police: Rules and Regulations.

The Chief of Police, shall make and adopt rules and regulations for the operation of the department. The Mayor may disapprove any rule or regulation made and adopted by the Chief of Police. (Am 1987-07, Ren 1990-19)

#### 9.01.040. Lost and Stolen Property: Disposition.

(1) The Chief of Police shall be responsible to hold and dispose of all lost or stolen property that comes into the possession of the Police Department in accordance with the requirements of Utah Code Title 77 Chapters 24 and 24a. This provision shall not prohibit the Chief of Police from disposing of firearms as provided for by 76-10-525 UCA.

(2) The Chief of Police shall make full report to the City Director of Finance for the amount of money received at sale, and the monies received less actual expenses at the sale shall be handed over to the City Treasurer for final disposition as provided by law. (Am 1987-07, Ren 1990-19, Am 2006-45, Am 2011-16)

#### 9.01.050. Control - Suspension.

(1) The Police Department shall be under the management of the Chief of Police, except as otherwise provided by law, the Provo City Code or other City ordinance. The Chief of Police shall have the control, management and direction of the members of the department in the lawful exercise of the Chief's functions, with full power, at any time, to suspend any subordinate officer, or employee, person or agents, in the Police Department for a period of not exceeding fifteen (15) days, when, in the Chief's judgment, the good of the service requires it, and during the time of such suspension the person or persons so suspended shall not be entitled to any salary or compensation whatever.

(2) In all cases of suspension, the Chief shall immediately report the same in writing to the Mayor. (Am 1989-10, Ren 1990-19, Am 2006-45)

#### 9.01.060. Chief of Police - Rules and Regulations.

The Chief of Police, shall make and adopt rules and regulations for the operation of the department. The Mayor may disapprove any rule or regulation made and adopted by the Chief of Police. (Am 1987-07, Ren 1990-19)

#### 9.01.070. Special Police Officers.

(1) The Chief of Police, with the advice and consent of the Mayor, may at any time appoint special patrolmen to serve without pay from the City. Said appointments shall be made for a period not to exceed one (1) year from date thereof, and shall be subject to revocation and removal prior thereto, as herein provided.

(2) The City Recorder shall issue to each special police officer so appointed a certificate of appointment which shall designate whether the appointee is authorized to act as such special patrolman throughout the City or at a particular place therein, and if at any particular place, the place shall be designated in such certificate. The City Recorder shall keep a book containing the names of such appointees, the date of appointment and the date of expiration of said appointment.

(3) The Chief of Police shall exercise general supervision over such special police officers, and may, with the consent of the Mayor, at any time remove such officers and revoke the police powers conferred upon any special police officer before the period for which the officer or the special police officer was appointed has expired, without charges being preferred and without trial, hearing or opportunity to be heard, whenever in the Chief's opinion the good of the service will

be served thereby and such removal and revocation of authority shall be final and conclusive. (Am 1989-10, Ren 1990-19, Am 2006-49)

#### **9.01.080. Ranking Officers.**

(1) Command shall be exercised by virtue of office and special assignment of officers eligible by law, the Provo City Code and other City ordinance to command. The officers of the department shall rank in the following order:

- (a) first: Chief of Police;
- (b) second: Captain;
- (c) third: Lieutenant;
- (d) fourth: Sergeant. (Am 1989-10, Ren 1990-19)

#### **9.01.090. Gifts - Acceptance of - Penalty.**

(1) No member of the Police Department shall receive any fee or any compensation whatever, directly or indirectly, from a City, county or state for any private service rendered, or act done by such member of the Police Department other than the salary provided by the Provo City Code or other City ordinance, except witness fees in district courts and justice courts. Nor shall any member of the Police Department receive any money or compensation whatever, directly or indirectly, from any person for any service rendered, to be rendered, or act done other than the salary provided by the Provo City Code. Provided, that a gift or reward may be accepted by a member of the Police Department only upon written recommendation of the Chief of Police and approved by the Mayor.

(2) Any violation of this Section shall subject the offender to immediate dismissal. (Am 1989-10, Ren 1990-19, Am 2007-50)

#### **9.01.100. Chief of Police - Duties Generally.**

(1) The Chief of Police shall, in the discharge of the Chief's duties, have like powers and be subject to like responsibility as sheriffs and constables in similar cases; and shall suppress riots, disturbances and breaches of the peace, and apprehend all persons committing any offense against the laws of the state, the Provo City Code or other ordinances of the City. At all times the Chief shall diligently and faithfully discharge the Chief's duties and enforce all Sections of the Provo City Code, other ordinances and regulations of the City for the preservation of peace and good order, and the protection of the rights and property of all persons.

(2) The Chief shall consult and advise with the Mayor, and act with the Mayor's approval on all matters pertaining to the Police Department not herein specifically provided for, and shall from time to time make such reports as the Mayor shall require and shall annually make report to the Municipal Council of the state of affairs and conditions of the Police Department. (Am 1989-10, Ren 1990-19, Am 2006-49)

#### **9.01.120. Police Officers - Powers, Duties.**

Police officers shall possess the powers conferred upon constables by law. They shall execute and serve all warrants, process, commitments and writs issued by the City courts. They shall at all times preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, protect persons and property, remove nuisances existing in the public streets, roads and highways, enforce every law, both state and municipal, relating to the suppression of offenses, and perform all duties enjoined upon them by the Provo City Code or other City ordinance. (Ren 1990-19)

#### **9.01.130. Arrests - Authority.**

A police officer shall have power and authority without process to arrest and take into custody any person who shall commit or threaten or attempt to commit in the presence of the officer or within the officer's view any breach of the peace or any offense directly

prohibited by the laws of this state or by any section of the Provo City Code or other City ordinance. (Ren 1990-19, Am 2006-49)

## **Chapter 9.02. Fire Department.**

- 9.02.010. Fire Department; Fire Chief.
- 9.02.020. Fire Department: Organization Assignments.
- 9.02.030. Fire Chief: Rules and Regulations.

#### **9.02.010. Fire Department; Fire Chief.**

(1) There shall be a Fire Department consisting of a Fire Chief and subordinate fire fighters and other employees.

(2) The Mayor shall, subject to the advice and consent of the Municipal Council, appoint a person to act as Fire Chief. The Fire Chief may be removed from office by the Mayor as otherwise provided by law. (Ren&Am 1990-19)

#### **9.02.020. Fire Department: Organization and Assignments.**

(1) The Fire Chief may, with the consent of the Mayor, organize and from time to time reorganize the Fire Department.

(2) The Fire Chief may assign any subordinate officer or employee in the department to any duty which in the judgment of the Chief the good of the service may require, and may change such assignment from time to time whenever in the judgment of the Chief the good of the service requires. (Ren&Am 1990-19)

#### **9.02.030. Fire Chief: Rules and Regulations.**

The Fire Chief shall make and adopt rules and regulations for the operation of the Fire Department. The Mayor may disapprove any rule or regulation made and adopted by the Fire Chief. (Am 1989-10, Ren&Am 1990-19)

## **Chapter 9.03. Weapons.**

- 9.03.010. Discharge of Firearms Prohibited.
- 9.03.020. Discharge of Air Guns, Sparrow Guns, Flippers, BB Guns, Etc., Prohibited.
- 9.03.030. Minors - Use of Firearms, Air Guns, Prohibited - Duty of Parents.

#### **9.03.010. Discharge of Firearms Prohibited.**

(1) It shall be unlawful for any person, except public officers in the pursuit of their lawful duties, to discharge firearms of any description within the limits of Provo City.

(2) This Section shall not be construed, however, to prevent the firing of firearms at any rifle or pistol range approved and inspected by the Chief of Police.

(3) This Section shall not apply to areas set aside and designated as hunting areas within the City on a map approved by the Mayor, which the Mayor may revise from time to time. (Am 1987-59, Am 2006-49)

#### **9.03.020. Discharge of Air Guns, Sparrow Guns, Flippers, BB Guns, Etc., Prohibited.**

It shall be unlawful for any person to discharge any air gun, sparrow gun, flipper, BB gun, or any other contrivance of a similar nature which is capable of projecting a missile for a horizontal distance of fifty (50) feet or more, within the limits of Provo City, except upon a place inspected and approved by the Chief of Police. (Am 1987-59)

#### **9.03.030. Minors - Discharge of Firearms, Air Guns Prohibited - Duty of Parents.**

Except in areas specifically designated by the City as inspected and approved places as set forth in this Chapter, it shall be unlawful

for any parent or guardian or person having the charge or control of any minor, to allow or permit such minor to discharge in any place, either private or public, within the City limits, any firearm or air gun. (Am 1996-53)

## Chapter 9.05. False Advertising.

- 9.05.010. False or Fraudulent Advertising Prohibited.
- 9.05.020. Dealers Not Disclosing True Character.
- 9.05.030. Seconds to be Marked.

### 9.05.010. False or Fraudulent Advertising Prohibited.

It shall be unlawful for any person engaged in business in Provo City with intent to sell or in any wise dispose of merchandise, service, or anything offered by such person directly or indirectly to the public for sale, or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or an interest therein, to make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated or placed before the public in this City in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise service, or anything so offered the public, which advertisement contains any assertion, representation or statement of fact which is false or untrue in any respect or which is deceptive or misleading.

### 9.05.020. Dealers Not Disclosing True Character.

It shall be deemed deceptive and misleading advertising and unlawful for any person engaged in the business of buying and selling new or secondhand articles or goods, wares and merchandise, or other property, real or personal, or who is engaged in the business of furnishing any kind of service, to advertise by means of "liner ads" in a newspaper, or otherwise, such articles, property or service for sale in a manner indicating that the sale is being made by a householder, or private party not engaged in such business. Every person engaged in any such business shall in advertising such goods, wares or merchandise, property or service for sale either through "liner ads," or otherwise, affirmatively and clearly indicate the seller is engaged in such business and is not a private party.

### 9.05.030. Seconds to be Marked.

It shall be deemed deceptive and misleading advertising and unlawful for any person in a newspaper or other publication, or in any other manner hereinbefore set out, to offer to the public, for sale or distribution, any merchandise which is second hand or used merchandise, or which is defective in any manner, or which consists of articles or units or parts known as "seconds" or blemished merchandise or which has been rejected by the manufacturer thereof as not first class, unless there be conspicuously displayed in direct connection with the name and description of such merchandise and each specific article, unit or part thereof, an unequivocal statement, phrase, or word which will clearly indicate that such merchandise or each article, unit or part thereof so advertised is second hand, used, defective, or consists of "seconds," or is blemished merchandise, or has been rejected by the manufacturer thereof as not first class, as the fact may be.

## Chapter 9.06. Public Disturbances.

- 9.06.010. Legislative Determination.
- 9.06.020. Noise Measurement Procedures and Definitions.

- 9.06.030. Noise Limits.
- 9.06.040. Exemptions.
- 9.06.050. Use of Policemen at Large Parties or Gatherings Requiring a Second Response.

### 9.06.010. Legislative Determination.

The Municipal Council of Provo City hereby finds after extensive investigation and receiving of information from the public and from experts in the field, that the creation of noise within the City is a danger to the general health, safety, welfare and well being of the citizens. Such noises generally may be classified under one (1) of three (3) headings hereafter beginning with the least offensive and proceeding to those which are the most harmful and offensive:

(1) Sounds of commerce and industry: In this category are those noises necessarily made by commercial vehicles in process of transporting persons or goods, necessary noises of construction or demolition and other sounds necessarily connected with the carrying on of modern business life. Enforcement agencies of the City are hereby specifically authorized to work with the producers of this type of noise to either eliminate, modify and/or muffle such sounds in a way that will allow progress to continue while minimizing the disturbing effects of the noise. Creating of such noises, when they reach such a stage that they become harmful or disturbing are declared to be a public nuisance and shall be abated. Continued refusal to modify excessive noise is declared to be a misdemeanor.

(2) Public disturbance noises: In this category are those noises which because of their intensity, the decibel level, the constancy of the noise or proximity to residences, businesses and generally inhabited areas, create a disturbance to human life and efficiency. Included in this category and typical thereof, though not exclusive of others not so listed, would be the following:

- (a) inadequately or defectively muffled vehicles, engines and motors;
- (b) loud machinery and pneumatic apparatus;
- (c) amplified music or other amplified sounds;
- (d) miscellaneous noises, including those of animals, machinery, gunfire, etc., when their emission creates a public disturbance, either because of the intensity, or disturbing nature and/or the time of the emission. Noises of these categories are hereby determined to be not only a nuisance which may be abated by the proper authorities in the City, but are unlawful and each occurrence shall constitute a misdemeanor.

(3) Intentionally caused noises: In this category are those noises which are caused for the sake of making noise without regard to the comfort, sleep, or general health and welfare of other persons. Production of such noise is unlawful and constitutes a misdemeanor. Typical of this type of noises are the following:

- (a) improperly muffled vehicle engines, when the same are rapidly accelerated or decelerated, and especially during such hours that they are likely to interfere with the sleep or peaceful calm of residential neighborhoods;
- (b) sounds that are mechanically, pneumatically or electronically produced or amplified, when the same are not enclosed within a building or enclosure which absorbs the sound, so as not to disturb the surrounding area;
- (c) sounds or music created or amplified within a public building or enclosure with such volume and intensity that the sound produced is actually or potentially dangerous to hearers within the enclosure.

### 9.06.020. Noise Measurement Procedures and Definitions.

(1) It is the intent of the City to incorporate into the Provo City Code noise portions those standards of measurement hereinafter set forth, which will take into account the latest scientific advances in noise measurement and control while at the same time, preserving the

common sense and common law determination of what constitutes a disturbance or public nuisance. Therefore, sound level measurements, while universally desirable, shall not be required to demonstrate violation of this Chapter if other evidence or testimony establishes the creation of a disturbance or public nuisance.

(2) It is the intention that each separate provision of this Chapter shall be deemed independent of all other provisions therein, and if any provision of this Chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

(3) In no event shall the peak intensity of sound exceed a sound level in excess of the following limits, measured in decibels, using, unless otherwise mentioned, the "A" frequency weighting and the "slow" response characteristic of a sound level meter conforming in all respects to the American National Standards Institute (ANSI) standard S 1.4-1071, as revised, for Type 1 or Type 2 instruments.

(4) The microphone used to measure the intensity of a noise may be placed at any point on the property line (if the noise source radiates into private property) or at any point fifty (50) feet distance from the noise source being measured and shall be at least five (5) feet from any wall and not less than three (3) feet above the ground. If it is not possible to measure five (5) feet from a wall, five (5) dB variance will be allowed. When measurements are made inside buildings or enclosures, readings may be obtained from any area to which persons may have access. The following limits refer to the largest reading obtained, using the above procedure.

(5) When used in this Chapter, the terms below shall have the following meanings:

- (a) **"Day"** shall be from 7 a.m. to 10 p.m.
- (b) **"Night"** shall be from 10 p.m. to 7 a.m.
- (c) Reference to **"residential/agricultural," "commercial"** or **"industrial"** zones shall conform to the zone designations set forth in the City zoning codes.
- (d) **"Intermittent noise"** shall mean a noise with an "on" cycle of ten percent (10%) or less and a maximum continuous duration of six (6) minutes. Example: a motor vehicle passing a fixed location.
- (e) **"Impulse noise"** shall mean a noise with an "on" cycle of ten percent (10%) or less and a maximum continuous duration of two (2) seconds. Example: A gunshot.
- (f) **"Emergency work"** shall mean work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.
- (g) **"Person"** shall mean a person, firm, association, partnership, joint venture, corporation or an entity, public or private in nature.
- (h) **"Motor vehicles"** shall include, but not be limited to automobiles, trucks, motorcycle, snowmobiles, recreational vehicles, minibikes, go-carts, aircraft and motorboats.
- (i) **"Noise"** is defined as an undesired or harmful sound.
- (j) **"Noise source"** shall mean any instrument or device for amplifying sound, or any thing which produces, reproduces or amplifies sound. The term shall include multiple sources of sound. (Am 2006-40)

**9.06.030. Noise Limits.**

Exceeding the following limits shall constitute violation of this Chapter:

(1) Continuous and intermittent noises described in 9.06.010(1) shall not exceed:

DISTRICT	DAY	NIGHT
Residential/agricultural	85 dBA	55 dBA
Commercial	85 dBA	65 dBA
Industrial	85 dBA	85 dBA

(2) Continuous noises described in 9.06.010(2) and 9.06.010(3) shall not exceed:

DISTRICT	DAY	NIGHT
Residential/agricultural	65 dBA	55 dBA
Commercial	70 dBA	65 dBA
Industrial	75 dBA	75 dBA

(3) Intermittent noises described in 9.06.010(2) and (3) shall not exceed:

DISTRICT	DAY	NIGHT
Residential/agricultural	70 dBA	60 dBA
Commercial	75 dBA	65 dBA
Industrial	80 dBA	80 dBA

(4) Impulse noises described in 9.06.010(1), (2) and (3) shall not exceed the following levels, measured on the "fast" response scale of the sound level meter:

DISTRICT	DAY	NIGHT
Residential	75 dBA	60 dBA
Commercial	80 dBA	65 dBA
Industrial	85 dBA	85 dBA

(5) It shall be unlawful to sustain in any place of public entertainment including, but not limited to, sports arenas, restaurants, bars, cafes, discotheques, or dance halls; any sound level measured with the "slow" response characteristic equal to or in excess of:

One hundred five (105) dBA at any time, (if the sound level exceeds one hundred five (105) dBA at any time, a mandatory ten (10) minute sound break at a level below eighty-five (85) dBA will be taken). The restriction contained in this Subparagraph is in addition to any other applicable limits stated in this Section.

(6) Animals and fowl. The keeping of, upon any premises, owned, occupied, or controlled by any person, of any animal or fowl otherwise permitted to be kept which, by any sound or cry, shall cause annoyance or discomfort to a reasonable person of normal sensitivities.

**9.06.040. Exemptions.**

(1) Sounds created by emergency activities or emergency vehicles; sounds giving warning of emergencies shall be exempt from the provisions of this Chapter.

(2) Sounds created by parades, carnivals, special public social events, or special construction projects may be exempted from the noise provisions of this Chapter. An exemption is granted by a permit from the Mayor, which must be in writing and shall describe:

- (a) the special nature of the exempted event;
- (b) the dBA limitation (maximum allowed); and
- (c) the time period for which the exemption is in force.

The permit shall be for one event only. The Mayor may impose reasonable conditions on the issuance of a permit as necessary to protect the public peace and welfare. The permit may be withdrawn if the provisions thereof are violated.

(3) Violation of the noise provisions of this Chapter, or of the conditions of an exemption permit shall be a misdemeanor. (Am 1989-34)

**9.06.050. Use of Policemen at Large Parties or Gatherings Requiring a Second Response.**

(1) When a Public Disturbance, as defined below, occurs the person in charge of the premises and the person responsible for the event, or if either of those persons is a minor, then the parents or guardians of that minor, will be held jointly and severally liable for the cost of providing police personnel on special security assignment over and above the services normally provided by the department. The police personnel utilized during a second response to control a Public Disturbance, shall be deemed to be on special security assignment over and above the services normally provided. The costs of such special security assignment may include minor damages to

City property and/or injuries to City personnel. The costs charged will not be in excess of five hundred dollars (\$500) for a single incident. The City reserves its legal options to elect any other legal remedies.

(2) A public disturbance shall exist when one (1) or more persons:

(a) Violate or participate or assist in any conduct which is part of the violation of any law, the Provo City Code or other City ordinance;

(b) Participate or assist in any conduct which unreasonably threatens to cause a violation of any law, the Provo City Code or other City ordinance; or,

(c) Engage in any non-criminal conduct which, based on the standard of a reasonable person of normal sensitivity, disturbs or unreasonably threatens to disturb the public peace, health, safety or general welfare of persons in the vicinity of the conduct. (Enacted 1987-18, Am 2006-49)

## Chapter 9.09. Poolrooms, Billiard Halls and Bowling Alleys.

- 9.09.010. Presence of Minors During Certain Hours Prohibited.
- 9.09.020. Allowing Minors in Alcoholic-Serving Establishments Prohibited.
- 9.09.030. Misrepresentation of Age by Minors Unlawful.
- 9.09.040. Effect of Chapter.
- 9.09.050. Closing Hours.

### 9.09.010. Presence of Minors During Certain Hours Prohibited.

It shall be unlawful for any owner, proprietor manager, agent or person in charge of any poolroom, billiard hall, pin alley, table or ball alley, or bowling alley, to permit or allow any minor under the age of sixteen (16) years to remain inside of any poolroom, billiard hall, pin alley, table or ball alley, or bowling alley, between the hours of ten (10:00) p.m. and four (4:00) a.m. of the following day on Sunday and weekdays other than Friday or Saturday and between the hours of eleven (11:00) p.m. and four (4:00) a.m. of the following day on Friday or Saturday, unless accompanied by an adult having the care and custody of the minor.

### 9.09.020. Allowing Minors in Alcoholic-Serving Establishments Prohibited.

It shall be unlawful for any owner, proprietor or person in charge of any poolroom, billiard hall, pin alley, table or ball alley, or bowling alley, wherein beer is served, or wherein such premises are licensed to serve set-ups pursuant to state law, to permit or allow any minor under the age of twenty-one (21) years to enter, be or remain inside of any such poolroom, billiard hall, pin alley, table or ball alley, or bowling alley.

### 9.09.030. Misrepresentation of Age by Minors Unlawful.

It shall be unlawful for any minor under the age of sixteen (16) years to enter, be, or remain inside any poolroom, billiard hall, pin alley, table or ball alley, or bowling alley, or to misrepresent his or her age in order to gain admission thereto during any of the hours expressly prohibited herein. It shall be unlawful for any minor under the age of twenty-one (21) years to enter, be, or remain inside any poolroom, billiard hall, pin alley, table or ball alley, or bowling alley wherein beer is served or wherein such premises are licensed to serve setups pursuant to state law, or to misrepresent his or her age in order to gain admission thereto. (Am 2006-49)

### 9.09.040. Effect of Chapter.

This Chapter shall not relieve the owner, proprietor, manager, agent or person in charge of any poolroom, billiard hall, pin alley, table or ball alley, or bowling alley from complying with all other

ordinances, licenses and legal requirements necessary for the carrying on of any activities normal to such establishments or any other activities on said premises. This Chapter does not eliminate or negate any other Provo City ordinances or state requirements other than expressly stated herein.

### 9.09.050. Closing Hours.

All poolrooms, billiard halls, pin alleys, table or ball alleys, or bowling alleys shall close their doors at one (1:00) a.m. and discontinue business on the premises between the hours of one-thirty (1:30) a.m. and four (4:00) a.m. The Chief of Police shall have discretion to grant special permission for running of adult leagues or special events at hours later than those above provided. Written permission from the Chief of Police must be obtained for each such adult league or special event at least forty-eight (48) hours prior to the commencement thereof.

## Chapter 9.10. Obstructing or Aiding Police Officers.

- 9.10.010. Escaping Unlawful.
- 9.10.020. Aiding Escape Unlawful.
- 9.10.030. Interfering with Officer in Discharge of Duty.
- 9.10.050. False Report of Crime.
- 9.10.060. Traffic Control by Non-Peace Officers.
- 9.10.070. Failure to Obey Evacuation Order.

### 9.10.010. Escaping Unlawful.

It shall be unlawful for any person under arrest or being held in any form of confinement or restraint by order of a court of competent jurisdiction to escape from such arrest, confinement or restraint. (Am 1987-55)

### 9.10.020. Aiding Escape Unlawful.

It shall be unlawful for any person to aid or assist any person under arrest or being held in any form of confinement or restraint by order of a court of competent jurisdiction to escape from such arrest, confinement or restraint. (Am 1987-55)

### 9.10.030. Interfering with Officer in Discharge of Duty.

It shall be unlawful for any person to do any act which interferes with, resists, molests or threatens any peace officer within the limits of Provo City, while in the discharge of the peace officer's official duties. It shall be unlawful for any person to resist a lawful arrest whether made by a peace officer or by a private person. The fact the person being arrested believes the arrest to be improper or unlawful shall not be a defense to a violation of this Section if in fact it is a lawful arrest. (Am 1987-58, Am 2006-49)

### 9.10.050. False Report of Crime.

Every person who orally, or in writing reports to any police officer, dispatcher, or elected or appointed official of the City, that a crime has been committed, knowing such report to be false, is guilty of a misdemeanor. It shall likewise be unlawful for any person to knowingly falsify any report or make a false statement for the purpose of misleading a police investigation. Any false report or false statement shall constitute a misdemeanor.

### 9.10.060. Traffic Control by Non-Peace Officers.

(1) Subject to the limitations described in Subsection (3) of this Section a person who is employed by Provo City and is not a peace officer may direct traffic on public streets while under the supervision of a peace officer employed by Provo City.

(2) Subject to the limitations described in Subsection (3) of this Section a person who is employed by a college or university and is

not a peace officer may direct traffic on public streets while under the supervision of a peace officer employed by the same college or university.

(3) A non-peace officer may direct traffic as described in Subsections (1) and (2) of this Section only in cases of public emergency or to aid in the orderly movement of traffic related to public gatherings in excess of 5,000 people.

(4) It shall be unlawful for the driver of a motor vehicle to fail or refuse to obey the directions of a non-peace officer directing traffic as permitted in this Section. (Enacted 1990-20)

#### **9.10.070. Failure to Obey Evacuation Order.**

(1) Whenever a menace to the public health or safety is created by a natural disaster or similar calamity such as flood, storm, fire, earthquake, explosion, accident, the Mayor or the Chief of Police may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by the Mayor or the Chief of Police to enter or remain in the enclosed area.

(2) If the calamity creates an immediate menace to the health, safety, or welfare of those residing in an area where a menace exists, the Mayor or the Chief of Police may close the area and require the evacuation of buildings or other structures pursuant to the conditions set forth in this Section.

(3) The Mayor or the Chief of Police may close the immediate area surrounding any emergency field command post.

(4) Any unauthorized person who willfully and knowingly enters an area closed pursuant to Subsection (1), (2) or (3) of this Section, and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor and is subject to immediate arrest. (Enacted 1993-20)

### **Chapter 9.11. Lewdness, Profanity, Nudity, Obscenity and Pornography.**

- 9.11.010. Unlawful Acts.
- 9.11.020. Definitions.
- 9.11.030. Saving Clause.
- 9.11.040. Separate Offenses.

#### **9.11.010. Unlawful Acts.**

The following acts are hereby declared to be unlawful if done in any public place:

(1) The use of abusive, menacing, insulting, slanderous or profane language; or the uttering of obscenities.

(2) For any person to wilfully participate in any patently offensive act, representation or description of ultimate sexual acts, whether normal or perverted, actual or simulated.

(3) To knowingly or wilfully bathe in the nude in public or in such a manner that the nude body is exposed to the view of other persons.

(4) To willfully participate in or allow patently offensive acts, representations or descriptions of excretory functions and/or lewd exhibition of the genitals.

(5) To expose his or her private parts or go nude, or topless (if female) or bottomless in any public place or to procure, counsel, or assist any other person to so expose themselves.

(6) To urinate or stool in any public place (except public restrooms) or in any place exposed to public view or to procure, counsel, or aid any other person to so do.

(7) To possess, import, write, compose, stereotype, print, design, copy, draw, paint, or otherwise prepare, publish, offer for sale, display, exhibit by machine or otherwise or distribute or furnish any writing, paper, book, picture, magazine, pamphlet, print, design, figure,

still or motion picture, photograph, or negative thereof, photocopy, engraving, sound or video recording, card, instrument or other such article which depicts or represents or describes any obscene sexual conduct, or obscene performance or sadomasochistic abuse, with the intent to distribute or exhibit the same or use the same for advertising purposes, or to exhibit the same in any public place.

(8) To buy, procure, receive or possess any writing, paper, book, picture, drawing, magazine, pamphlet, print, design, figure, still or motion picture, photograph or negative thereof, photocopy, engraving, sound or video recording, card instrument or other article which depicts or represents or describes obscene sexual conduct and/or obscene performance, obscenities or sadomasochistic abuse with the intent to distribute or exhibit the same, or to exhibit the same in any public place, or use the same for advertising purposes.

(9) For any person, firm, or corporation to distribute or to exhibit any materials as obscene materials, whether or not the same are actually obscene, or to advertise as obscene any publications, film, picture or writing when the act of so doing shall amount to pandering or advertising of obscene materials.

(10) For any distributor or wholesaler to require as a condition to a sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical, publication, film, or other merchandise that the purchaser, consignee, or distributor receive any other material, which is obscene or is believed by the purchaser or consignee to be obscene or is advertised by the distributor to be obscene or to deny or threaten to deny any franchise, license, distributorship or contract or revoke or threaten to revoke or impose any penalties financially or otherwise, by reason of a failure or refusal of such purchaser or consignee, to accept such materials or to do such acts by reason of the return of said materials. (Am 2006-49)

#### **9.11.020. Definitions.**

As used in this Chapter, the following words will have the following meanings, unless the context requires otherwise:

"**Wilfully**" shall mean simply a purpose or willingness to commit the act or to omit an act referred to herein.

"**Knowingly**" shall mean, to have actual or constructive knowledge of the contents of the subject matter. A person has constructive knowledge if a reasonable inspection under the circumstances would have disclosed the nature of the subject matter and if the failure to inspect is for the purpose of avoiding such disclosure. Knowledge of the obscene nature of material shall be presumed when a person fails to inspect materials after receiving a complaint as to the obscene nature thereof.

"**Advertising purposes**" shall mean purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service or the commercial exhibition of an entertainment.

"**Display publicly**" shall mean the exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private an item in a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot or vehicle.

"**Person**" shall not be limited to individuals only but shall include public and private corporations, firms, joint-associations, partnerships and the like. The word "person" as used herein, shall apply to a natural person and shall apply equally to the male and female genders.

"**Furnishes**" shall mean to sell, give, rent, loan or otherwise provide.

"**Nude**" or "**nudity**" means uncovered, or less than opaquely covered buttocks, human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state or in a condition of sexual excitement. For purposes of this definition, a

female breast is considered uncovered if the nipple and the areola only are covered.

**"Obscene performance"** means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity as part of explicit sexual conduct or sadomasochistic abuse, or which includes explicit verbal description or narrative accounts of obscene sexual conduct.

**"Obscenities"** means those slang words currently and generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily sexual or excretory meaning.

**"Sadomasochistic abuse"** means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**"Distribute"** means to transfer possession of or permit to be viewed, heard or examined, with or without consideration.

**"Sexual conduct"** means human masturbation, sexual intercourse, or any touching of the covered or uncovered genitals, human female breast, pubic areas or buttocks of the human male or female, whether alone or between members of the same or opposite sex or between humans and animals, in an act of apparent sexual stimulation or gratification, which term shall include, but not limited to fellatio, cunnilingus, pederasty, and bestiality.

**"Sexual excitement"** means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.

**"Obscene"** shall mean an act, depiction, representation, description, obscene performance, or any other item, material or conduct in this chapter described, whether actual or simulated in form, which:

(a) taken as a whole, the average person would find appeals to the prurient interest when applying contemporary community standards;

(b) it is presented in a patently offensive way by going substantially beyond customary limits of candor in description or representation of the aforesaid matters in the community; and,

(c) taken as a whole, lacks serious literary, artistic, political, or scientific value.

**"Prurient interest"** shall mean a shameful or morbid interest in nudity, sex, or excretion.

**"Public place,"** a place accessible or visible to members of the public or to casual passersby; or any place where a fee or charge is made for entrance or membership.

**"Pandering,"** catering to the lust or gratification of lust of another.

#### **9.11.030. Saving Clause.**

In the event any word, sentence, paragraph or section of this Chapter shall be found to be unconstitutional, it shall not affect the constitutionality or enforceability of the remainder of this Chapter which is not specifically found unconstitutional.

#### **9.11.040. Separate Offenses.**

Each separate act or occurrence which is prohibited under this Chapter shall constitute a separate offense and shall separately be treated as a misdemeanor under the Provo City Code.

### **Chapter 9.12. Unlawful Sex Acts.**

9.12.010. Unlawful Sex Acts.

9.12.020. Soliciting for Immoral Purposes.

9.12.030. Pandering.

9.12.040. Abusive Language.

9.12.050. Insulting a Person of the Opposite Sex.

9.12.060. Operation of House of Prostitution, Bawdy House, Etc.

9.12.070. Sex Acts for Hire in Massage Parlors.

#### **9.12.010. Unlawful Sex Acts.**

It shall be unlawful for any person, in public or in a public place, to exhibit or expose his or her genitals, or to engage in, or to solicit another to engage in, any unlawful sexual conduct. (Am 1989-19)

#### **9.12.020. Soliciting for Immoral Purposes.**

It shall be unlawful for any person to offer or agree to a sex act for hire or to endeavor to play the vocation of prostitute, gigolo or pimp or to endeavor by sign, gesture or action to induce or prevail upon any person to enter any house or room occupied by a prostitute, gigolo or pimp or make any bold or meretricious display either upon the public streets or in any public place or at any window or doorway or at any house or room so occupied by such person in view of any public street or place or area generally frequented by the public to induce or prevail upon any other person to enter the premises for the purpose of committing an act of sex for hire. (Am 2006-49)

#### **9.12.030. Pandering.**

It shall be unlawful for any person to run a house of prostitution or to act as a pimp or go-between for persons engaged in sex for hire practices or to solicit any person within the limits of Provo City for sexual intercourse for hire or to hold out any other person for that purpose or to engage in any other lewd, lascivious or obscene purpose.

#### **9.12.040. Abusive Language.**

It shall be unlawful for any person to use abusive, menacing, insulting, slanderous, profane or lewd language within the limits of Provo City.

#### **9.12.050. Insulting a Person of the Opposite Sex.**

(1) Every male person who rudely or improperly follows, pursues, lays hands on, molests, insults or insolently or offensively speaks to or addresses any female person in any street, public place or place frequented generally by the public is guilty of a misdemeanor.

(2) Every female person who rudely or improperly follows, pursues, lays hands on, molests, insults or insolently or offensively speaks to or addresses any male person in any street or public place or a place frequented generally by the public in this City is guilty of a misdemeanor.

#### **9.12.060. Operation of House of Prostitution, Bawdy House, Etc.**

It shall be unlawful for any person to operate a house of prostitution, a bawdy house or to be in charge of or present in any house wherein prostitution, homosexuality, or any other sex acts are performed for hire. It shall likewise be unlawful for any person to induce another person to enter such a place for said unlawful purposes.

#### **9.12.070. Sex Acts for Hire in Massage Parlors.**

It shall be unlawful for any person to own, operate or work in any premises operated under the guise of a massage parlor, masseur, or other similar business wherein sex acts for hire are permitted or allowed to take place.

### **Chapter 9.13. Litter.**

9.13.010. Short Title.

- 9.13.020. Definitions.
- 9.13.030. Litter in Public Places.
- 9.13.040. Placement of Litter in Receptacles so as to Prevent Scattering.
- 9.13.050. Sweeping Litter into Gutters Prohibited.
- 9.13.060. Merchants' Duty to Keep Sidewalks Free of Litter.
- 9.13.070. Litter Thrown by Persons in Vehicles.
- 9.13.080. Truck Loads Causing Litter.
- 9.13.090. Litter in Parks.
- 9.13.100. Litter in Lakes and Fountains.
- 9.13.110. Throwing or Distributing Commercial Handbills in Public Places.
- 9.13.120. Placing Commercial and Non-commercial Handbills on Vehicles.
- 9.13.130. Depositing Commercial and Non-commercial Handbills on Uninhabited or Vacant Premises.
- 9.13.140. Prohibiting Distribution of Handbills Where Properly Posted.
- 9.13.150. Distributing Commercial and Noncommercial Handbills at Inhabited Private Premises.
- 9.13.160. Dropping Litter From Aircraft.
- 9.13.170. Signs on Public Property.
- 9.13.180. Litter on Occupied Private Property.
- 9.13.190. Owner to Maintain Premises Free of Litter.
- 9.13.200. Litter on Vacant Lots.
- 9.13.210. Billboards - Neglect - Removal of Bills.

#### 9.13.010. Short Title.

This Chapter shall be known and may be cited as the "Provo City Anti-Litter Chapter."

#### 9.13.020. Definitions.

For the purposes of this Chapter the following terms, phrases, words, and their derivation shall have the meaning given herein.

"**Aircraft**" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

"**Authorized private receptacle**" is a litter storage and collection receptacle as required and authorized in Chapters 11.02 and 11.03.

"**Commercial Handbill**" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(a) which advertises for sale any merchandise, product, commodity, or thing;

(b) which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;

(c) which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, the Provo City Code or under any ordinance of this City; or,

(d) which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

"**Garbage**" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

"**Litter**" is "garbage," "refuse," and "rubbish," as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"**Newspaper**" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

"**Noncommercial Handbill**" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

"**Park**" is a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

"**Private Premises**" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

"**Public Place**" is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

"**Refuse**" is all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

"**Rubbish**" is non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

"**Vehicle**" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

#### 9.13.030. Litter in Public Places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

#### 9.13.040. Placement of Litter in Receptacles so as to Prevent Scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

#### 9.13.050. Sweeping Litter into Gutters Prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

**9.13.060. Merchants' Duty to Keep Sidewalks Free of Litter.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

**9.13.070. Litter Thrown by Persons in Vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property.

**9.13.080. Truck Loads Causing Litter.**

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

**9.13.090. Litter in Parks.**

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

**9.13.100. Litter in Lakes and Fountains.**

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the City.

**9.13.110. Throwing or Distributing Commercial Handbills in Public Places.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City; nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

**9.13.120. Placing Commercial and Non-commercial Handbills on Vehicles.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

**9.13.130. Depositing Commercial and Non-commercial Handbills on Uninhabited or Vacant Premises.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

**9.13.140. Prohibiting Distribution of Handbills Where Properly Posted.**

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

**9.13.150. Distributing Commercial and Non-commercial Handbills at Inhabited Private Premises.**

(1) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this Chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(2) The provisions of this Section shall not apply to the distribution of mail by the United States, nor to newspapers except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place, or upon private property.

**9.13.160. Dropping Litter From Aircraft.**

No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

**9.13.170. Signs on Public Property.**

(1) It shall be unlawful to paint, mark or write on, or post or otherwise affix, any hand-bill or sign to or upon any sidewalk, curb, "parking strip" (the area, if any, between a sidewalk and curb), street lamp post, hydrant, tree, shrub, tree stake or guard, bridge, electricity or telephone pole or wires or poles appurtenant thereto, drinking fountain, street sign or traffic sign, public park, or any other public property.

(2) Any hand-bill or sign found posted, or otherwise affixed upon any public property contrary to the provisions of this Section may be removed by employees of the Police Department, the Department of Public Works or the Community Development Department. The person responsible for any such unlawful posting shall be liable for the cost incurred in the removal thereof.

(3) Signs predominately made of paper, cardboard, wood, "particle board," or similar materials which are removed from public property by employees of the Police Department, the Department of Public Works or the Community Development Department, pursuant to Subsection (2) of this Section, may be summarily destroyed. Other signs shall be held and disposed of as otherwise required for abandoned property.

(4) Nothing in this Section shall apply to house numbers painted on curbs, to traffic and other regulatory signs posted by governments or their subdivisions, to notices of elections, or to notices of historical, cultural, artistic or civic events which are posted with the approval of Provo City. Provided, however, that Provo City shall not permit any historical, cultural, artistic or civic sign or notice to be placed on an

electricity or telephone utility pole. (R&R 1987-58, Am 1988-38, Am 1989-40)

#### **9.13.180. Litter on Occupied Private Property.**

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

#### **9.13.190. Owner to Maintain Premises Free of Litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

#### **9.13.200. Litter on Vacant Lots.**

No person shall throw or deposit litter on any open or vacant private property within the City, whether owned by such person or not.

#### **9.13.210. Billboards-Neglect-Removal of Bills.**

It shall be unlawful for any person, firm or corporation owning or in charge of any billboard to fail, neglect or refuse to keep such billboard in good condition, or to fail, neglect or refuse to immediately remove all paper or other substances which may fall from such billboard.

### **Chapter 9.14. Miscellaneous Criminal Provisions.**

- 9.14.010. Battery.
- 9.14.020. Barbed Wire Fences and Similar Fences Prohibited.
- 9.14.030. Defacing or Destroying Property Prohibited.
- 9.14.050. Possessing Controlled Substances Prohibited - "Possession" Defined.
- 9.14.060. Poison - Disposing.
- 9.14.070. Depositing Waste or Litter in a Public Place.
- 9.14.080. Explosives on Rails.
- 9.14.100. Throwing Missiles.
- 9.14.110. Trespass.
- 9.14.120. Treatment for Addicts - Prohibitions.
- 9.14.130. Use of Alcoholic or Intoxicating Substances Prohibited.
- 9.14.140. Use of Intoxicants on Picket Lines.
- 9.14.150. Animals and Fowl Disturbing Neighborhood.
- 9.14.160. Domestic Fowl Trespassing on Property of Another.
- 9.14.190. Protection of Monuments.
- 9.14.200. Loitering.
- 9.14.210. Identification Number - Altering - Possession.
- 9.14.230. Leaving Children in Vehicles Prohibited.
- 9.14.270. Refusal to Deliver Property to Successor.
- 9.14.280. Trains Blocking Public Streets.
- 9.14.290. Curfew.
- 9.14.300. Consensual Fighting/Boxing

#### **9.14.010. Battery.**

A "battery" is any willful and unlawful use of force or violence upon the person of another. It shall be unlawful for any person to commit a battery within the City limits. (R&R 185-05)

#### **9.14.020. Barbed Wire Fences and Similar Fences Prohibited.**

(1) It shall be unlawful to erect or maintain a barbed wire fence, or to cause the same to be erected or maintained. Provided, however:

(a) Barbed wire may be used at the top of a fence not otherwise constructed with barbed wire if the barbed wire is not closer than six (6) feet to the ground. This Subsection (1) (a) shall not apply to a fence located on a common boundary between residential lots.

(b) Barbed wire may be used as part of a fence which is closer than six (6) feet to the ground if the fence encloses a lot or pasture used at least six (6) months in each calendar year to lawfully maintain one or more horses, cows, sheep or other domestic animals of similar size.

(2) It shall be unlawful to erect or maintain any kind of fence using wire-like fencing material sometimes known as "concertina" wire can cut, puncture or otherwise cause injury to a person or animal coming into contact therewith. Provided, however, that concertina or razor wire may be used at the top of fences surrounding publicly owned facilities. (Am 1990-43, Am 1997-22)

#### **9.14.030. Defacing or Destroying Property Prohibited.**

(1) It shall be unlawful for any person willfully to injure, deface or destroy property of another, either public or private, or to secrete any goods, chattels or personal property of another, or to prepare any dead fall, or dig any pit, or to arrange any trap, to injure another's person or property.

(2) Except as authorized by law, it shall be unlawful for any person to take down, injure or remove any cemetery marker, monument, street sign, or any tree marked as a boundary of any tract of land or City lot, or to injure, destroy, deface or alter the marks of any cemetery marker, monument, or street sign, or to deface, injure or destroy any fence or fountain, or any shade or fruit tree, or to deface, injure or destroy any kind of public or private property, or to deface sidewalks or trees located upon public property with painted or printed handbills, signs, posters or other advertisements.

(3) Except as authorized by Provo City, it shall be unlawful for any person to have any Provo City street sign in their possession. (Am 1996-16)

#### **9.14.050. Possessing Controlled Substances Prohibited - "Possession" Defined.**

(1) It shall be unlawful for any person knowingly and intentionally to possess a controlled substance as defined in the Utah Controlled Substances Act unless it was obtained pursuant to a valid prescription or order or directly from a practitioner while the practitioner is acting in the course of professional practice or except as otherwise authorized by Subsection 58-37-8(c), Utah Code, as amended, Utah Controlled Substances Act.

(2) "**Possession**" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining or obtaining of controlled substances and is intended to include individual, joint or group possession of controlled substances. For a person to be a possessor of a controlled substance, it is not required that the person be shown to have individually possessed a controlled substance, but it is sufficient if it is shown that such person jointly participated with one (1) or more persons in the possession of any controlled substances with knowledge that such activity was occurring. (Am 2006-49)

#### **9.14.060. Poison - Disposing.**

Every person who shall knowingly, within the City limits, sell or give or deliver any deadly poison, without marking the same in legible characters, "poison," or sell, give or deliver any drugs or medicines without the same being correctly labeled in a legible manner in the English language is guilty of a misdemeanor.

#### **9.14.070. Depositing Waste or Litter in a Public Place.**

(1) It shall be unlawful for any person or persons to place or cause to be left any human waste products or to put or throw or

leave any litter which is either unsightly or which may cause any unpleasant smell or sight or constitute a hindrance to public use of the premises or to stool or urinate or expectorate in a public place, except in a proper receptacle provided expressly for the purpose of retaining such waste matter or litter.

(2) "**Public place**" in this Section shall have reference to the streets, sidewalks, alleys, and other public owned and publicly used premises, whether owned in fee or as easements or shall also include privately owned property on which the public is customarily invited or entertained for social, religious, business or commercial purposes.

#### **9.14.080. Explosives on Rails.**

It shall be unlawful for any person to place upon any track or rail over which cars of any kind or description pass or over which cars of any description are intended to pass, any cartridge, cap, torpedo, or any explosive thing or substance, or any obstruction or thing or substance whatsoever.

#### **9.14.100. Throwing Missiles.**

Every person who shall willfully or carelessly within the limits of this City throw any stone, stick, snowball or other missile whereby any person shall be hit, or any window broken or other property injured or destroyed or in such manner as to render travel upon the public streets and places of the City dangerous, or in such a manner as to frighten or annoy any traveler, is guilty of a misdemeanor.

#### **9.14.110. Trespass.**

(1) It shall be unlawful for any person to ride, drive, walk, lodge, camp or sleep upon the premises of another without the permission of the owner or lawful occupant thereof, or to take down any fence or let down any bars or open gates so as to expose any enclosure without the permission of the owner or lawful occupant thereof.

(2) It shall be unlawful for any person to operate any type of motor vehicle (including but not limited to motorcycles, trail bikes, dune buggies, motor scooters or jeeps) or ride any animal upon the private property of another without first obtaining permission of the person in lawful possession of the property or if the property is unoccupied a permission of the owner of such property.

(3) It shall be unlawful for any person to operate any type of motor vehicle (including but not limited to motorcycles, trail bikes, dune buggies, motor scooters or jeeps) or to ride any animal upon the public property, except on a highway or public street or private street without first obtaining permission of the public entity which is in possession of the property or if unoccupied the permission of the public entity which owns such property or as to the private street the owner of said street.

(4) It shall be unlawful for any person to walk, ride, drive or be upon the premises of another for the purpose of invading the privacy of another occupant thereof.

(5) As used in this Section, "**private street**" means a street over which the general public has an easement to travel and does not include driveways or paths or other ways over which no one has a right to travel except by license.

(6) Nothing in this Section shall prohibit the use of such property by the following:

- (a) emergency vehicles;
- (b) vehicles of commerce in the course of the conduct of normal business;
- (c) vehicles being operated on property being devoted to commercial or industrial purposes where such operation is in conjunction with commercial or industrial use and where such operation is implied or expressly given by the person in possession of the property;

(d) vehicles operated on property actually used for residential purposes where such vehicles are there at the express or implied invitation of the owner or occupant;

(e) vehicles being operated on public or private parking lots where permission to so operate is implied or expressly given by the person in possession of the lot.

#### **9.14.120. Treatment for Addicts - Prohibitions.**

(1) In order to facilitate the treatment of alcoholics and persons who are addicted to unauthorized drugs and intoxicants, it is hereby declared to be unlawful for any person to adversely affect the treatment of any person who is undergoing treatment for alcoholism or for drug addiction to do any of the following acts:

(a) to take into any treatment facility or hospital or any portion thereof where persons are being treated for alcoholism or addiction to drugs, any dangerous weapon, any unauthorized alcohol, intoxicant, and/or unauthorized drug of any kind or description;

(b) to make available to any other person who is under treatment for alcoholism, or drug addiction, any alcoholic substance, any intoxicant or unauthorized drug when the person who provides the said substances knows or should know that the person who is receiving the said substances is under treatment for alcoholism or addiction;

(c) to trespass within any hospital or treatment facility or any portion thereof utilized for the care and treatment of persons who are alcoholics or drug addicts. Any such person who remains on the premises after having been requested to leave by any person who is there for treatment or by any person in authority in the treatment facility shall be deemed to be trespassing.

(2) For purposes of this Section an unauthorized drug or intoxicant will be any drug, intoxicant or similar substance except those which are prescribed by a physician for use of a person being treated at the facility. (Am 2006-49)

#### **9.14.130. Use of Alcoholic or Intoxicating Substances Prohibited.**

It shall be unlawful for any person to consume any alcoholic or intoxicating substance or to use or to make available for use alone or in concert with any other person any unauthorized drug in any facility utilized as set forth in Section 9.14.120, Provo City Code.

#### **9.14.140. Use of Intoxicants on Picket Lines.**

It shall be unlawful for any person engaged in an otherwise lawful picketing or any person who shall be in and about an area where picketing is taking place to consume, possess or provide for another person's use in or about the picketing area, any intoxicating beverage including, but not limited to, beer, wine, spirits, or other intoxicants as defined under state law, the Provo City Code or other City ordinance. (Am 2006-49)

#### **9.14.150. Animals and Fowl Disturbing Neighborhood.**

It shall be unlawful for any person to willfully possess, maintain or keep, in the City limits, any animals or fowl which emit loud or offensive noises which disturb the peace and quiet of another.

#### **9.14.160. Domestic Fowl Trespassing on Property of Another.**

It shall be unlawful for the owner or any person in charge of domestic fowl, such as turkeys, ducks, geese or chickens to permit such fowl to trespass upon the premises of another.

#### **9.14.190. Protection of Monuments.**

It shall be unlawful for any person to displace, remove, injure, or in any way interfere with, or place obstructions upon any survey stake or monument marked as such.

**9.14.200. Loitering.**

(1) A person is guilty of loitering who appears at a place or at a time under circumstances that warrant alarm for the safety of persons or property in the vicinity, and upon the request of a peace officer, fails to display a form of identification containing such person's name and one other identifying item such as a picture, address or social security number. A peace officer may disregard any form of identification which, based upon a reasonable suspicion under the circumstances, is altered or falsified or may belong to a third party.

(2) Among the circumstances which may be considered in determining whether alarm is warranted is the fact:

(a) that the person takes flight upon appearance of a peace officer;

(b) that the person manifestly endeavors to conceal himself or herself or any object;

(c) that the person is at or near the location of a recently committed criminal offense; or

(d) that the person is observed to be on foot after dark, in a high crime area.

(3) No person shall be convicted under this Section, who, although unable to produce identification as required above, nevertheless, prior to arrest, gives a true name and address to the peace officer arresting such person for violation of this Section, and the name and address are later verified.

(4) Loitering is a class C misdemeanor. (Am 2006-49)

**9.14.210. Identification Number - Altering - Possession.**

(1) A person commits the crime of altering identification numbers if, with intent that identification of an article be hindered or prevented, the person obscures an identification number or in the course of business sells, offers for sale, leases, or otherwise disposes of an article knowing that an identification number thereon is obscured.

(2) "**Identification number**" means a serial or motor number placed by the manufacturer upon an article as a permanent individual identifying mark.

(3) "**Obscure**" means to destroy, remove, alter, conceal, or deface so as to render illegible by ordinary means of inspection.

(4) Possession of an article on which an identification number is obscured is prima facie evidence that the person possessing it obscured the number with intent to hinder or prevent identification of the article, and that the person knows that the identification number is obscured, unless, prior to arrest or the issuance of a warrant for a search of the premises where the article is kept, whichever is earlier, the person reports possession of the article to the police or other appropriate law enforcement agency.

(5) Altering identification number is a class B misdemeanor. (Am 2006-49)

**9.14.220. Public Parade Regulations.**

(1) It shall be unlawful for any person to claim, reserve or occupy, or to attempt to claim, reserve or occupy, either in person or by the placement of ropes, tents, chairs, sleeping bags, blankets, or other devices or barriers, any public property as a position for observing a public parade:

(a) along University Avenue before 3:00 p.m. on the day prior to the public parade, or

(b) along any other public street before 5:00 a.m. on the day of the public parade.

(2) Along University Avenue after 3:00 p.m. on the day prior to a public parade, until the conclusion of the public parade, a person may occupy a position on public property for the purpose of watching a public parade and may, by the placement of ropes, tents, chairs, sleeping bags, blankets, or other devices or barriers, claim or reserve or attempt to claim or reserve any public property as a position for observing the public parade.

(3) Along any public street other than University Avenue after 5:00 a.m. on the day of a public parade, until the conclusion of the public parade, a person may occupy a position on public property for the purpose of watching a public parade and may, by the placement of ropes, tents, chairs, sleeping bags, blankets, or other devices or barriers, claim or reserve or attempt to claim or reserve any public property as a position for observing the public parade.

(4) Items such as ropes, tents, chairs, sleeping bags, blankets, or other devices or barriers, used to claim or reserve or to attempt to claim or reserve any public property as a position for observing the public parade shall be attended at all times by a person who owns or controls the items. If the items are not physically attended by such a person, the items may be deemed to be abandoned property and may be removed from the public property by a law enforcement officer.

(5) This Section shall not allow any person to occupy a position on a public street, to obstruct public sidewalks, or to occupy any unsafe position or any position which may cause damage to public or private property.

(6) After 8:00 p.m. on the day before a public parade and continuing until the conclusion of the public parade, it shall be unlawful to park a motor vehicle on a public street which will be used as the parade route. A motor vehicle parked in violation of this Subsection (6) shall be considered a public nuisance and may be towed from the public street.

(7) This Section shall not prevent Provo City, or any organization or person authorized to conduct and organize a public parade, from reserving places on public property for the observation of said parade, or from erecting and controlling seating on public property for the observation of said parade. (Enacted 2008-20)

**9.14.230. Leaving Children in Vehicles Prohibited.**

It shall be unlawful for any person who cares for, or controls any minor child under six (6) years of age, to at any time lock or confine, or suffer to be locked or confined, or left unattended, even though not locked or confined in any automobile, bus, or other vehicle or trailer, located upon a public street, a publicly-owned or privately-owned parking lot open to the general public or to business invitees, or at any other public place, for a period of time exceeding ten (10) minutes. A child is unattended within the meaning of this Section if the oldest person with the child is a person under the age of twelve (12) years. (Am 1991-44, Am 2006-49)

**9.14.270. Refusal to Deliver Property to Successor.**

If any person, having been an officer of this City, shall not within five (5) days after notification and request, deliver to the successor in office, all property, papers and effects of every description in the former officer's possession belonging to the City, or appertaining to the office held, that person shall be deemed guilty of a misdemeanor. (Am 2006-49)

**9.14.280. Trains Blocking Public Streets.**

(1) It shall be unlawful for the owner or operator of a train to cause or allow the same to block a public street for more than fifteen (15) consecutive minutes.

(2) It shall be an affirmative defense to any action for violation of this Section, that because of an accident or mechanical failure beyond the control of the owner or operator of the train, the train could not be moved from the public street within the stated time limit. (Enacted 1988-40)

**9.14.290. Curfew.**

(1) Definitions.

"**Care and custody**" means the legal authority of a parent or guardian to supervise or otherwise be responsible for a minor, or the express authority given from such parent or legal guardian of a minor

to a responsible adult to supervise or otherwise be responsible for the activities and care of the minor.

**"Emergency errand"** means any errand or travel undertaken to directly and immediately seek to prevent or reduce the consequences of an illness or injury, criminal or potential criminal activity, or fire or other accident and shall include the seeking of aid and assistance from medical or emergency response personnel or the purchase of medications.

**"Minor"** means any unmarried, unemancipated person who is not a member of the armed forces of the United States and who is under the age of sixteen (16) years for the purposes of Subsection (2) of this Section or who is under the age of eighteen (18) years for the purpose of Subsection (3) of this Section.

**"Public places"** means any place open to the public whether privately owned, including but not limited to, parking lots and the interiors and exteriors of commercial establishments such as restaurants, stores or places of entertainment.

(2) Fifteen-year-old curfew. It shall be unlawful for any minor fifteen (15) years of age or younger to remain or loiter upon any of the sidewalks, streets, alleys or public ways in Provo City between the hours of eleven (11:00) p.m. and five (5:00) a.m. the following morning.

(3) Sixteen and seventeen-year-old curfew. It shall be unlawful for any minor sixteen (16) or seventeen (17) years of age to remain or loiter upon any of the sidewalks, streets, alleys or public places in Provo City, between the hours of eleven (11:00) p.m. and five (5:00) a.m. of the succeeding morning, Sunday through Thursday, and between one (1:00) a.m. and five (5:00) a.m. Saturday and Sunday.

(4) Parental liability. It shall be unlawful for any parent, guardian or other person having care and custody of any minor to knowingly allow or permit the minor to violate the provisions of this Chapter.

(5) Exceptions. The provision of this Chapter shall not apply to any circumstances in which the minor is:

(a) Accompanied by a parent, guardian, or other responsible adult having care and custody of such minor;

(b) Engaged in a legitimate trade, employment or occupation which requires the minor's presence in or on the sidewalks, streets, alleys or public places while working at or traveling to or from such employment;

(c) Engaged on an emergency errand directed by the minor's parent, guardian or other responsible person having care and custody;

(d) In a motor vehicle engaged in normal interstate travel beginning in, traveling through, or ending in Provo City;

(e) Attending or engaged in traveling between the minor's home or place of residence and a place where any religious, municipal, social, entertainment, sporting, political, library, or school function is occurring; or

(f) Within the boundaries of the minor's place of residence.

(6) Enforcement.

(a) Any minor who is in violation of the provisions of this Chapter is subject to arrest and citation.

(b) Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

(c) It shall be unlawful for any parent, guardian or other person charged with the care and custody of a minor, who is in violation of this Chapter, to knowingly refuse to appear and take custody of said minor after being ordered to do so by a peace officer.

(d) Any person who violated the provisions of this Chapter is guilty of a class B misdemeanor.

(7) Prima facie evidence. Except as provided for in Subsection (5)(a) of this Section, any remaining or loitering upon any of the sidewalks, streets, alleys or public ways in Provo City by a minor in

excess of the times prescribed for said minor in Subsection (3) or (4) of this Section is prima facie evidence that said remaining or loitering is unlawful.

(8) Severability. If any section, subsection, sentence or word of this Chapter is held, by a court of competent jurisdiction, to be invalid, the remaining unaffected portions shall remain in full legal force and effect. (Enacted 1990-62, Rep&Ren 1994-43)

#### **9.14.300. Consensual Fighting/Boxing.**

(1) It is unlawful and a class B misdemeanor to participate in, promote, organize or publicize a fighting/boxing contest in Provo City or upon City owned or controlled property outside the City limits, where ten (10) or more individuals assemble, unless:

(a) the Mayor, or the Mayor's designee, gives prior written approval to conduct a consensual fighting/boxing contest on Provo City owned or controlled property;

(b) safety equipment is used, including headgear, gloves and a mouth piece;

(c) a medical doctor is present during any fighting/boxing event;

(d) a mat or soft surface is provided to protect against falls during the conduct of the activity; and

(e) crowd control and toilet facilities are provided.

(2) This Section shall not apply to activities or classes sponsored by schools and other educational institutions nor to a duly licensed business providing boxing/fighting instruction or events.

(3) If any provision or clause of this Section or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions, clauses or application hereof. To this end, the provisions of this Section are declared to be severable. (Enacted 2000-23)

### **Chapter 9.15. Use of Sidewalks and Streets.**

9.15.010. Sidewalk Policy.

9.15.020. Sidewalk Use Permit.

9.15.030. Application for Permit.

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9.15.230. Depositing Material on Streets Prohibited.

9.15.240. Cleated Vehicles Prohibited on Asphalt Paving.

9.15.250. Obstructing Street Traffic.

9.15.260. Nails Thrown on Streets.

9.15.270. Vehicles Storage on Street.

#### **9.15.010. Sidewalk Policy.**

It is hereby declared to be the policy of Provo City in respect to the use of sidewalks:

(1) The primary and basic purpose for sidewalk areas shall be for pedestrian passage and as a thoroughfare for walking traffic; that secondarily the sidewalk shall be available for temporary use by

vehicle crossing, unloading, and engaging in necessary construction activity.

(2) It shall be contrary to the policy of the City and unlawful for any vehicle, construction equipment, or devices of a similar nature to preempt for a period of more than five (5) minutes the use of the sidewalk or to use any sidewalk for any length of time in such a way that it will create a hazard to passersby without first obtaining a sidewalk use permit and meeting all other requirements set by the City as detailed hereafter.

(3) It shall be the policy of the City that any damage done to sidewalks by vehicles using the same shall be the responsibility of the person obtaining the sidewalk use permit and the application for such a permit shall be deemed an assumption of liability of any damage resulting from the use thereof.

(4) Any use of the sidewalks likely to interfere with the pedestrian use of the sidewalk shall be limited to such hours as will not interfere with their primary function as pedestrian thoroughfares, except as provided hereafter.

#### **9.15.020. Sidewalk Use Permit.**

(1) Any person or persons desiring to use any sidewalk within any business or commercial zone for the purpose of loading or unloading of merchandise or for any use similar in nature including, but not limited to, the unloading of construction materials, merchandise, equipment, etc., shall, in addition to the obtaining of necessary building permits, etc., from the Building Inspection Division of the City, obtain for the purpose of sidewalk use, a sidewalk use permit, the same to be obtained from the Police Department upon written application.

(2) Such a use permit shall not be required if the sidewalk use for loading or construction purposes occurs only after the hour of nine (9:00) p.m. or before the hour of seven (7:00) a.m. of the next succeeding day, or on a day when adjacent businesses are not open for business. (Am 2006-49)

#### **9.15.030. Application for Permit.**

All applications for permits filed hereunder shall be without fee and shall include the following information:

(1) The name of the person applying for the permit and if the permit is for a corporation, partnership or proprietorship the name of the organization, its mailing address and the office in the organization held by the person applying.

(2) The address where the permit is desired and if the applicant is different than the owner thereof, the owner of the property at which the permit is desired for.

(3) The purpose for which the permit is desired.

(4) The anticipated hour and/or days of use with an indication of the length of time that the activities anticipated will preempt the use of the sidewalk by pedestrians.

(5) A statement that the applicant therefor assumes all liability for damage to the City sidewalks which is caused by the anticipated use for which the application is filed.

#### **9.15.040. Conditions of Permit.**

(1) The application above referred to when properly filed shall be granted subject to the following condition which shall be considered a part of the application and permit:

(a) that if the anticipated use will preempt the sidewalk for pedestrian use or constitute in any way a hazard to passersby, the applicant shall do either one of the following:

(i) rope off the area to prevent pedestrian thoroughfare and provide an alternative pedestrian pathway. If this pathway projects into the portion of the street normally used for vehicular traffic the said pathway shall be roped off on both sides to separate the pedestrian from the vehicular

traffic, and also to separate the pedestrian traffic from the area where the sidewalk is preempted;

(ii) or alternatively all active construction which preempts the sidewalk shall be conducted outside the normal business hours of the adjacent businesses.

(2) It is hereby declared to be unlawful and a violation of this Chapter for any person, firm, individual organization to do any act contrary to those set forth herein as prerequisites for use of the sidewalk or to fail to do any act required herein.

#### **9.15.050. Alternative Uses of Public Streets.**

It shall be unlawful for any person to utilize public streets, sidewalks and public places for the purpose of any show, play, sale, commercial display, commercial demonstration or for the production of any play or motion pictures and video productions without first applying for a permit to so utilize the public streets, sidewalks and public places. (R&R 1985-06)

#### **9.15.060. Application for Permit.**

(1) Application for use of City streets, sidewalks or public places as set forth in Section 9.15.050, Provo City Code shall be by written application to the Police Department on an application containing substantially the following information:

(a) name, address and phone number of the person or persons desiring the permit;

(b) a precise description of the activity to be conducted, together with a precise description of the area to be utilized and the use of the area, specifically setting forth any use which is likely cause any permanent changes, such as marring of the street or sidewalk surfacing, lawns, parking strips, or any similar use having a permanent effect on the area;

(c) the number of people to be involved and the precise time of day and day of the month that the activity will be carried on;

(d) if the use will involve three hundred (300) or more persons, the applicant shall simultaneously submit an application as provided for under Chapter 6.20, and meet all requirements thereof;

(e) if the use is one which will interfere with normal traffic, application shall be made at least ten (10) days in advance of the anticipated use. If the use will be such that in the judgment of the Chief of Police, police officers will be required for traffic control, the applicant shall submit with the application a written agreement to pay the actual cost of the officers' time necessary to adequately control the activity carried on.

(2) The applicant shall also indicate the amount and an accurate description of equipment which will be used in the activity and placement of the equipment to be shown on a sketch of the area. (R&R 1985-06, Am 2006-49)

#### **9.15.070. Recommendation on Application - Issuance, Denial of Permit.**

The Chief of Police, upon receipt of an application and any necessary fees agreement, shall within five (5) days submit said application to the Mayor with a recommendation as to whether or not the anticipated use should be permitted and an estimate as to the amount of potential cleanup expense or the amount necessary to repair potential damage to public property. The Mayor shall thereafter either grant or deny said permit, or grant said permit conditioned upon the applicant furnishing to the City a bond in an amount reasonably calculated to offset potential cleanup expense or to repair potential damage to public property resulting from the anticipated use. Such permit, however, shall grant the use requested for a temporary period of not more than thirty (30) days. A letter shall be delivered to the applicant to serve as the permit, or in the event of refusal of the

permit, to notify the applicant of such refusal. In the event of refusal by the Mayor, reasons therefor shall be plainly set forth in the letter. (R&R 1985-06, Am 2006-49)

#### **9.15.080. Permitting Animals in Streets.**

Every person, being the owner or having the charge of any horse, cow or other animal who shall stake the same out, or knowingly or intentionally turn the same loose upon the streets, alleys or public grounds of this City, with intent that the same shall run at large to pasture, or graze, upon the streets, alleys or public grounds of this City, and every person, being owner of or having charge of any such animal, who shall knowingly and intentionally allow and suffer the same to be at large or graze upon the streets, alleys or public grounds of this City, is guilty of a misdemeanor.

#### **9.15.090. Riding Animals on Streets.**

Every person who shall drive or ride any horse or other animal in or upon any street, alley or public ground in a careless or reckless manner so as to endanger life, limb or property, or at a greater rate of speed than ten (10) miles an hour, within the limits of this City, shall be guilty of a misdemeanor.

#### **9.15.100. Hauling Certain Material Through Streets.**

It shall be unlawful for any person, firm or corporation to haul or transport, through any of the streets, alleys, or public grounds of this City any coal, gravel, offal or manure, or rubbish, in any freight car, wagon, automobile, or other means of conveyance so constructed that said material drops, or in any other manner is strewn, or deposited on any of said streets, alleys, or grounds.

#### **9.15.110. Gravel and Rock Hauling Limited.**

It shall be unlawful for any person, firm or corporation to haul gravel or rocks on any of the following named streets of Provo City: on Center Street between the west side of 100 East Street and the west side of 500 West Street; on University Avenue between the south side of 100 North Street and the north side of 100 South Street; on 100 West Street between the south side of 100 North Street and the north side of 100 South Street; on 500 West Street between Center Street and the south side of 100 North Street; on 100 North Street between the west side of 100 East Street and the west side of University Avenue; provided, that when buildings are being constructed abutting on any of the aforementioned streets a permit may be obtained from Provo City to haul gravel or rocks thereto.

#### **9.15.130. Unlawfully Congregating.**

It shall be unlawful for any person or persons, in this City, to remain or congregate about or upon any sidewalk, stairway, doorway, window, or in front of any business or dwelling house, theater, lecture room, church or elsewhere, and by so doing obstruct or interfere with the free passage of persons entering, leaving, or occupying any such building or premises, or by language, conversation, or conduct, to annoy, insult, or disturb persons residing or doing business in any such house, houses or places. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

#### **9.15.140. Receiving Goods - Passageway - Time Limit.**

It shall be unlawful for any person to place, or keep, or suffer to be placed or kept upon any sidewalk, any goods, wares or merchandise which the person may be receiving or delivering, without leaving a ten (10) foot passageway clear upon such sidewalk; and it shall be unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than one (1) hour. (Am 2006-49)

#### **9.15.150. Regulation of Street Sales.**

(1) It shall be unlawful for any person, firm or corporation or employee thereof to use the City streets or sidewalks for the purpose of displaying for sale or for selling of any goods of service or to obstruct traffic, either pedestrian or vehicular or to preempt or occupy parking places or any portion of the public thoroughfare in selling or attempting to sell goods or services, without first obtaining a written permit from the Chief of Police.

(2) This Section shall not be interpreted to prevent the owner of an automobile desiring the same to display a for sale sign in the owner's personal automobile, nor shall it prohibit the sale of goods and services on holiday or special occasions declared by Provo City or generally recognized as a holiday in the community when such activities are carried on in such a way as to not interfere with vehicular traffic. (Am 2006-49)

#### **9.15.160. Running Water on Street - Penalty.**

It shall be unlawful for the owner or operator of any service station, abattoir, cleaning establishment, laundry, merchant, warehouse, wholesaler, garage, car dealer, used car dealer, or any other business licensed to do business in the City to permit water which is used in the conduct of such business to flow off the business premises onto the sidewalks or streets of the City. This Section is not intended to prohibit the reasonable use of water in cleaning business premises, but it is intended to apply to the use of water by the enumerated businesses for the purposes of cleaning merchandise held for sale, and it is also intended to apply to water used in the course of business for the purpose of cleaning property of customers of the said businesses. (Am 2006-49)

#### **9.15.170. Openings on Streets or Sidewalks.**

It shall be unlawful to construct or maintain openings in streets or sidewalks, except under the direction and supervision of the City Engineer, and then only after the grant of special permission by Provo City. (Am 1987-58, Am 2006-49)

#### **9.15.190. Water From Roof Not to be Discharged on Sidewalks.**

It shall be unlawful for any person owning, occupying or having control of any premises to suffer or permit water from the roof or eaves of any house, building or other structure, or from any other source under the control of such person, to be discharged and spread upon the surface of any sidewalk.

#### **9.15.200. Driving or Riding on Sidewalk.**

It shall be unlawful for any person to drive a self-propelled vehicle or team, or lead, drive or ride any animal upon any sidewalk, except across a sidewalk at established crossings.

#### **9.15.230. Depositing Material on Streets Prohibited.**

(1) It shall be unlawful for any person to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings or rubbish of any kind.

(2) Any person violating Subsection (1) of this Section shall be civilly liable for the cost of cleaning the subject street, gutter, sidewalk or public place. Criminal proceedings under Subsection (1) of this Section shall not be a condition precedent to a civil claim under this Subsection (2) of this Section. Provo City may bring a claim under this Subsection if it cleans the subject property. (Am 1988-37)

#### **9.15.240. Cleated Vehicles Prohibited on Asphalt Paving.**

It shall be unlawful for any person to drive, propel or permit any tractor, machine or equipment, the wheels of which are equipped with cleats, lugs or similar contrivance, or to drive, lead or permit any sharply shod horse, upon any street or highway paved with asphalt or similar material within the City limits.

**9.15.250. Obstructing Street Traffic.**

It shall be unlawful for any person to remain standing, lying, or sitting on any street or highway or crosswalk or sidewalk appurtenance thereto or to place any material or object thereon in such a manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon said street or highway or sidewalk or any property having access to said street or highway.

**9.15.260. Nails Thrown on Streets.**

No person shall throw, deposit or place in or upon any public street of this City any nails, tacks, crockery, scrap iron, tin, wire, bottles, glass, boxes, wood, boards, stones, thorns, or thorny clippings, or thorny branches of trees or bushes or any other article or thing likely to puncture or injure the tire of any vehicle.

**9.15.270. Vehicle Storage on Street.**

It shall be unlawful for any person, either as owner, occupant, agent or employee of any garage, sales room or other places of business to suffer or permit any vehicle whether left for safe keeping, repairs, sales or otherwise, to be or remain upon any street or sidewalk, or to do or permit to be done any repairing for any vehicle while the same stands upon any part of a public street or sidewalk except only emergency repairs or changing tires.

**Chapter 9.16. Sidewalks - Removal of Debris, Snow or Ice.**

- 9.16.010. Legislative Findings.
- 9.16.020. Definitions.
- 9.16.030. Civil Liability for Failure to Remove Debris, Snow or Ice.
- 9.16.040. Sidewalk - Removal of Debris, Snow or Ice - Enforcement.
- 9.16.050. Sidewalk - Contract Liability.
- 9.16.060. Water from Roof - Discharge on Sidewalks Prohibited.
- 9.16.070. Severability.

**9.16.010. Legislative Findings.**

The Municipal Council hereby finds that it is not practical for Provo City to clean all of the sidewalks in Provo City, and that the obligations and liabilities of Provo City Corporation and the owners of property in Provo City in relation thereto should be as described in this Chapter. This Chapter is intended to clarify civil duties and liabilities, but not to create new civil duties and liabilities. (Am 1990-04, Am 1996-14)

**9.16.020. Definitions.**

"**Business**" shall be any structure occupied for residential, commercial or educational purposes, but not including a "residence" as defined below.

"**Debris**" shall mean any litter, including but not limited to, paper, metal, plastic, wood or rock. "Debris" also includes weeds, leaves, noxious vegetation, feces, grease, oil, standing water, or other liquids or substances which can cause unreasonable harm to a person. "Debris" does not include snow or ice.

"**Lessee**" or "**tenant**" of property shall be any person, firm or corporation which is in actual possession of real property but not as an owner thereof.

"**Owner**" of property shall be the person, firm or corporation which owns real property according to the records of the Utah County Recorder; or, if the property is being sold on contract, the person, firm or corporation which is entitled under law to the beneficial use of the property. Ownership shall not be affected by the fact that the property has been rented or leased. Provo City, as the owner of streets and other public rights of way, shall not be the owner of property.

"**Residence**" shall be any structure occupied for residential purposes and not containing more than three (3) dwelling units.

"**Sidewalk**" is a hard-surfaced area, not part of a street and not intended for travel by motor vehicles, which is used or intended for use by pedestrian travel. Where there is no sidewalk, as thus defined, the provisions of this Chapter shall not apply.

"**Tenant**" or "**lessee**" of property shall be any person, firm or corporation which is in actual possession of real property but not as an owner thereof. (Am 1990-04, Am 1996-14)

**9.16.030. Civil Liability for Failure to Remove Debris, Snow or Ice.**

The obligation to remove debris, snow or ice from sidewalks shall be as follows, for purposes of civil liability:

(1) Removal of debris, snow or ice from sidewalks, to the extent that removal is required by state law, the Provo City Code or by other local ordinance, shall be the exclusive obligation of the owner, tenant or lessee of the property to which a sidewalk is contiguous. Civil liability for damages or injuries resulting from the failure to remove debris, snow or ice from sidewalks, to the extent that removal is required by state law, the Provo City Code or by other local ordinance, shall be borne by the owner, tenant or lessee of property, who shall be jointly and severally liable.

(2) This Section is enacted pursuant to section 10-8-23 Utah Code, as amended, for the purpose of describing the persons who shall perform duties which may exist from time to time under state law, the Provo City Code or other local ordinance in relation to removing debris, snow or ice from sidewalks. (Rep&ReEn 1990-04, Am 1996-14)

**9.16.040. Sidewalk - Removal of Debris, Snow or Ice - Enforcement.**

(1) Debris. It shall be unlawful for the owner, tenant or lessee of property to fail or refuse to sweep, clean or otherwise remove debris from sidewalks contiguous to said property as is necessary to prevent an unsightly, deleterious or dangerous condition for pedestrian traffic.

(2) Snow or Ice.

(a) It shall be unlawful for the owner, tenant or lessee of property to fail or refuse to remove snow or ice from the sidewalks contiguous to said property at any time that the average snow depth exceeds one (1) inch, or when snow or ice on the sidewalk presents an unreasonably dangerous condition.

(b) It shall be unlawful for any person to push, pile or place snow or ice so that it unreasonably obstructs or blocks driveways or streets or blocks the visibility of motorists or otherwise creates a dangerous condition for pedestrian or vehicular traffic. This Subsection (2)(b) of this Section shall not apply to snow or ice removal activities by Provo City.

(3) The duties described in this Section shall not be interpreted to create any duties enforceable in a civil action for damages or injuries. (Rep&ReEn 1990-04, Am 1996-14)

**9.16.050. Sidewalk - Contract Liability.**

(1) In the event that debris, snow or ice conditions on sidewalks are in violation of Section 9.16.030, Provo City Code, the Director of Public Works, or the Director's designee, may do one (1) or more of the following:

(a) Notify (using methods reasonable under the circumstances) the owner, tenant or lessee of the subject property to comply with the provisions of Section 9.16.030, Provo City Code, and if the same is not done in a reasonable period of time, to cause the same to be done and recover the costs thereof in the name of Provo City from the owner, tenant or lessee, who shall be jointly and severally liable;

(b) If debris, snow or ice on sidewalks present an immediate and unreasonable risk of harm to persons or property, have the debris, snow or ice removed forthwith from the subject sidewalks and recover the costs thereof in the name of Provo City from the owner, tenant or lessee, who shall be jointly and severally liable.

(2) This Section shall not be interpreted to create any additional duties enforceable in a civil action for damages or injuries. (Rep&ReEn 1990-04, Am 1996-14, Am 2006-08, Am 2006-49)

#### **9.16.060. Water From Roof - Discharge on Sidewalks Prohibited.**

It is unlawful for any owner, tenant or lessee to suffer or permit water from the roof or eaves on any building or structure to be discharged upon the surface of any public sidewalk. (Enacted 1996-14)

#### **9.16.070. Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. (Enacted 1996-14)

### **Chapter 9.17. Civil Infractions.**

- 9.17.010. Statement of Intent.
- 9.17.020. Position of Civil Violations Hearing Examiner Created - Powers and Duties.
- 9.17.030. Acts Made Civil Infractions.
- 9.17.040. Notice of Infraction.
- 9.17.050. Response to Notice of Infraction - Payments by Mail.
- 9.17.060. Fee for Infractions - Payment.
- 9.17.070. Contesting an Infraction - Hearing - Appeals.
- 9.17.080. Special Provisions Relating to Parking Regulations.
- 9.17.090. Civil Appeals.
- 9.17.100. Criminal Violation.
- 9.17.110. Civil Collection Actions.

#### **9.17.010. Statement of Intent.**

Provo City enacts this Chapter 9.17 of the Provo City Code with the intent to decriminalize, where possible, violations of municipal law which have traditionally been regulated by the criminal laws. This is done to assist residents of Provo City, and others, by expediting the resolution of cases and to remove the social stigma attached to criminal actions. With the enactment of this Chapter, Provo City is acting, in part, pursuant to authorization found in Sections 10-8-84, 41-6-16 and 41-6-17(21), Utah Code, as amended. This Chapter 9.17, Provo City Code is intended to meet the constitutional issues described in 401 U.S. 395 (1971), and subsequent U.S. Supreme Court decisions. (Enacted 1985-42)

#### **9.17.020. Position of Civil Violations Hearing Examiner Created - Powers and Duties.**

The position of Civil Violations Hearing Examiner is hereby created within the Finance Department. A Hearing Examiner shall perform all duties and exercise all powers described in this Chapter. The amount of a Hearing Examiner's compensation shall not be based directly or indirectly upon the outcome of cases heard by the Hearing Examiner. The duties of the Hearing Examiner may be performed through subordinates, except that a hearing shall be conducted only by a Hearing Officer if a person charged with an infraction so requests in writing. (Enacted 1985-42, Am 1985-75, Am 1996-12, Am 2006-49, Am 2007-50)

#### **9.17.030. Acts Made Civil Infractions.**

The following acts are hereby declared to be civil infractions (and not criminal offenses) and within the jurisdiction of the City Civil Violations hearing Examiner:

(1) Violation of any of the parking regulations described in the Provo City Code;

(2) Violations of parking laws and regulations not inconsistent with these ordinances which are described in state statutes, including benefitting disabled (handicapped) persons, which statutes are hereby adopted as a portion of the Provo City Code.

(3) Violation of motor vehicle license plate and registration regulations when the motor vehicle is parked on public property as described in Section 9.31.100, Provo City Code.

(4) Violation of Section 9.32.170 of this Title. (Enacted 1985-42, Am 1985-75, Am 1993-34, Am 1999-12)

#### **9.17.040. Notice of Infraction.**

(1) A written Notice of Infraction shall be issued to each person charged with a civil infraction, which notice shall contain not less than the following information:

(a) The name and address of the person charged with the infraction. Notwithstanding anything in this Section to the contrary, a notice of infraction for a parking violation, placed on a parked motor vehicle need not include a name and address;

(b) The infraction charged;

(c) The date and place of the infraction;

(d) If the infraction involved the use of a motor vehicle, the make of the vehicle and its license number;

(e) Notice that the Notice of Infraction must be responded to at the office of the Civil Violations Hearing Examiner; and

(f) Other information, including, in the discretion of the Civil Violations Hearing Examiner, information related to payments by mail. (Enacted 1985-42, Am 1985-75, Am 1993-32)

#### **9.17.050. Response to Notice of Infraction - Payments by Mail.**

(1) Any person to whom a notice of infraction has been issued shall respond within five (5) days thereof by:

(a) Paying the fee described in Section 9.17.060, Provo City Code (For good cause, the Civil Violations Hearing Examiner may allow reasonable terms for payment;)

(b) Contesting the violation in the manner described in Section 9.17.070, Provo City Code; or

(c) Demonstrating the financial inability to pay the applicable fee on any reasonable terms. A person claiming under this Subsection (1)(c) of this Section shall agree with the Civil Violations Hearing Examiner to perform public service in lieu of paying the fee, which public service shall be performed in not more than thirty (30) days after the agreement is entered into.

(2) Fees may be paid by mail, but the risk that payments may be lost in the mail shall be on the sender, and all payments shall be received by the Civil Violations Hearing Examiner within the times required by this chapter.

#### **9.17.060. Fee for Infractions - Payment.**

(1) Fees and other money related to civil infractions shall be paid to the Finance Department in such manner, not inconsistent with this Chapter, as the Finance Director shall direct. No Hearing Examiner or any subordinate thereof shall receive any fees or other money related to civil infractions over which the Hearing Examiner has jurisdiction.

(2) The fee for violation of a parking regulation shall be as follows:

(a) Twenty-five dollars (\$25.00) for all overtime restricted parking violations if paid within five (5) business days after

the notice of infraction is issued, except that a third and any subsequent overtime violation within sixty (60) days of a previous overtime violation shall be Twenty-five dollars (\$25.00) if paid within five (5) business days after the notice of infraction is issued.

(b) Twenty-five dollars (\$25.00) for parking within an intersection in violation of Section 9.31.010, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(c) Twenty-five dollars (\$25.00) for double parking in violation of Section 9.31.030, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(d) Twenty-five dollars (\$25.00) for parking out of stall in violation of Section 9.31.020, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(e) Thirty dollars (\$30.00) for parking in a red or yellow curbed area in violation of Section 9.31.020, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(f) Thirty dollars (\$30.00) for parking across or on a sidewalk in violation of Section 9.31.010, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(g) Thirty dollars (\$30.00) for parking in non-compliance with a parking sign or parallel parking requirements established under Section 9.31.020, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(h) Twenty-five dollars (\$25.00) for parking in a crosswalk in violation of Section 9.31.010, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(i) Thirty dollars (\$30.00) for parking left side of curb in violation of Section 41-6-104, Utah Code, as amended, if paid within five (5) business days after the notice of infraction is issued.

(j) Thirty dollars (\$30.00) for vehicles parked with expired registration in violation of Section 41-1a-215, Utah Code, as amended, if paid within five (5) business days after the notice of infraction is issued.

(k) Thirty dollars (\$30.00) for parking too close to a fire hydrant in violation of 9.31.010 or for parking in a fire access lane in violation of Section 9.32.120, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(l) Twenty-five dollars (\$25.00) for parking or leaving a vehicle unattended over seventy-two (72) hours in violation of Section 9.31.050, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(m) Except as specifically allowed under Chapter 9.32, Provo City Code, twenty-five dollars (\$25.00) for parking along a public street or highway which obstructs or partially obstructs clear passage of vehicular entrance or egress to any driveway abutting upon a public street or highway in violation of Section 9.31.010, Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(n) One hundred twenty five dollars (\$125.00) for parking in a disability parking space in violation of Section 41-1a-414, Utah Code, if paid within five (5) business days after the notice of infraction is issued.

(o) Twenty-five dollars (\$25.00) for any other parking violation found in the Provo City Code or state law, but not specifically mentioned in this Section, if paid within five (5) business days after the notice of infraction is issued.

(p) Twenty-five dollars (\$25.00) for violating Section 9.32.170(1), (2), or (3), Provo City Code, if paid within five (5) business days after the notice of infraction is issued.

(3) The fee for violation of a civil infraction paid or contested between six (6) business days and ten (10) business days after a notice of infraction is issued shall be double the amount set forth in Subsection (2) of this Section.

(4) The fee for violation of a civil infraction paid or contested between eleven (11) business days and fifteen (15) business days after a notice of infraction is issued shall be treble the amount set forth in Subsection (2) of this Section and if paid after fifteen (15) business days it shall be treble the amount set forth in Subsection (2) of this Section.

(5) A civil infraction shall be deemed in default and subject to the penalties described in this Chapter, including but not limited to: impoundment and towing, legal action for collection of all fees and costs, and criminal prosecution pursuant to Section 9.17.100, Provo City Code, if sixteen (16) business days or more after the notice of infraction was issued the applicable fee has not been paid or the action contested.

(6) In addition to any other penalty or fine stated within this chapter, and not in lieu of any other penalty or legal action which can be taken against a person or vehicle, any vehicle found to be in violation of any provision of this Chapter, including, but not limited to, a vehicle which blocks a driveway, to a residence or business in such a manner that vehicles cannot safely enter or exit said driveway may be towed and impounded upon the direction of any police officer, parking enforcement officer, or fire officer upon said officer finding said situation creates a nuisance which impairs the health or safety of the public. In addition to the above, it shall be prima facie evidence of a nuisance to the public's health and safety if any vehicle if found to partially or entirely block a driveway more than two (2) times within a twelve (12) month period and may be removed at the direction of any police officer or fire officer. The registered owner of the vehicle shall be responsible for all towing and storage fees incurred in the event a vehicle is removed. The owner or the owner's agent may claim the vehicle only after paying any fines incurred and any towing and impounding fees incurred. Any contest of a removal shall be made by giving written notice, requesting a contest hearing to Provo City Hearing Examiner, within fifteen (15) business days of the removal.

(7) The fees established under this Section are set forth in the following table. Any conflicting fee established under Subsection (2) of this Section shall be controlling and take precedence over any fee set forth in the table:

<b>Violation</b>	<b>Within 5 Days<sup>1,2</sup></b>	<b>Within 11 Days<sup>1,3</sup></b>	<b>Within 15 Days<sup>1,3</sup></b>
Overtime Restricted Parking 9.31.080	\$25.00	\$50.00	\$75.00
Overtime Restricted Parking 9.31.080 on 3rd or Subsequent Violation Within 60 days	\$25.00	\$50.00	\$75.00
Double Parking 9.31.030	\$25.00	\$50.00	\$75.00
Within Intersection 9.31.010	\$25.00	\$50.00	\$75.00
Out of Stall 9.31.020	\$25.00	\$50.00	\$75.00
Red/Yellow Curb 9.31.020	\$30.00	\$60.00	\$90.00
Sidewalk 9.31.010	\$30.00	\$60.00	\$90.00
No Parking Sign 9.31.020	\$30.00	\$60.00	\$90.00
Crosswalk 9.31.010	\$25.00	\$50.00	\$75.00

Violation	Within 5 Days <sup>1,2</sup>	Within 11 Days <sup>1,3</sup>	Within 15 Days <sup>1,3</sup>
Left Side of Curb 41-6-104 UCA	\$30.00	\$60.00	\$90.00
Expired Registration 41-1a-215 UCA	\$30.00	\$60.00	\$90.00
Firelane 9.32.120/ Hydrant 9.31.010	\$30.00	\$60.00	\$90.00
Blocking Driveway 9.31.010	\$25.00	\$50.00	\$75.00
Unattended over 72 hours 9.31.050	\$25.00	\$50.00	\$75.00
Disability Space 41-1a-1306 UCA	\$125.00	\$250.00	\$375.00
Skateboard, etc. violation 9.32.170	\$25.00	\$50.00	\$75.00
Others	\$25.00	\$50.00	\$75.00

<sup>1</sup> Days are defined as business days, excluding weekends and any Provo City recognized holiday.

<sup>2</sup> The fee for a violation paid or contested between 6 and 10 business days after issuance of a notice of infraction is double the amount shown.

<sup>3</sup> The fee for a violation paid or contested between 11 and 15 business days after a notice of infraction is issued is treble the amount shown. If paid after 15 business days the amount is treble. (Enacted 1985-42, Am 1985-72, Rep&ReEn 1989-33, Am 1989-50, Am 1993-34, Am 1994-91, Am 1994-103, Am 1995-60, Am 1996-12, Am 1999-11, Am 2001-28, Am 2002-48, Am 2004-08, Am 2006-49, Am 2008-22)

#### **9.17.070. Contesting an Infraction - Hearing - Appeals.**

(1) Any person charged with an infraction may contest the same instead of paying the fee. An infraction is contested by causing written notice thereof to be delivered to the office of the Civil Violations Hearing Examiner. If the person charged with an infraction fails or refuses to give a correct mailing address when contesting an infraction the action shall be deemed to be in default and not contested.

(2) When an infraction is contested, the Hearing Examiner shall thereafter conduct a civil hearing with respect thereto. The Notice of Infraction shall constitute prima facie evidence that the infraction alleged therein actually occurred. The hearing shall be conducted as informally as the circumstances will allow and shall be based on the civil standard of a preponderance of the evidence. At the hearing, any party, may be required to testify.

(3) The Hearing Examiner shall decide if the alleged infraction occurred. If the Hearing Examiner finds the infraction alleged did not occur, the Notice of Infraction shall be without any further force or effect. If the Hearing Examiner finds at the hearing that the infraction alleged did occur, the person to whom the Notice of Infraction was issued shall respond as provided in Subsection 9.17.050(1)(a) or 9.17.050(1)(c), Provo City Code. The response shall be within five (5) days after the hearing, unless the decision is given by mail and not at the hearing, in which event the response shall be in ten (10) days after the decision is mailed to the address given when the infraction was contested. A contested action shall be in default if not responded to in the time periods provided in this Subsection (3) of this Section. (Enacted 1985-42, Am 1985-72)

#### **9.17.080. Special Provisions Relating to Parking Regulations.**

If a civil infraction relates to a parking regulation, the following rules shall apply:

(1) The notice of infraction may be issued by affixing the same to the subject motor vehicle in a conspicuous place.

(2) Notwithstanding Subsection 9.17.040(1)(a), Provo City Code a notice of infraction placed on a parked motor vehicle need not include a name and address.

(3) Whenever a motor vehicle has been parked in violation of any parking regulation the person in whose name such vehicle is registered shall be prima facie responsible for such violation and liable for payment of the applicable fee.

(4) Any motor vehicle with respect to which four (4) or more Notices of Infraction are in default is hereby declared to be a public nuisance and Provo City may authorize said motor vehicle to be towed from the public streets at the expense and risk of the registered owner. Said motor vehicle shall be held and not released until the unpaid fees, and reasonable costs of towing and storage have been paid.

(5) If a motor vehicle has been towed from the public streets pursuant to the provisions of this Chapter and is being held for the payment of fees and charges, the owner thereof, or the agent of the owner, may, in writing, request a hearing to determine the validity of the action taken with respect to said motor vehicle, and said hearing shall take place within seventy two (72) hours from the date of the request, unless the applicant agrees to a longer period of time before the hearing. The Hearing Examiner may order the release of any motor vehicle without cost to the owner or the owner's agent if said motor vehicle was towed from the public streets or is being held in violation of this Chapter or other applicable law. (Enacted 1985-42, Am 1985-72, Rep&ReEn 1989-33, Am 1996-12)

#### **9.17.090. Civil Appeals.**

Any person dissatisfied with a decision of a Civil Violations Hearing Examiner may appeal the same within fifteen (15) days to the Justice Courts, which shall hear the action de novo in the manner described in Subsection 9.17.070(2), Provo City Code. Failure to respond to a Notice of Infraction shall not be a decision from which an appeal can be taken. (Enacted 1985-42, Am 2007-50)

#### **9.17.100. Criminal Violation.**

(1) Notwithstanding any contrary provision in this Chapter, it shall be a criminal misdemeanor violation, with exclusive original jurisdiction in the Justice Courts:

(a) for a person to whom a Notice of Infraction has been issued to allow the subject action to go into default;

(b) for a registered owner to fail or refuse to respond to a Notice to Respond issued pursuant to Subsection 9.17.080(2), Provo City Code; or

(c) for a person to wilfully fail or refuse to completely perform the public service agreed to pursuant to Subsection 9.17.050(1)(a), Provo City Code.

(2) For the purposes of this Section it shall be a rebuttable presumption that the Notice of Infraction and any other notices have been received by the addressee. (Enacted 1985-42, Am 1985-75, Am 2007-50)

#### **9.17.110. Civil Collection Actions.**

Provo City may bring civil suit in the courts of the State of Utah to recover the amount of overdue and unpaid fees, and any other reasonable charges related thereto. (Enacted 1985-42)

## **Chapter 9.18. Parking Strips.**

(Rep 1996-47)

## Chapter 9.19. Park Use Regulations.

- 9.19.010. Vandalism and Nuisances Prohibited.
- 9.19.020. Use of Parks by Permission - Commercial Sales Prohibited.
- 9.19.030. Curfew Hours.
- 9.19.040. Extent of Effect of Regulations.
- 9.19.050. Vehicular and Animal Traffic.
- 9.19.060. Speed Limit.
- 9.19.070. Littering Prohibited.
- 9.19.080. Parking Regulations.
- 9.19.090. Possession or Consumption of Alcoholic Beverages.
- 9.19.120. Use of Radios and Recorders.

### 9.19.010. Vandalism and Nuisances Prohibited.

(1) It shall be unlawful for any person or persons to scratch, cut, injure or deface any of the buildings, fences, structures, or foul any of the fountains, or any other improvement, or to cut, or injure flowers, flower beds, trees or shrubs within the parks, or to commit any other act of vandalism to public or private property.

(2) It shall be unlawful for the owner of any dog to allow the same to run at large within the parks, or for any individual or group to do any of the following in a City park:

- (a) to play or practice golf;
- (b) to shoot or otherwise propel arrows;
- (c) to engage in any activity that threatens the safety or well being of other persons; or
- (d) to create a disturbance or a nuisance as described in Sections 9.06.010 and 7.01.010, Provo City Code. (Am 1988-08, Am 1989-42, Am 1993-36)

### 9.19.020. Use of Parks by Permission - Commercial Sales Prohibited.

(1) Any person, group or organization desiring to use a park or any portion thereof on an exclusive basis or any person, group or any organization desiring to use the park equipment for public gathering to the exclusion of other persons or for the purpose of holding meetings, either public or private in nature, shall do so only after obtaining a reservation permit from the Parks and Recreation Department and upon payment of an appropriate fee for the privilege of reserving the area for a given period of time. Said permit shall be granted only after the person, group, or organization applying for the permit, can demonstrate to the City's satisfaction that adequate public restroom facilities are available, and that such public, private, or exclusive gathering, meeting, or activity can be conducted in a manner that will not, because of noise, lighting, parking, or other condition, unreasonably disturb the adjoining neighborhood.

(2) It shall be unlawful to sell any thing in a City park or to engage in any commercial activity in a City park, whether for profit or otherwise, without the prior written consent of the Parks and Recreation Director. (Am 1988-08, Am 1993-36)

### 9.19.030. Curfew Hours.

All City parks shall be closed between eleven (11:00) p.m. and five (5:00) a.m. the following morning ("curfew hours"). No person or persons shall be permitted in said parks either on foot, or horseback or on any type of vehicle during curfew hours except for the express purpose of traveling directly through the park on a public street or sidewalk passing through the park. No vehicle parking shall be permitted in a City park during curfew hours except in a posted temporary overnight parking area as set forth in Section 9.19.080, Provo City Code. (Am 2002-19)

### 9.19.040. Extent of Effect of Regulations.

The actions described by Sections 9.19.050 through 9.19.090, Provo City Code shall be unlawful and punishable as misdemeanors

when done within the area embraced by any public park, parkway, airport or upon any public property belonging to Provo City or any auxiliary thereof or upon any public street contiguous to said property. (Am 1988-08)

### 9.19.050. Vehicular and Animal Traffic.

It shall be unlawful to drive any vehicle or animal or to allow any vehicle or animal to proceed on or over any garden, lawn, sidewalk, beach, wall, or any other portion of such public place as described in Section 9.19.040, Provo City Code unless the same are designated for vehicular or animal traffic. It shall be presumed for the purposes of this Chapter that in any area in use at the time as a picnic or recreational area or otherwise in use by pedestrian traffic that the same is prohibited for use by vehicular or animal traffic. This paragraph shall not be construed to prohibit the presence of dogs and cats and similar other small animals while under the control of their owners from being allowed upon such public property unless such are vicious and are shown such either by their general nature or by the facts of the case.

### 9.19.060. Speed Limit.

It shall be unlawful to drive any vehicle or ride any animal within the areas mentioned in Section 9.19.040, Provo City Code at a speed greater than fifteen (15) miles per hour unless otherwise posted by the Chief of Police.

### 9.19.070. Littering Prohibited.

It shall be unlawful to cause or allow any foreign material, papers, bottles, rags, or discarded articles of any substantial kind or nature to be left in public places as described in Section 9.19.040, Provo City Code.

### 9.19.080. Parking Regulations.

(1) It shall be unlawful to park any vehicles within the public property as described in Section 9.19.040, Provo City Code, in such a way as to block the roads provided for public traffic; or where public parking is provided to park other than in the public parking area.

(2) Vehicle parking shall not be permitted in a City park during curfew hours as set forth in Section 9.19.030, Provo City Code, except in posted temporary overnight parking areas used strictly for canyon overnight camping accessed through Big Springs Park, South Fork Trail Head, Rock Canyon Trail Head and Slate Canyon Trail Head. (Am 2002-19)

### 9.19.090. Possession or Consumption of Alcoholic Beverages.

It shall be unlawful to possess or consume beer, liquor, or any other alcoholic beverage within a City park. (Am 1988-08, Am 1990-41)

### 9.19.120. Use of Radios and Recorders.

(1) It shall be unlawful to operate, play or cause to be operated or played in a City park or in a motor vehicle located in a City park or parked on a road adjacent to a City park, any radio, television, phonograph, stereo, tape player, disk player or other similar device which produces, reproduces or amplifies sound in such a manner as to be audible beyond the boundaries of the park or at a distance of more than fifty (50) feet from such radio, television, phonograph, stereo, tape player, disk player, sound amplifier or similar device.

(2) Subsection (1) of this Section shall not apply if the device described in Subsection (1) of this Section and the volume of sound therefrom are specifically authorized by the Department of Parks and Recreation in conjunction with a scheduled activity. (Enacted 1989-42)

## Chapter 9.20. Urban Forestry.

- 9.20.010. Short Title - Purpose.
- 9.20.020. Definitions.
- 9.20.030. Applicability.
- 9.20.040. Public Tree Management Authority.
- 9.20.050. Consent Required.
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- 9.20.070. Coordination between Departments.
- 9.20.080. Public Tree Inventory, Tree Selection Guide and Arboricultural Standards and Specifications.
- 9.20.090. Public Tree Planting Program.
- 9.20.100. Tree Preservation.
- 9.20.110. Injuring Trees.
- 9.20.120. Tree Appraisal.
- 9.20.130. Trees – Dangerous or Hazardous Conditions.
- 9.20.140. Enforcement.
- 9.20.150. Appeals.
- 9.20.160. Heritage Tree Registry.
- 9.20.170. Big Tree Registry.
- 9.20.180. Further Information.

### 9.20.010. Short Title - Purpose.

(1) This Chapter shall be known and may be cited as the Urban Forestry Chapter of the Provo City Code.

(2) This Chapter establishes policies, regulations, and standards necessary to ensure that Provo City will continue to realize the benefits provided by its urban forest to better protect the public's health, safety, and general welfare. The provisions of this Chapter are enacted to:

- (a) establish and maintain the maximum and proper amount of tree cover on public and private lands in the City;
- (b) maintain public trees in a healthy and non-hazardous condition through prudent arboricultural practices;
- (c) establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest; and
- (d) perpetuate the many contributions trees make to the financial, social, aesthetic and environmental well being of the City, and its residents and visitors. (Rep & ReEn 2008-39)

### 9.20.020. Definitions.

For the purpose of this Chapter the following terms, phrases, words, and their derivations shall have the meaning given herein.

**"American National Standards Institute"** (ANSI) means a set of nationally established standards for tree care operations and maintenance adopted by the City.

**"Arboricultural Standards and Specifications"** means the standards and specifications of the Energy Department applicable under this Chapter.

**"Best Management Practices"** (BMP) means the published standards of tree maintenance and care developed by the ISA and ANSI and adopted by the City.

**"City Forester"** means the person in the Department of Energy who is charged with the management of all public trees.

**"Department of Energy"** means the Provo City Department of Energy.

**"Energy Board"** means the advisory board that oversees the forestry program.

**"International Society of Arboriculture"** (ISA) means the internationally recognized organization for arboriculture whose mission is to foster a greater appreciation for trees and to promote the research, technology, and practice of professional arboriculture.

**"Non-Public Tree"** means a tree now, or hereafter, growing on property other than "public" as defined in this section.

**"Pollarding"** means a training system for young trees that involves heavy heading cuts and sprout removal on an annual basis.

**"Public Tree"** means a tree located on Provo City property, including but not limited to, tree planting strips, parks, and other grounds, except where otherwise indicated.

**"Top" or "Topping"** means the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the crown of a tree to such a degree as to remove the normal canopy and disfigure the tree or severely alter the species' inherent structural characteristics.

**"Tree Planting Strip" or "Parking Strip"** means the area between curb or place where curb should be and a sidewalk. (See Section 15.03.080 (2), Provo City Code) (Rep & ReEn 2008-39)

### 9.20.030. Applicability.

This Chapter applies to all public trees in Provo City and any private tree that is a public nuisance or hazard. (Rep & ReEn 2008-39)

### 9.20.040. Public Tree Management Authority.

The Department of Energy shall control the regulation, planting, care and control of any public tree with the exception of a tree in a City park. The Parks and Recreation Department shall control any tree situated on and surrounding a City park. The Department of Energy shall preserve, mark, and maintain historic or notable trees, and shall develop an official tree planting list and urban forest management plan.

The Parks and Recreation Department shall be responsible for the care and maintenance of trees and vegetation growing in a City park or City-maintained grounds. (Rep & ReEn 2008-39)

### 9.20.050. Consent Required.

(1) Except for a public entity owning public property, planting, removing, moving, spraying, trimming, pruning, cutting above or below ground, disturbing or altering any public tree, or causing such acts to be done by others, without first obtaining the written consent of the City Forester is prohibited. This Section shall not apply to line clearance tree trimming by employees of the Department of Energy following coordination with the City Forester and tree maintenance activities by employees of the Parks and Recreation Department

(a) Any person receiving written consent for any action under Subsection (1) above shall abide by the arboricultural standards and specifications of practice specified by the Provo City Department of Energy and/or any specific conditions or methods required by the City Forester, including but not limited to both ANSI and BMP. Each crew performing contract work on a public tree shall have at least one (1) ISA certified arborist on the crew and on-site when work is approved.

(b) The City Forester shall approve any plans for removal of one (1) or more public trees. As a condition the permittee shall be required to compensate Provo City for the appraised value of trees removed either by replacement thereof or by monetary assessment. Appraisal values shall be determined by an ISA certified arborist with tree appraisal training.

(2) An owner of private property which abuts a Provo City right-of-way shall have the following responsibilities with respect to trees planted in the adjacent tree planting strip:

(a) routine watering of public trees to maintain good health and vigor; a property owner who does not water a public tree shall be liable for the death of such tree up to appraised value as determined by accepted ISA and the Council of Tree and Landscape Appraisers procedures;

(b) prevent damage to public trees caused by lawn mowers, weed trimmers, snow blowers, or similar equipment;

(c) if no formal parking strip has been established,

(i) maintain all trees on said property up to the edge of street or curb; and

(ii) be responsible for all vegetation planted or growing thereon.

(d) A tree located behind a public sidewalk shall be cared for and maintained by the adjacent property owner. (Rep & ReEn 2008-39)

#### **9.20.060. Resolution of Conflicts between Trees and Structures.**

When sidewalk or curb damage occurs due to tree roots, every effort shall be made to correct the problem without removing or damaging the tree. The City Forester shall be responsible for developing or coordinating corrective measures in consultation with the Public Works Department. (Rep & ReEn 2008-39)

#### **9.20.070. Coordination between Departments.**

There shall be close coordination between all City departments when public trees are affected. Sight distance concerns for stop signs and other regulatory signs and signals shall be referred to the City Traffic Engineer who in turn shall authorize the City Forester to take necessary corrective action. Plans for all lighting, power transmission and distribution, sewer, irrigation, water, street and other public works projects shall be considered with reference to their effect upon trees on public property prior to the beginning of work on such projects, and the various City department heads shall confer with the City Forester to coordinate programs and to minimize damage to trees on all projects. (Rep & ReEn 2008-39)

#### **9.20.080. Public Tree Inventory, Tree Selection Guide and Arboricultural Standards and Specifications**

(1) An inventory of public trees and a tree selection guide shall be kept by the Department of Energy. The inventory and selection guide may be referred to for plans and specifications for the placement, treatment, or removal of public trees. Both the inventory and selection guide may be modified by the City Forester.

(2) Arboricultural standards and specifications shall contain the policies and procedures for maintenance, care, and safety of trees and maintenance personnel, and City forest resources. Such document shall be revised as needed to maintain current practices in tree care and management. (Rep & ReEn 2008-39)

#### **9.20.090. Public Tree Planting Program.**

The Provo City Forestry Division's tree planting program provides public trees for parking strips adjacent to new homes and other housing development projects. The service shall be available to new homeowners upon payment of a public tree fee as shown in the Consolidated Fee Schedule adopted by the Municipal Council. An occupancy permit shall also be issued and the parking strip prepared (installation of an irrigation system and turf) prior to planting of a public tree. A public tree shall be selected from the tree selection guide. Planting of a tree not in the tree selection guide shall be first approved by the City Forester. Planting and spacing of a public tree shall conform to Provo City's arboricultural standards and specifications. (Rep & ReEn 2008-39)

#### **9.20.100. Tree Preservation.**

(1) When development of property or installation of public utilities or other infrastructure may impact a public tree, every effort shall be made to preserve the tree's health and structural integrity. Alteration of trenching routes, augering, or tunneling, beneath the root zone of such a tree may be required to meet this requirement. The City Forester shall be consulted during the design phase of each project to coordinate specifications for tree protection prior to excavation. Specifications shall conform to Provo City's arboricultural standards and specifications.

(2) If in planning for development of a property, a public tree must be removed, written consent shall be obtained from the City

Forester. Prior to issuance of written consent the tree shall be appraised using the most recent procedures and methods accepted by the ISA and Council of Tree and Landscape Appraisers. The appraised value of the tree to be removed shall be paid to the City by the permittee. Funds generated through payments for public tree removal shall be used to purchase and plant replacement trees for use in parks and other public property. (Rep & ReEn 2008-39)

#### **9.20.110. Injuring Trees.**

(1) It shall be unlawful to injure or destroy a tree on any City tree planting strip, public park, or other public property, including but not limited to the following:

(a) constructing a concrete, asphalt, brick or gravel sidewalk or otherwise covering or filling up the ground area without irrigation and aeration around any tree so as to restrict oxygen, light, or water from tree roots without written consent from the City Forester;

(b) piling or storing building material, equipment, or other substance around any tree so as to cause injury;

(c) applying any injurious matter on or around any tree, or on the ground around it, or on any adjacent lawn or sidewalk;

(d) posting a sign on any tree, tree-stake or guard, or by fastening a guy wire, cable or rope to a tree, tree-stake, guard or nails;

(e) injuring a tree, tree-stake, or guard with a vehicle or animal, or in any other manner which causes injury or death to a tree or lawn on public property; and

(f) hanging a swing, hammock, or other similar object on a public tree.

(2) Tree stakes or guards may be placed around a public tree by an adjacent property owner, with permission of the City Forester, provided the same are placed near a tree for the purpose of protecting or training the tree.

(3) A tree located on Provo City property in the immediate vicinity of an excavation, demolition, or construction of a building, structure, street, or utility work shall be protected from unnecessary injury. Tree protection specifications and standards shall be obtained from the City Forester and strictly adhered to. Any potential injury or damage shall be guarded against with a tree protection zone as provided in the Provo City arboricultural standards and specifications. Tree protection shall be coordinated with the City Forester, throughout the project, in order to mitigate damage to the tree and danger to the public. During the construction phase the contractor shall ensure regular and adequate irrigation of each public tree as provided in the arboricultural standards and specifications. Such irrigation shall be documented.

(4) Any person who destroys or injures a tree belonging to Provo City shall pay to the City the appraised replacement or repair cost associated with such action as provided by the ISA and the Council of Tree and Landscape Appraisers.

(5) It shall be unlawful to top any public tree without the authorization required by Subsection 9.20.050(4), Provo City Code. Pollarding of a public tree is prohibited without the written consent of the City Forester. All pruning procedures shall follow the most recent revisions of ANSI A300 pruning standards, as amended. A trees under utility wires or other obstructions where standard pruning practices are impracticable may be exempted from this section with prior approval of the City Forester.

(a) Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches do not obstruct the light from any street lamp, the view of any street intersection, or the ability of pedestrians to use the sidewalk.

(b) There shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface.

(c) Said owners shall remove any dead or dangerous tree, or broken or decayed limbs that constitute a hazard to the safety of the public.

(d) The City shall have the right to prune any tree or shrub on private property when it interferes with pedestrian use of a sidewalk, vehicle use of a public street, visibility of any traffic control device or sign, or sight triangle at an intersection. The property owner may be charged with the equipment, vehicle, and crew cost accrued in the pruning or removal of such tree.

(e) A tree that located near a high voltage electrical conductor shall be in compliance with Department of Energy standards set forth Section 12.03.120, Provo City Code. (Rep & ReEn 2008-39)

#### **9.20.120. Tree Appraisal.**

Damages to a public tree shall be determined at appraised value by the City Forester using the methodology of the International Society of Arboriculture and the Council of Tree and Landscape Appraisers. The City Attorney may take any legal action necessary to collect such damages that are not paid after assessment. Funds collected for tree damage shall be used to replace public trees. (Rep & ReEn 2008-39)

#### **9.20.130. Trees - Dangerous or Hazardous Conditions.**

(1) It shall be unlawful to knowingly keep or maintain a tree which is a danger or a hazard to other trees or plants or to humans because the tree is diseased or because of the size, location, or other characteristics of the tree.

(2) Provo City may bring a criminal action to enforce this Section and Provo City or any private person may bring a private civil action to enforce this Section.

(3) The following are hereby defined and declared to be a public nuisance:

(a) a non-public tree, shrub or other plant located on private property that is dead or is host to a destructive or communicable disease or other pestilence which endangers the growth, health, life, or well-being of any tree, shrub, or plant in the City capable of causing an epidemic spread of a communicable disease or insect infestation;

(b) the root of any non-public tree located on private property which causes the surface of a public street, curb, or sidewalk to be up heaved or otherwise disturbed; and

(c) any non-public tree or portion thereof, located on private property which, by reasons of location or condition, interferes with any public street, sidewalk, or signage, or constitutes an imminent danger to the property, health, safety, or well being of the general public on City property.

(4) When a public nuisance, as described in this Section, exists upon property, and is the outgrowth of the usual, natural, or necessary use of property, the owner or landlord thereof, or such person's agent, tenant or tenant's agent, and all other persons having control of the property where such nuisance exists, shall be deemed the authors thereof, and shall be equally liable for such nuisance.

(5) The City Forester is hereby authorized to issue a warning at any property where a public nuisance exists. If the nuisance is not abated by the property owner within a reasonable time, as determined by the City Forester, the City Forester may pursue legal action through the City Attorney's office. The City also shall have authority to condemn and remove any tree, stump, shrub, or vine upon any public street, avenue, or way where the tree, tree stump, shrub or vine is dead, or host to a communicable or destructive disease or for any other reason undesirable. The property owner may be charged with the equipment, vehicle, and crew cost accrued in the pruning or removal of any nuisance tree.

(6) The City shall may trim or prune any public tree or remove any tree planted in violation of this Chapter or any other ordinance

of the City, without serving notice upon the owner of the abutting property. No person, firm, or corporation shall interfere with the City Forester or persons acting under the City Forester's authority while engaged in the removal of any tree, shrub, or plant along any street, avenue, way, or public place in the City. Interfering with other forestry activities including but not limited to planting, mulching, and pruning is also prohibited. (Rep & ReEn 2008-39)

#### **9.20.140. Enforcement.**

(1) The City Forester and/or City Code Enforcement Officer shall be responsible for enforcing this Chapter and may serve notice to any person in violation thereof or institute legal proceedings as may be required. The City Attorney may institute appropriate proceedings to that end.

(2) A violator of this Chapter is liable for treble the amount of damages, which may be assessed in a civil action as provided in Section 78B-6-1002, Utah Code Annotated, as amended. (Rep & ReEn 2008-39)

#### **9.20.150. Appeals.**

Any action of the City Forester may be appealed to the Mayor within ten (10) days of the City Forester's decision by filing a written notice of appeal and a request for a hearing. The notice of appeal shall clearly specify the reasons for which a hearing is requested. Upon receipt of written notice of appeal, the Mayor shall proceed as provided in Chapter 3.06, Provo City Code. (Rep & ReEn 2008-39)

#### **9.20.160. Heritage Tree Registry.**

The Provo City Forestry Division and the Provo City Energy Board shall maintain a list of rare or historic trees growing in Provo. These trees are unique from a historical and/or botanical perspective and may be of interest to other citizens. Trees recognized as such shall appear on the Heritage Tree List of Provo published by the Provo City Forestry Division. Citizens may nominate public or private trees for recognition. Nominated trees must be woody plants and must generally, be referred to as "trees." A list of registry standards is available. (Rep & ReEn 2008-39)

#### **9.20.170. Big Tree Registry.**

The Provo City Forestry Division shall coordinate with the Utah Division of Forestry, Fire and State Lands to conduct a search for large trees growing in Provo which may be of interest to other residents of Provo and the state of Utah because of their unusual size. A tree that is recognized as the largest of a given species in Provo, as well as its nominator, shall appear on the Provo Big Tree Register published by the Provo City Forestry Division. Trees that are large enough to be listed on the Utah State Big Tree Register shall be submitted to the State for verification. The program shall be administered by the Energy Department. (Rep & ReEn 2008-39)

#### **9.20.180 Further Information.**

Additional information about trees and tree specifications is set forth Section 15.20, Provo City Code. Advice for homeowners concerning general tree care and maintenance may be found on the Provo City's Forestry webpage. (Rep & ReEn 2008-39)

### **Chapter 9.21. Public Schools.**

9.21.010. Definitions.

9.21.020. Public Schools and School Grounds - Curfew.

9.21.030. Nuisances Prohibited.

9.21.040. Use of Radios and Recorders.

9.21.050. Motor Vehicles on School Grounds.

9.21.060. Possession or Consumption of Alcoholic Beverages Prohibited.

9.21.070. State Provisions Related to Alcohol and Trespass Adopted by Reference.

#### **9.21.010. Definitions.**

Unless the context specifically indicates otherwise, the following words and phrases shall have the meanings assigned hereafter:

"**Public school**" means a building owned, leased or rented by any government or public agency and used for purposes of public education, but excluding a building used for purposes of higher education.

"**School grounds**" means the real property upon which a public school is located and all of the real property contiguous thereto which is owned, leased or rented by the government or public agency which operates the subject public school. (Enacted 1989-54)

#### **9.21.020. Public Schools and School Grounds - Curfew.**

All public schools and school grounds shall be closed between eleven (11:00) p.m. and five (5:00) a.m. the following morning. No person shall be permitted on said property during the prohibited hours except for officers or employees of the public authority operating said school, and their invitees, and students engaged in school activities under the direct supervision of officers or employees of said public authority. This Section shall not prevent a person, during the prohibited hours, from passing through school grounds on a public street or sidewalk, if such exist.

#### **9.21.030. Nuisances Prohibited.**

It shall be unlawful to do any of the following on school grounds:

- (1) to play or practice golf;
- (2) to shoot or otherwise propel arrows;
- (3) to engage in any activity that threatens the safety or well-being of other persons;
- (4) to scratch, cut, injure, foul or deface any buildings, fences, structures, fountains or other improvements;
- (5) to cut or injure flowers, flower beds, trees or shrubs;
- (6) for the owner or custodian of a dog to cause or allow the same to run at large; or
- (7) to discard any trash or garbage, except in a receptacle provided therefor. (Enacted 1989-54)

#### **9.21.040. Use of Radios and Recorders.**

(1) It shall be unlawful to operate, play or cause to be operated or played on school grounds or in a motor vehicle located on school grounds or parked on a road adjacent to school grounds, any radio, television, phonograph, stereo, tape player, disk player or other similar device which produces, reproduces or amplifies sound in such a manner as to be audible beyond the boundaries of the school grounds or at a distance of more than fifty (50) feet from such radio, television, phonograph, stereo, tape player, disk player, sound amplifier or similar device.

(2) Subsection (1) of this Section shall not apply if the device described in Subsection (1) of this Section and the volume of sound therefrom are specifically authorized by the government or public agency operating the related public school in conjunction with a scheduled activity. (Enacted 1989-54)

#### **9.21.050. Motor Vehicles on School Grounds.**

(1) It shall be unlawful to drive or park any motor vehicle on school grounds except on roads or parking lots specifically designated therefor, and in the manner designated therefor, unless the government or public agency operating the related public school otherwise consents.

(2) It shall be unlawful to drive any motor vehicle on school grounds at a speed greater than fifteen (15) miles per hour, unless otherwise posted. (Enacted 1989-54)

#### **9.21.060. Possession or Consumption of Alcoholic Beverages Prohibited.**

It shall be unlawful to possess or consume beer, liquor, or any alcoholic beverage within a public school or on school grounds. (Enacted 1989-54)

#### **9.21.070. State Provisions Related to Alcohol and Trespass Adopted by Reference.**

(1) Section 53A-3-501, Utah Code, as amended, (Possession or consumption of alcoholic beverages at school or school-sponsored activities - Penalty) is hereby adopted as a provision of this Chapter.

(2) Section 53A-3-503, Utah Code, as amended, (Criminal trespass upon school property - Penalty) is hereby adopted as a provision of this chapter. (Enacted 1989-54, Am 2005-47)

### **Chapter 9.30. Center Street Mall.**

- 9.30.010. Mall Designated.
- 9.30.020. Pedestrian Regulations.
- 9.30.030. Vehicular Traffic Regulations.
- 9.30.040. Prohibited Activities.
- 9.30.060. Downtown Parking Rules.

#### **9.30.010. Mall Designated.**

Pursuant to the authorization of Utah State Statutes, Provo City hereby designates that portion of Center Street in Provo, Utah, extending from the east right-of-way line of 500 West to the west right-of-way line of 100 East Street, as a pedestrian mall. The designation as a mall shall include the entire street right-of-way including sidewalks, curb and gutter, street parking, traveled street lanes and the center pedestrian portion of the mall and all portions of the designated right-of-way shall be subject to the rules and regulations as set forth hereafter.

#### **9.30.020. Pedestrian Regulations.**

(1) Pedestrians crossing the vehicular traffic lanes within the mall shall have the right-of-way so long as the pedestrian is walking in a designated crosswalk area. In any other portion of the mall, pedestrians shall yield the right-of-way to passing vehicles.

(2) Pedestrians shall be required to observe all traffic control devices and for purposes of pedestrian traffic regulation shall observe the same rules and regulations as apply on normal City streets, except that pedestrian traffic shall be allowed to cross the street in any portion of the mall, subject to the right-of-way rule set forth in Subsection (1) of this Section.

#### **9.30.030. Vehicular Traffic Regulations.**

(1) Vehicular traffic shall be allowed in the mall only on a regulated basis. It is hereby declared to be the intent of this Section to eliminate parking during certain hours of the day, to enhance cleanup of the mall, snow removal and use of the mall for service access to stores.

(2) After the hour of 9:30 p.m. of each day and until two (2:00) a.m. of the next day, the streets within the mall shall be utilized for parking purposes only and through traffic shall be eliminated from the mall and put on peripheral streets.

(3) Between the hours of two (2:00) a.m. and five (5:00) a.m. of each day, it shall be unlawful to park in the Center Street Mall except that delivery vehicles with special permission and City cleaning vehicles will be allowed in the mall for maintenance, cleanup and snow removal purposes. Any vehicle left unlawfully parked on the

mall between the hours stated shall constitute a nuisance and shall be removed from the mall at the owner's expense. (Am 1987-58, Am 2003-45)

#### **9.30.040. Prohibited Activities.**

The following activities shall be unlawful and a misdemeanor if done within the perimeter of the pedestrian mall:

- (1) The consumption of alcoholic beverages;
- (2) Possession of an open container of alcoholic beverage;
- (3) The interference with vehicular traffic by shouting, threatening, obscene or quarrelsome words or acts on the part of pedestrians or occupants of another vehicle;
- (4) No congregation or assemblage of persons shall be allowed which interferes with either vehicular or pedestrian traffic, either on the sidewalk or vehicle portion of the mall;
- (5) The destruction of any improvement, whether owned privately or publicly within or adjacent to the mall property. For purposes of this Subsection (5) of this Section, store fronts or any portion of a private building overhanging the mall right-of-way shall be considered to be a portion of the mall;
- (6) The conducting of a riot or public disturbance within the mall or the inciting of a riot or disturbance which is calculated to cause damage to the mall or any adjacent property or to any person or persons within the mall; and
- (7) It shall be unlawful for the driver of any vehicle to make a U-turn within the mall or to cross any raised barrier or to drive on any sidewalk within the mall.

#### **9.30.060. Downtown Parking Rules.**

- (1) The rules described in this Section shall apply to the parking of motor vehicles on public property at the following locations:
  - (a) Center Street between 200 East and 500 West;
  - (b) University Avenue between 500 North and 500 South;
  - (c) the public parking lot in the interior of the City block located between University Avenue, 100 West, 100 North and Center Street; and,
  - (d) the public parking lot in the interior of the City block located between 100 West, 200 West, 100 South and Center Street.
- (2) Unless authorized by the City Parking Committee and specifically so signed, marked, or otherwise publicly designated, it shall be unlawful for any person to park a motor vehicle on the public street in the Center Street Mall for a period of time longer than two continuous hours. (Am 1987-41, Rep&ReEn 1989-33, Am 1996-12)

### **Chapter 9.31. Parking Regulations.**

- 9.31.010. Stopping, Standing or Parking Prohibited - No Signs Required.
- 9.31.020. Compliance with Painted Lines, Curbs and Signs - Parallel Parking.
- 9.31.030. Double Parking.
- 9.31.040. Metered Parking.
- 9.31.050. Unattended Vehicles.
- 9.31.060. Motor Vehicles Left Unattended or Parked.
- 9.31.070. Curb Colors -Lines in Streets - City Traffic Engineer.
- 9.31.080. Time Restrictions for Parking - Violations.
- 9.31.090. Snow Emergency Routes.
- 9.31.100. Vehicles - Registration and Plates.

#### **9.31.010. Stopping, Standing or Parking Prohibited - No Signs Required.**

It shall be unlawful to stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (1) on or over a sidewalk;
- (2) in front of a public or private driveway;
- (3) within an intersection;
- (4) within fifteen (15) feet of a fire hydrant;
- (5) on or over any portion of a crosswalk;
- (6) within twenty (20) feet of a crosswalk at an intersection;
- (7) within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (8) on a traffic island in the middle of a street, or in any place in the middle of a divided highway;
- (9) within fifty (50) feet of the nearest rail of a railroad crossing;
- (10) within twenty (20) feet of the driveway entrance to any fire station;
- (11) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.

The provisions of this Chapter prohibiting the standing or parking of a vehicles shall apply at all times, or at those times herein specified, or as indicated or official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic rules and regulations or in compliance with the directions of a police officer or official traffic-control device. (Enacted 1985-62, Am 1993-34, Am 1998-40)

#### **9.31.020. Compliance with Painted Lines, Curbs and Signs - Parallel Parking.**

- (1) In all places where painted lines, curbs or signs on or near a public street reasonably indicate locations, durations, or the manner in which motor vehicles may or may not be parked, it shall be unlawful to park a motor vehicle in any location or in any manner contrary to the painted lines, curbs or signs.
- (2) Unless otherwise directed by painted lines, curbs or signs, if parking is permitted, motor vehicles shall be parked parallel to the curb. If there is no curb such parking shall be off the traveled part of the street and parallel to the street on which the vehicle is located. (Enacted 1985-62, Am 1996-12)

#### **9.31.030. Double Parking.**

It shall be unlawful to park or leave standing upon any street, any vehicle, whether attended or unattended, behind any other vehicle parked at an angle to the curb, or at the side of any parked vehicle where such vehicle is parked parallel with the curb, except that an operator may stop temporarily provided the operator does not leave the vehicle, during the act of actually loading or unloading passengers or when necessary in obedience to traffic regulations, or traffic signs, or signals of a police officer. (Enacted 1985-62, Am 1985-74, Am 2006-49)

#### **9.31.040. Metered Parking.**

- (1) The City Parking Committee with the assistance of the City Traffic Engineer is hereby authorized and directed to regulate parking on public property within Provo City pursuant to the Provo City Code and to establish timed and metered parking zones and to cause the installation of signs, curb and street markings, and coin-operated parking meters where the same are reasonably necessary to control parking on the public streets. The City Traffic Engineer shall advise the City Parking Committee with respect to national and state parking standards and the Committee may receive such other advice and recommendations regarding the installation of signs, curb and street markings, coin-operated parking meters, and other regulatory devices and measures as are reasonably necessary to control parking on the public streets.
- (2) It shall be unlawful to park a motor vehicle in a parking space regulated by a parking meter without depositing the required money in said meter.

(3) Subsection (2) of this Section shall not apply on Sundays, legal holidays or between the nighttime hours of 6:30 p.m. to 9:30 a.m.

(4) The collection of money from parking meters shall be subject to the direction and control of the Finance Department. (Enacted 1985-62, Am 1996-12)

#### **9.31.050. Unattended Vehicles.**

(1) The following are hereby declared to be a nuisance and detrimental to the safe and proper regulation of traffic:

(a) any unattended vehicle or trailer stopped, standing, or parked in violation of the provisions of this Chapter;

(b) any unattended vehicle or trailer found upon the streets or alleys of this City with faulty or defective equipment;

(c) any vehicle or trailer left unattended upon any bridge or viaduct where such vehicle or trailer constitutes an obstruction to traffic;

(d) any vehicle or trailer left upon a street so disabled so as to constitute an obstruction to traffic where the person or persons in charge of the vehicle or trailer are incapacitated to such an extent as to be unable to provide for its custody or removal;

(e) any vehicle or trailer left unattended upon a street or alley and so parked illegally as to constitute a hazard or obstruction to the normal movement of traffic;

(f) any vehicle or trailer left parked in a public highway or street in the same place continuously for seventy two (72) hours;

(g) any vehicle or trailer, the driver or custodian of which has been taken into custody by the Police Department under such circumstances as would leave such vehicle or trailer unattended in a public street, alley, or restricted parking area;

(h) any vehicle or trailer found being driven or towed on the streets not in lawful condition to be driven or towed.

(2) A motor vehicle or trailer in the public streets in violation of this Section may be towed from the public streets at the direction of a police officer. (Am 1990-13)

#### **9.31.060. Motor Vehicle Left Unattended or Parked.**

It shall be unlawful for any person in charge of a motor vehicle to permit it to stand unattended without first stopping the engine, locking the ignition, and removing the key, and if the vehicle is standing upon any perceptible grade it shall not be left without effectively setting the brakes thereon and turning the front wheels to the curb or side of the street. (Enacted 1985-62)

#### **9.31.070. Curb Colors - Lines in Streets - City Traffic Engineer.**

(1) The City Traffic Engineer is hereby authorized and directed, subject to any applicable provisions of the Provo City Code, to cause curbs to be painted, and lines to be painted and signs to be erected, in or near the public streets, which indicate locations or the manner in which motor vehicles may or may not be parked.

(2) When painted on curbs the following colors shall have the following meanings:

(a) Red: means no standing, stopping, or parking at any time.

(b) Yellow: means no stopping, standing, or parking except as stated on adjacent signs or for the purpose of temporary loading or unloading of passengers while the driver remains in the driver's place in the vehicle. (Enacted 1985-62, Am 2006-49)

#### **9.31.080. Time Restrictions for Parking - Violations.**

It shall be unlawful to park a motor vehicle in a parking place for a period of time longer than the permitted parking time. More than one (1) citation or notice of infraction may be issued during a period of continuous violation. (Example: The owner of a motor vehicle left

for five (5) continuous hours in a maximum two (2) hour parking place may receive two (2) citations or notices of infraction.)

For purposes of this Section "parking place" shall mean that area, zone, or curb length that is restricted in time as indicated by signs, curb markings, or other similar notice, except that for on-street parking in the downtown area, as set forth in Section 9.30.060, Provo City Code, "parking place" is defined to include an area extending a minimum of one (1) block in all directions from where the vehicle is initially parked. (Enacted 1985-74, Am 1993-34, Am 1996-12)

#### **9.31.090. Snow Emergency Routes.**

(1) The following definitions shall apply in the interpretation and enforcement of this Section:

(a) "**Primary snow emergency routes**" means those streets designated as arterial streets on the Provo City Major Street Plan.

(b) "**Secondary snow emergency routes**" means those streets designated as collector streets on the Provo City Major Street Plan and any other street specifically designated by the Mayor in writing as essential to the rapid movement of emergency vehicles.

(2) Whenever the Mayor finds, on the basis of falling snow, sleet or freezing rain, or a forecast by the United States Weather Bureau of snow, sleet, or freezing rain, that weather conditions make it necessary that motor vehicle traffic be expedited and that parking on City streets be prohibited or restricted for snow plowing and other purposes, the Mayor may prohibit parking on primary and/or secondary snow emergency routes.

(3) A parking prohibition shall automatically go into effect on any part of any primary snow emergency route, which has been signed as such, on which there has been an accumulation of snow and ice of six (6) inches or more.

(4) Once in effect, a prohibition under this Section shall remain in effect until terminated by announcement of the Mayor in accordance with this Section, except that any street area which has become clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect it shall be a civil infraction as set forth in Chapter 9.17 of the Provo City Code, for any person to park or allow to remain parked any vehicle on any portion of a primary snow emergency route to which to prohibition applies.

(5) The Mayor shall cause notice of this Chapter and each declaration made pursuant to this Chapter to be publicly announced and may use radio, television, newspapers, portable signs, letters, fliers or other media to publicize this Chapter and communicate any announcement or declaration. Each announcement shall describe the action taken by the Mayor, including the time it became or will become effective, and shall specify the streets or areas affected. The announcement shall specify whether it is applicable to primary snow emergency routes only or, both primary and secondary emergency routes.

(6) Whenever the Mayor shall find that some or all of the conditions which give rise to a parking prohibition in effect pursuant to this Section no longer exist, the Mayor may declare the prohibition terminated, in whole or in part, in a manner prescribed by this Section, effective immediately upon announcement.

(7) Any provision of this Section which becomes effective by declaration of the Mayor or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions of law relating to the movement or parking of motor vehicles normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized vehicles, or traffic directions by a police officer.

(8) Each street designated by this Section or by resolution as hereafter provided, as a primary or secondary snow emergency route, may be posted with appropriate signs at intervals not exceeding one-half (1/2) mile. Signs posted in accordance with this Section shall be distinctive and uniform in appearance and shall be plainly visible and readable to persons traveling on the street or highway.

(9) Any vehicle parked on any primary or secondary snow emergency route in violation of any of the provisions of this Section may be impounded on authority of any City police officer in accordance with this Section and no person shall recover any vehicle removed pursuant to this Section without first paying the cost of removal and storage of the vehicle.

(10) Whenever a motor vehicle has been parked in violation of this Section the person in whose name such vehicle is registered shall be prima facie responsible for such violation and liable for payment of the applicable fee.

(11) The fee for violating any provision of this section shall be twenty-five dollars (\$25.00) and shall be in addition to any charge for towing and storage of the vehicle. A separate infraction shall be deemed committed on each day during or on which a violation occurs or continues. (Enacted 1990-65)

#### **9.31.100. Vehicles - Registration and Plates.**

Every vehicle at all times while being parked upon the public highways, streets, alleys, or parking lots of Provo City, shall

(1) be registered in the name of the owner thereof in accordance with the laws of Utah;

(2) display in proper position two (2) valid, unexpired license (registration) plates, one (1) on the front and one (1) on the rear of such vehicle; and

(3) when required, current validation or indicia of registration attached to the rear plate and in a manner complying with the laws of the state of Utah, and free from defacement, mutilation, and obscuring matter so as to be plainly visible. However, if such vehicle is not required to be registered in Utah, and the indicia of registration issued by another state, territory, possession or district of the United States, or of a foreign country, complies with the laws of Utah and substantially complies with the provisions hereof, such registration shall be considered as compliance with this Section. (Enacted 1993-34)

### **Chapter 9.32. Miscellaneous Traffic Provisions.**

- 9.32.010. Bicycle License Required.
- 9.32.020. Riding a Bicycle, Skateboard or Roller Skates on the Sidewalk.
- 9.32.030. Funeral Processions to Have Right-of-Way.
- 9.32.040. Procession Identification - Escort Service.
- 9.32.050. Parking Between Curb and Sidewalk.
- 9.32.060. Application of Truck Regulations.
- 9.32.070. Truck Routes.
- 9.32.080. Flammable Liquid, Explosive and Corrosive Carriers.
- 9.32.090. Parking of Trucks.
- 9.32.110. Clinging to Vehicles.
- 9.32.120. Designation, Marking and Enforcement of "No Parking" Provisions in Fire Access Lanes.
- 9.32.130. Authority to Close Streets for Public or Semi public Purposes.
- 9.32.140. Parking Enforcement and Towing Operations
- 9.32.160. Duty to Keep Proper Lookout.
- 9.32.170. Riding Skateboards, Roller Skates or Bicycles.
- 9.32.180. Motor Vehicle Emissions Tests Required.
- 9.32.190. Accident Reports – Disclosure

#### **9.32.010. Bicycle License Required.**

No person shall ride or propel any bicycle on any public place unless and until such cycle shall have been licensed. The fee for a bicycle license shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council. The bicycle license fee may be waived by a Provo police officer conducting bicycle education (a "bicycle rodeo") at a school. The Police Department may authorize bicycle dealers to license bicycles and bicycle dealers may retain fifty percent (50%) of the bicycle licensing fee for providing this service. This license shall remain in effect until the bicycle is sold or otherwise transferred to a new owner. (Am 1986-30, Am 1994-97, Am 2006-15)

#### **9.32.020. Riding a Bicycle, Skateboard or Roller Skates on the Sidewalk.**

(1) No person shall ride a bicycle, skateboard or roller skates upon a sidewalk contiguous to University Avenue between 400 North Street and 100 South Street, and on a sidewalk contiguous to Center Street between 100 East Street and 500 West Street.

(2) The City Traffic Engineer is authorized to erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person shall disobey the same.

(3) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian. (Am 1987-58)

#### **9.32.030. Funeral Processions to Have Right-of-Way.**

Vehicles in a funeral or other authorized procession shall proceed in single file as near to the right-hand edge of the roadway as practicable and shall follow not more than thirty (30) feet behind the next preceding vehicle in this procession at a speed not to exceed thirty (30) miles an hour but within the speed limit whichever speed is lesser. When accompanied by an adequate police escort or authorized escort service operated in compliance with this Chapter, motor vehicles in an authorized procession may proceed past red lights, stop signs or other control devices as necessary to maintain proper procession continuity. If no authorized escort is present, vehicles may not proceed as a procession but must obey all traffic regulations and control devices.

#### **9.32.040. Procession Identification - Escort Service.**

(1) Drivers of vehicles participating in an authorized procession shall be allowed the right-of-way set forth above only when the procession is identified as follows:

(a) When the procession is under the direction of either a police escort or an approved escort service as defined below;

(b) When the first three (3) vehicles in the procession display, on the outside of each vehicle, a pennant or flag approved by the Chief of Police;

(c) When the vehicles are displaying illuminated headlights and maintain continuity by proceeding not more than thirty (30) feet behind the next preceding vehicle;

(d) Drivers in a funeral procession shall at all times yield right-of-way to authorized emergency vehicles irrespective of any other provision of this Chapter.

(2) For purposes of this Chapter, "an authorized police escort" or "escort service" shall mean a police vehicle or commercial escort service when the latter is bonded by and approved by the Police Department and when the driver of the commercial vehicle is certified by the police officers' standards and training, department of public safety as a peace officer or when the driver is equally qualified as determined by the Chief of Police. Such escort shall be authorized to accompany the funeral processions and have a right-of-way irrespective of conflicting traffic control devices when and only when the said escort shall consist of at least one (1) escort vehicle identified

by one (1) or more flashing yellow and/or red lights on the top of said vehicle with at least two (2) escort vehicles if the funeral procession includes more than twenty-five (25) vehicles not counting the escort vehicles.

**9.32.050. Parking Between Curb and Sidewalk.**

It shall be unlawful for any person to leave or cause to be left or parked, any vehicle upon any portion of the street or highway between the curb line or if there is no curb line between the lateral line of the roadway and the adjacent sidewalk or property line, if no sidewalk is present. (Am 1993-68, Am 2000-21, Am 2002-40, Am 2002-51)

**9.32.060. Application of Truck Regulations.**

It is hereby declared necessary in order to safely move traffic in and out and throughout the City, to regulate the movement and parking of large vehicles and vehicles with dangerous loads. These regulations shall apply to all trucks licensed or actually used for gross weight in excess of eighteen thousand (18,000) pounds and/or other trucks rated for one and one-half (1 ½) tons or larger under standard practices of the State of Utah, and for all explosive and corrosive carriers and flammable liquid carriers capable of carrying in excess of three thousand (3,000) gallons or licensed for a gross weight in excess of nine thousand (9,000) pounds.

**9.32.070. Truck Routes.**

(1) The following streets are hereby designated as truck routes, and the truck route designations are exclusive. Any large vehicle or truck as herein defined shall use only those routes specified herein or additional temporary routes as shall be established by the Chief of Police, either by written permission upon application to deviate from the truck route, or by the posting of temporary road signs during the period of temporary or alternate truck routing. Any vehicle driven on any other streets than those herein designated, which is controlled by these regulations, shall be deemed in violation of this Chapter and the driver thereof shall be guilty of a misdemeanor as defined under the traffic sections of the Provo City Code. The following are designated truck routes:

(a) U.S. Highway 91 via South State Street, 300 South Street, 500 West Street and North State Street.

(b) U.S. Highway 189 from the north City limits to 1230 North Street.

(c) 1230 North Street from University Avenue (U.S. 189) to 500 West Street.

(d) Center Street from 500 West Street west to Geneva Road (2050 West) and along Geneva Road north to the City limits.

(e) Interstate 15, including all exits from 115 to their juncture with the closest designated truck route.

(f) Other streets as designated by express written permission of the Fire Chief and Police Chief, subject to such necessary regulations as are set forth in the written permission in order to accommodate necessary deviation of truck traffic from designated truck routes.

(2) The above truck routes shall not apply to trucks delivering merchandise to or from local businesses or established truck terminals, or to residences, or to construction trucks delivering to or returning from construction sites where it is not possible to use a designated truck route.

**9.32.080. Flammable Liquid, Explosive and Corrosive Carriers.**

All flammable liquid, explosive and corrosive carriers shall be deemed under the traffic sections of the Provo City Code responsible to obey all requirements set forth in the applicable fire code, the same as are adopted as a part of the City traffic code and are herein enforceable. (Am 2006-08)

**9.32.090. Parking of Trucks.**

(1) No truck or truck trailer with a rated capacity of one and one-half (1½) tons or more, or licensed for more than eighteen thousand (18,000) pounds gross, shall be allowed to be parked on the public streets in a residential area for a period of time in excess of two (2) hours except while actually loading or unloading merchandise. In no event shall it remain parked for longer than eight (8) hours.

(2) Except as in (1) above, no truck with a rated capacity of one and one-half (1½) tons or more, or licensed for in excess of eighteen thousand (18,000) pounds gross weight shall be parked on any public street closer than thirty (30) feet to the entrance or exit or intersection with any private driveway, private street, alley or public street.

(3) For purposes of this section a truck shall be deemed parked, even though the motor is running, if the vehicle is left standing for any period in excess of three (3) minutes when the same is not attended by a driver lawfully authorized to drive the said vehicle (except when unloading or loading as provided in paragraph (1) above).

**9.32.110. Clinging to Vehicles.**

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall hold or attach the same or himself or herself to any streetcar or vehicle upon a roadway. (Am 2006-49)

**9.32.120. Designation, Marking and Enforcement of "No Parking" Provisions in Fire Access Lanes.**

(1) Designation of fire lanes. The Chief of the Fire Department and the Chief's designees are hereby authorized to designate as fire access lanes any easement, public right-of-way, alley or portion of a designated vehicle access way or parking lot when the same is necessary to provide adequate access for firefighting vehicles to reach any improved property when the same are remote from public streets, fire hydrants, fire department water connections or fire protection systems when the lack of proximity would constitute a fire hazard or encumber the fire department's ability to find immediate access to such improved property. Such designated fire access lanes shall consist of an all-weather driving surface of not less than twenty (20) feet of unobstructed width and with adequate roadway turning radius for any dead-end right-of-way capable of supporting the imposed load of fire apparatus and having a minimum head clearance of thirteen (13) feet six (6) inches. In the event that the fire access lane does not have both ingress and egress to an adjacent public street, it shall be provided with a turn-around having a circle of not less than eighty-five (85) feet in diameter. Dead-end streets with less than one hundred fifty (150) feet in length will not be required to have the turnaround provided.

(2) Designated fire apparatus access lanes shall be designated by street signs approved by the Fire Department, which signs shall bear the legend "Fire Lane - No Parking," or other appropriate notice. Such signs shall be installed not more than fifty (50) feet apart. Designated fire lanes may consist either of dedicated public rights-of-way, rights-of-way established by prescriptive use or rights-of-way established pursuant to and with the written approval of property owners and rights-of-way as required by the Uniform Fire Code.

(3) It shall be unlawful for any motor vehicle to be left unattended or parked within the area of a designated fire lane. Any such vehicle is hereby declared to be a nuisance and may be removed at the direction of any police officer or fire officer. Unlawful parking shall be punished under this Section in the same manner as other parking violations.

**9.32.130. Authority to Close Streets for Public or Semi public Purposes.**

The Police Chief after consultation with the traffic engineer and the Fire Chief shall for public or semi public purposes have authority to close or restrict the use of any public street by vehicular or pedestrian traffic for any period not to exceed twenty-four (24)

hours. For periods longer than twenty-four (24) hours, closure or restriction shall require approval by the Mayor or CAO, instead of the Police Chief, after consultation with the Police Chief, engineer and Fire Chief, and in either case shall be in writing and shall be effective only according to the terms stated therein. This Section shall not be construed in derogation of other general administrative powers of the City to control use of City streets.

### 9.32.140. Parking Enforcement and Towing Operations.

(1) The definitions set forth in Section 6.08.010, Provo City Code, shall apply to this Section.

(2) An owner or a person in lawful possession or control of real property may, to the extent authorized by this section, boot or tow away any unauthorized vehicle located on the property. An unauthorized vehicle is any vehicle parked or stopped in violation of private property parking regulations which govern parking for authorized tenants and visitors or which restrict parking in a loading zone, handicapped zone, fire lane, or a no parking zone.

(3) No person may conduct a parking enforcement or towing operation unless:

(a) authorized by the owner or the owner's agent or

(b) requested by a peace officer or by an order of a person acting on behalf of a law enforcement agency.

(4) Except as otherwise ordered by a peace officer or a person acting on behalf of a law enforcement agency, after performing a tow truck service being done without the vehicle owner's knowledge the tow truck driver or tow truck motor carrier shall report the towing of the vehicle to the Provo City Police Dispatcher within the soonest of one (1) hour or immediately upon arriving at the place of storage or impound of the vehicle using the current published non-emergency telephone number of the Provo Police Department. The report shall include:

(a) the vehicle's description, including its vehicle identification number and license number or other identification number issued by a state agency;

(b) the name of the person, firm or corporation impounding or towing the vehicle;

(c) the name of the person who requested removal of the vehicle;

(d) the date, time, and location from which the vehicle was removed;

(e) reasons for removal of the vehicle;

(f) the location where the subject vehicle will be kept; and

(g) a telephone number, staffed twenty-four (24) hours a day, which an owner can call to arrange for release of the vehicle.

(5) No person may conduct a parking enforcement or towing operation on a parking lot having four (4) or more parking spaces, other than a vehicle which has been continuously parked in such a lot for more than seventy-two (72) hours, unless:

(a) "no parking" areas, restricted parking spaces, and visitor parking spaces, if any, are clearly marked, including the boundaries between the subject parking lot and any adjoining parking lot owned by another person; and

(b) a conspicuous sign posted at, or immediately adjacent to, each entrance to the property provides notice that unauthorized vehicles may be booted or towed from the parking lot. Each such sign shall:

(i) be at least eighteen inches (18") by twenty-four inches (24") in size;

(ii) give warning, in large reflective lettering, that unauthorized vehicles may be booted or towed;

(iii) give the name and telephone number of business(es) authorized to conduct a towing or parking enforcement operation on the property;

(iv) state the fees charged for tow truck and parking enforcement services; and

(v) be posted within approximately five (5) feet of each entrance to a parking lot.

(A) For purposes of this Subsection, a parking lot entrance shall mean any access allowing the entrance or exit of a vehicle between a private parking lot and a City street unless such access is not the property of the parking lot owner. In such case, the parking lot entrance shall mean:

(I) the intersection of the parking lot property line and the property line of the access point; or

(II) any privately owned road connected to a public right-of-way leading to the entrance of a parking lot located on private property.

(B) A sign posted directly over a driveway leading to an underground lot shall be deemed to meet the location requirements of this Subsection.

(C) If signs cannot be posted within five (5) feet from the entrance to a parking lot for reasons of practical difficulty (such as the necessity of drilling a hole through concrete, removing a tree or shrubs, or because of an immediately adjacent private driveway not owned by the owner of the parking lot), a sign may be placed as close as reasonably practicable to the parking lot entrance. However, no sign shall be further than thirty (30) feet from the edge of the curb that borders the private property.

(6) No person may conduct a towing or parking enforcement operation regarding a vehicle located on private property unless:

(a) the owner or owner's agent of the subject real property:

(i) conforms to the requirements of Subsection (6)(b)(i) of this Subsection;

(ii) discloses in writing to each tenant of the property when the tenant first occupies the property:

(A) the rules which govern the use of parking areas;

(B) that parking a vehicle in violation of such rules may subject the vehicle to a parking enforcement or towing operation; and

(C) that the tenant may contest a parking enforcement or towing operation as provided in this Chapter;

(b) the towing or parking enforcement business conducting the operation:

(i) receives from the property owner or the owner's agent, who shall not be affiliated in any way with the towing or parking enforcement business, a signed request for each towing or immobilization of a particular vehicle; provided, however, that a homeowners association and a property owner who has a contract with a towing or parking enforcement business where the provisions of the contract are consistent with the provisions of this Section shall not be required to sign a request before a vehicle is towed or booted;

(ii) posts a copy of the business's fee schedule in a prominent place at the location where vehicles are released from storage and;

(iii) maintains personnel authorized to release any vehicle to its owner twenty-four (24) hours each day and who can respond within one (1) hour of a request for release of a vehicle;

(c) the towing or parking enforcement business employee who conducts, or attempts to conduct, a towing or parking enforcement operation:

(i) wears either:

(A) a readily identifiable shirt, blouse, or other top article of clothing with the name of the licensee and the first name of the employee contained thereon and readable from a distance of six (6) feet; or

(B) a prominently visible identification badge on the front of employee's clothing with the name of the licensee and the first name of the employee contained thereon and readable from a distance of six (6) feet;

(ii) possesses evidence of a signed towing or parking enforcement request or the agreement required by Subsection (6)(b)(i), and the fee schedule required by Subsection (6)(b)(ii) of this Subsection;

(iii) upon request, provides the name and telephone number of the property owner or agent, and shows evidence of the signed request or agreement and the fee schedule required by Subsections (6)(b)(i) and (ii) to:

(A) a person whose vehicle is subject to the towing or booting operation; and

(B) any City enforcement officer requesting the same, and;

(iv) upon booting a vehicle, places a notice on the driver's door window which indicates:

(A) in large letters, "This vehicle has been booted";

(B) the name and telephone number of the parking enforcement business and the name of the person that immobilized the vehicle;

(C) a telephone number, staffed twenty-four (24) hours a day, which an owner may call to arrange for release of the vehicle;

(D) applicable fees; and

(E) the following statement: "A person who tows or boots a vehicle unlawfully may be subject to criminal and civil penalties as provided in Section 9.32.140 of the Provo City Code. A BYU student who believes an unlawful tow or boot occurred from a BYU approved housing facility may contact the BYU Student Housing Office to request mediation of the matter. A person whose vehicle is towed or booted shall be entitled, upon request, to the name and telephone number of the owner or agent of the property where the tow or boot occurred."

(7) A booted vehicle may not be removed from the site sooner than two (2) hours after the time of booting.

(8) Except as otherwise provided in this Section, a parking enforcement or tow truck service business conducting a towing or parking enforcement operation pursuant to this Section shall release the subject vehicle to its owner or agent immediately upon payment of applicable fees authorized by this section or by Rule R909-19, Utah Administrative Code, as amended.

(a) The parking enforcement or towing business shall accept payment offered in cash or by major credit card, but shall not be obligated to accept checks or payment in coins and shall maintain sufficient cash on hand to make change of up to forty dollars (\$40.00).

(b) Every parking enforcement and towing business providing services pursuant to this Subsection shall post in a conspicuous place upon its business premises a true copy of this Section.

(c) A parking enforcement business shall be limited to a maximum booting fee, per vehicle, of fifty (50) percent of the maximum towing rate for non-consent tows as provided in Rule R909-19-12, Utah Administrative Code, and may not charge any other fee for a parking enforcement operation. If an immobilized

vehicle is towed, no fee of any kind relating to booting may be charged in addition to towing, storage, or other applicable fees. If a vehicle is towed or booted unlawfully, no fee shall be payable.

(d)(i) If the vehicle owner or agent arrives at the vehicle before the parking enforcement or towing business has mechanically connected the vehicle to a booting device or a tow truck, the parking enforcement or towing business shall:

(A) not continue to tow or boot the vehicle, and

(B) not be entitled to tow or boot the vehicle or to charge any fee whatsoever if the vehicle is promptly removed from the premises.

(ii) If a tow truck is mechanically connected to a vehicle, the tow truck shall be in possession of the vehicle. If the vehicle owner or agent attempts to retrieve the vehicle before the vehicle is removed from the property, the maximum towing or parking enforcement fee shall not exceed fifty percent (50%) of the posted rate schedule.

(e) No parking enforcement fee, other than fees authorized by this subsection, shall be charged as a condition of releasing a booted vehicle.

(f) A vehicle shall be released immediately upon payment of any required fees authorized by this section.

(9) Property owners, managers, or their agents shall not receive any consideration whatsoever from any parking enforcement or towing business in exchange for utilizing such business's services to boot or tow unauthorized vehicles from the owner's property or for entering into a services agreement with a parking enforcement or towing business.

(10) Any person acting to remove or otherwise disturb any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling such private property, or either of them, shall be liable to the owner, operator or driver of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of such vehicle which does not comply with the requirements of this section.

(11) Violation of any Section or provision of this Section is a class B misdemeanor.

(12) In addition to any other penalty, a civil action for damages or to abate a violation of this Chapter may be brought by any aggrieved person.

(a) A person who authorizes, tows, or immobilizes a vehicle from private property in violation of the provisions of this Section is liable in a civil action for a penalty of up to five hundred dollars (\$500.00) as the court may determine. A civil action under this subsection may not be commenced later than one hundred eighty (180) days after occurrence of the violation.

(b) Lack of compliance with the requirements of Subsections (5) and (6) of this Section shall be prima facie evidence of a violation of this Section.

(c) The remedies provided for in this Subsection shall be cumulative and not exclusive.

(d) Nothing in this Section shall preclude prosecution of any crime, including but not limited to, criminal mischief, fraud, and theft.

(13) An entity which employs state-certified law enforcement officers may conduct parking enforcement and towing services on the entity's property using the entity's own equipment and personnel so long as the entity certifies annually in writing to the Provo City business license office that:

(a) restricted parking lots on the entity's property are marked and posted in a manner that notifies parking lot users, in summary form, of parking restrictions and penalties for improper parking;

(b) rules which govern parking lot use, including parking restrictions, parking fees, and penalties for improper parking, are regularly distributed to occupants and users of the property, and made readily available to visitors to the property;

(c) such rules include appeal and dispute resolution provisions;

(d) a person is available twenty-four (24) hours per day who can release an immobilized vehicle; and,

(e) a notice is affixed to each immobilized vehicle indicating how an immobilized vehicle may be released.

(14) Any vehicle located within the City which is subject to non-consensual towing shall be towed to a lot that:

(a) is located within City limits, and

(b) complies with state law. (Am 1987-58, 1997-64, Am 1998-63, Am 2001-37, Am 2005-10, Am 2005-22, Am 2006-01, Am 2009-22, Am 2009-31)

### **9.32.160. Duty to Keep Proper Lookout.**

No person shall drive a vehicle on the public streets without keeping a reasonable and proper lookout for other traffic, objects, fixtures or property thereon or adjacent thereto. (Enacted 1987-58)

### **9.32.170. Riding Skateboards, Roller Skates or Bicycles.**

(1) It shall be unlawful to ride or use a skateboard, roller-skates, roller-blades, or similar device on a public street or sidewalk after dark unless the user is equipped with reflective material of sufficient size and reflectivity to be visible from both sides for five hundred (500) feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or in lieu of reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred (500) feet. "After dark" shall mean one-half (1/2) hour after sunset.

(2) It shall be unlawful to ride or use a bicycle, skateboard, roller-skates, roller-blades, or similar device on the sidewalks, steps, or ramps adjacent to the Provo City Library.

(3) It shall be unlawful to use a skateboard, roller-skates, roller-blades, or similar device on private property or school property if the property owner has posted signs on the property prohibiting such conduct. Such signs shall be of reasonable size and number, and shall give notice that use of a skateboard, roller-skates, roller-blades, or similar device on the property is prohibited by this Section of the Provo City Code. (Am 1989-62, Am 1999-09, Am 1999-11)

### **9.32.180. Motor Vehicle Emissions Tests Required.**

(1) It shall be unlawful, and a class C misdemeanor, for the owner or operator of a motor vehicle which has not passed an annual state or county motor vehicle emission inspection maintenance test, established pursuant to United States Environmental Protection Agency air quality regulations, within the last year, to operate or permit another to operate the motor vehicle within the municipal limits of Provo City for an aggregate total of more than sixty (60) days per any calendar year without obtaining a Utah County Vehicle Emission Inspection Maintenance Program test certificate valid for the date the motor vehicle is being operated within the municipal limits of Provo City.

(2) For purposes of this Section, any motor vehicle expressly exempt from obtaining a vehicle emission inspection maintenance test under the Utah County Vehicle Emission Inspection Maintenance Program because of the vehicle's use, engine type, or age, etc., shall also be exempt from the requirements of this Section.

(3) Upon request of a Provo City police officer, the operator of a motor vehicle shall provide evidence: (a) that the vehicle has passed a vehicle inspection maintenance test in compliance with the requirements of Subsection (1) of this Section; (b) is exempt pursuant to Subsection (2) of this Section; or (c) is not being operated in Provo City for an aggregate total of more than sixty (60) days per

any calendar year. Failure to provide such evidence shall constitute a prima facie case that the operator is in violation of this Section, however, a charge brought pursuant to this Section shall be dismissed by the court if a person charged with violating this Section provides the court with proof of compliance with this Section.

(4) The evidence of compliance required by Subsection (3) of this Section may include, but shall not be limited to, a current emission test certificate or motor vehicle registration indicating the vehicle is in compliance with a state or county motor vehicle emission inspection maintenance program established pursuant to United States Environmental Protection Agency air quality regulations, evidence that shows that due to of the age of the vehicle, its type of engine, etc., that the vehicle is exempt from obtaining a vehicle emission inspection maintenance test under the Utah County Vehicle Emission Inspection Maintenance Program, or evidence that the vehicle is registered in another county or state and is not being operated in Provo for more than an aggregate total of more than sixty (60) days each calendar year. (Enacted 1994-106)

### **9.32.190 Accident Reports - Disclosure.**

(1) As used in this Section, "agent" means a person's:

(a) attorney;

(b) insurer; or

(c) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) As used in this Section, "department" means the Provo City Police Department.

(3) Except as provided in Subsection (4), all accident reports required in this Section to be filed with the department:

(a) are without prejudice to the reporting individual;

(b) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(c) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(4) (a) The department shall disclose an accident report and its accompanying data to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (4)(a)(i) and (ii);

(iv) a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(b) In accordance with Subsection (4)(a) of this Section, the department shall disclose whether any person or vehicle involved in an accident reported under this Section was covered by a vehicle insurance policy, and the name of the insurer.

(c) Information provided to a member of the press or broadcast news media under Subsection (4)(a)(iv) of this Section may only include:

(i) the name, age, sex, and City of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (4)(c)(i) of this Section.

(5) (a) Except as provided in Subsection (5)(b), accident reports filed under this Section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law. If the report has been made, the certificate furnished by the department shall show the date, time, and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers. The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (6) of this Section.

(6) A person who gives information in reports as required in this Chapter knowing or having reason to believe that the information is false is guilty of a class A misdemeanor. (Enacted 2003-02)

## Chapter 9.40. State Criminal Code.

9.40.010. Provisions of the Utah Criminal Code Adopted.

9.40.020. Provisions of the Utah Code of Criminal Procedure Adopted.

9.40.030. Contributing to the Delinquency of a Minor.

9.40.040. Provisions of the Utah Controlled Substances Act Adopted.

9.40.050. Provisions of the Imitation Controlled Substances Act Adopted.

### 9.40.010. Provisions of the Utah Criminal Code Adopted.

The Utah Criminal Code, Sections 76-1-101 et seq., Utah Code, as amended, is hereby adopted as sections of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Am 1984-60)

### 9.40.020. Provisions of the Utah Code of Criminal Procedure Adopted.

The Utah Code of Criminal Procedure, Sections 77-1-1 et seq. Utah Code, as amended, is hereby adopted as sections of the Provo City Code. (Am 1984-60)

### 9.40.030. Contributing to the Delinquency of a Minor.

It shall be unlawful to do any act prohibited by Section 76-10-2301 (Contributing to the delinquency of a minor – Definitions – Penalties), Utah Code, as amended. (Am 1984-60, Am 2005-47)

### 9.40.040. Provisions of the Utah Controlled Substances Act Adopted.

The Utah Controlled Substances Act, section 58-37-1 et seq. Utah Code, as amended, is hereby adopted as sections of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Enacted 1984-60)

### 9.40.050. Provisions of the Imitation Controlled Substances Act Adopted.

The Imitation Controlled Substances Act, section 58-37b-1 et seq. Utah Code, as amended, is hereby adopted, as sections of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Enacted 1984-60)

## 9.40.060 Unlawful Intoxicating Chemical Compounds.

(Enacted 2010-27, Rep 2011-06)

## Chapter 9.41. Alcoholic Beverage Control Act.

9.41.010. Selected Provisions of the Utah Alcoholic Beverage Control Act Adopted by Reference.

### 9.41.010. Selected Provisions of the Utah Alcoholic Beverage Control Act Adopted by Reference.

(1) The following sections in the Utah Alcoholic Beverage Control Act (Title 32A, Utah Code), as amended, are hereby adopted as sections of the Provo City Code in relation to the sale, possession or consumption of "beer" (as defined in section 32A-1-105(4), Utah Code, as amended):

(a) 32A-1-301 through 32A-1-305 (Identification Cards).

(b) 32A-12-203 (Unauthorized Sale or Supply).

(c) 32A-12-204 (Unlawful Sale or Supply to Intoxicated Persons).

(d) 32A-12-205 (Unlawful Sale or Supply to Interdicted Persons).

(e) 32A-12-206 (Unlawful Sale or Supply of Beer).

(f) 32A-12-209 (Unlawful Purchase, Possession, or Consumption by Minors).

(g) 32A-12-210 (Unlawful Purchase by Intoxicated Persons).

(h) 32A-12-211 (Unlawful Purchase by Interdicted Persons).

(i) 32A-12-217 (Unlawful Permitting of Consumption by Minors).

(j) 32A-12-220 (Unlawful Consumption in Public Places).

(2) Any provision of the foregoing which has a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Am 1987-56, Am 1990-33)

## Chapter 9.42. Motor Vehicle Statutes.

9.42.010. Provisions of the Motor Vehicle Act Adopted.

9.42.020. Definition of "Alcoholic Beverage."

9.42.030. Provisions of the Uniform Operators' License Act Adopted.

9.42.040. Provisions of the Uniform Act Regulating Traffic on Highways Adopted.

9.42.050. Provisions of the Financial Responsibility of Motor Vehicle Owners and Operators Act Adopted.

9.42.060. Provisions of the Off-Highway Vehicles Act Adopted.

9.42.070. Provisions of the Motor Vehicle Insurance laws Adopted.

9.42.080. Provo City Traffic School - Participation - Fees.

### 9.42.010. Provisions of the Motor Vehicle Act Adopted.

The Motor Vehicle Act, Chapter 1 of Title 41, Utah Code, as amended, is hereby adopted as a Provo City ordinance, subject to Section 9.42.080, Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Am 1984-59, Am 1986-59, 1994-75)

### 9.42.020. Definition of "Alcoholic Beverage."

The provisions of section 9.42.010, Provo City Code notwithstanding, subsection 41-6-44.20 (3)(b), Utah Code, as amended, adopted as a section of the Provo City Code, shall read as follows: "Alcoholic beverage" shall have the meaning provided in section 32A-1-5, Utah Code, as amended. (Enacted 1986-29)

**9.42.030. Provisions of the Uniform Operators' License Act Adopted.**

The Uniform Operators' License Act, Chapter 3 of Title 53 of the Utah Code, as amended, is hereby adopted as a chapter of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Am 1984-59, Am 1986-59, Am 1994-75)

**9.42.040. Provisions of the Uniform Act Regulating Traffic on Highways Adopted.**

The Uniform Act Regulating Traffic on Highways, Chapter 6 of Title 41, Utah Code, as amended, is hereby adopted as a chapter of the Provo City Code, subject to Section 9.42.080, Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Am 1984-59, Am 1986-59, Am 1994-75)

**9.42.050. Provisions of the Financial Responsibility of Motor Vehicle Owners and Operators Act Adopted.**

The Financial Responsibility of Motor Vehicle Owners and Operators Act, Chapter 12a of Title 41 of the Utah Code, as amended, is hereby adopted as a chapter of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Am 1984-59, Am 1986-59)

**9.42.060. Provisions of the Off-Highway Vehicles Act Adopted.**

The Off-Highway Vehicles Act, Chapter 22 of Title 41 of the Utah Code, as amended, is hereby adopted as a chapter of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted. (Enacted 1984-59, Am 1986-59)

**9.42.070. Provisions of the Motor Vehicle Insurance Laws Adopted.**

The Motor Vehicle Insurance laws, Part III of Chapter 22 of Title 31A of the Utah Code, as amended, is hereby adopted as a chapter of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted.

**9.42.080. Provo City Traffic School - Participation - Fees.**

(1) Purpose. A Provo City "Traffic School" program is hereby established for the purpose of increasing public awareness and knowledge of basic traffic safety requirements of vehicles traveling within Provo City and to reduce the amount of expenditures required to support enforcement of certain traffic citations in order to better protect the public's health, safety, morals and general welfare.

**(2) Administration.**

(a) The Traffic School program shall be administered by the Mayor subject to the provisions of this Section.

(b) The Traffic School's hours of operation, excluding Tuesdays, shall be established by the Mayor.

(c) The requirements to successfully complete the program shall be established by the Mayor subject to the provisions of this Section.

**(3) Program requirements.**

(a) Length of attendance. Each participant shall attend ninety (90) minutes of instruction, which instruction shall cover three (3) or more of the following areas:

- (i) Provo City's traffic enforcement policies;
- (ii) Basic overview of common traffic offenses;
- (iii) Speed and distance instruction; and
- (iv) Radar functions.

(b) Said instruction shall be taught by one (1) or more Provo City police officer.

(c) The Mayor shall establish program criteria to accomplish the requirements set forth in Subsection (3) of this Section. The criteria shall be set forth in writing and available to participants and the general public

(d) The fee established in Subsection (4) of this Section must be paid prior to participation in the program.

(4) Fees. Eligible participants in the Traffic School program shall pay a fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council to Provo City.

(5) Eligible participation. Upon receiving a traffic citation for violating a Section of the Provo City Code or other Provo City ordinance within the jurisdiction of Provo City, any person may choose to participate in the traffic school program subject to the following:

(a) the person must make a request to participate in the program to the Provo City Police Department within twenty (20) days of receipt of the traffic citation;

(b) the person must have a valid driver's license;

(c) the person has not pled guilty to or been convicted of a moving traffic violation within the past year;

(d) the person is not currently in process of completing or has not completed the Traffic School program within the past year for a previous traffic citation;

(e) the incident giving rise to the traffic citation does not involve the use of alcohol or controlled substances by the person or within the person's control; and

(f) the incident giving rise to the traffic citation does not involve injury to person or property.

(6) Successful completion. The procedures and penalties otherwise adopted in Sections 9.42.010 and 9.42.040, Provo City Code shall not apply to said one (1) traffic citation upon the successful completion of the traffic school program by the person receiving said traffic citation.

(7) Successful completion of the program shall be evidenced in writing by Provo City.

(8) The Mayor is authorized to perform all required and necessary administrative functions on behalf of the traffic school including, but not limited to, the coordination with outside agencies, the Utah court system and others.

(9) The Mayor may delegate the duties and performance of any administrative action set forth in this Section. (Enacted 1994-75, Am 1999-23, Am 2006-15, Am 2006-49)

**Chapter 9.43. State Fireworks Act.**

9.43.010. Provisions of the Utah Fireworks Act Adopted By Reference.

9.43.020. State Fire Prevention Board Rules.

9.43.030. Permit Required.

9.43.040. Sales Locations.

9.43.050. Prohibited Acts.

9.43.060. Conflicting Provisions.

9.43.070. Uniform Fire Code Superseded.

**9.43.010. Provisions of the Utah Fireworks Act Adopted By Reference.**

The Utah Fireworks Act, Chapter 3 of Title 11 of the Utah Code, as amended, is hereby adopted as chapter of the Provo City Code. Provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a City ordinance is not adopted.

**9.43.020. State Fire Prevention Board Rules.**

Rules, specifications, standards or requirements promulgated by the Utah State Fire Prevention Board as permitted or required by the various sections of the Utah Fireworks Act, as amended, are included and adopted as part of the Provo City Code.

#### **9.43.030. Permit Required.**

No person shall offer for sale or sell, at retail, any fireworks without a permit countersigned by the Fire Chief. A separate permit shall be required for each separate sales location, and the fee for each permit shall be for each separate location at which fireworks are to be sold as shown on the Consolidated Fee Schedule adopted by the Municipal Council. Provided, further, that the permit fees required above shall not be required of an applicant for a permit to sell fireworks within any permanent commercial building, in which building the applicant has been continually engaged in retail business for the immediately preceding six (6) months. Each permit shall remain in effect for twelve (12) months from its date of issue unless the permittee violates a provision of this Chapter, in which event the permit may be revoked. Applications for a permit to sell fireworks shall be in writing and shall:

- (1) include the name and address of the person, firm or corporation applying for the permit;
- (2) describe the specific location where fireworks will be sold;
- (3) include evidence of insurance in an amount not less than three hundred thousand dollars (\$300,000.00) because of bodily injury to or death of one (1) person in any one accident and subject to said limit for one (1) person, in amount not less than nine hundred thousand dollars (\$900,000.00) because of bodily injury or death of two (2) or more persons in any one (1) accident. Also, evidence of insurance in an amount not less than one hundred fifty thousand dollars (\$150,000.00) because of injury to or destruction of property of others in any one accident; and
- (4) include any other information reasonably requested by the Fire Department. (Am 1994-73, Am 2006-15)

#### **9.43.040. Sales Locations.**

(1) Retail sales of fireworks shall be permitted within a permanent structure in connection with which structure a business license is in effect pursuant to provisions of Title 6 of the Provo City Code, or, from a temporary stand or trailer. Retail sales of fireworks shall be allowed only at locations within the following zoning districts (SC1) neighborhood shopping center zone, (SC2) community shopping center zone, (SC3) regional shopping center zone, (CBD) central business district commercial zone, (CG) general commercial zone, (CH) highway service commercial zone, and, (CM) heavy commercial zone, (PF) public facilities zone, (M1) light manufacturing zone, (M2) heavy manufacturing zone. Temporary stands or trailers used for the sale of fireworks shall be subject to the following requirements for violation of which a retail sales permit may be refused or canceled:

- (a) No fireworks stand or trailer shall be located within twenty-five (25) feet of any other building nor within fifty (50) feet of any gasoline pump or dispensing device;
- (b) Fireworks stands or trailers need not comply with the provisions of the Uniform Building Code, however, all stands or trailers shall be erected in a manner that will reasonably assure the safety of attendants and patrons;
- (c) Each stand or trailer shall not have in excess of four hundred fifty (450) square feet of floor space, and each stand or trailer shall have not less than two (2) exits, each of which must be at least twenty-eight (28) inches in width;
- (d) a sign prohibiting the discharge of any fireworks within one hundred (100) feet of the fireworks stand or trailer shall be prominently displayed;
- (e) There shall be at least one (1) supervisor, sixteen (16) years of age or older, on duty at all times. Fireworks shall not

be sold on a self-service basis. Fireworks shall be placed in a location which is unavailable and inaccessible to members of the public;

(f) Fireworks stands or trailers shall be removed within seven (7) days after retail sales cease.

(2) Prior to the issuance of a permit, each applicant shall file with the City a cash deposit in the amount of three hundred dollars (\$300.00) for each retail sales location to assure compliance with the provisions of this Section, including, but not limited to, the removal of the stand or trailer and the cleaning of the site; provided, however, that no applicant shall be required to post a total bond for all sales locations in an amount greater than one thousand dollars (\$1,000.00). In the event the permittee does not comply with the provisions of this Chapter or remove the stand or trailer or clean the site thereof, the City may remove the stand or trailer and clean the site or cause the same to be done by other persons and the reasonable cost thereof shall be a charge against the permittee and shall be subtracted from the bond described above.

(3) No person shall sleep in the fireworks stand or trailer overnight. (Am 1988-32)

#### **9.43.050. Prohibited Acts.**

(1) It shall be unlawful to discharge fireworks:

- (a) within one hundred (100) feet of any place where fireworks are sold or offered for sale;
- (b) within three hundred (300) feet of any church, hospital, rest home, retirement center, school building or similar institution;
- (c) in such a manner that the fireworks project over or onto the property of another person without the consent of the person owning or controlling such property; or
- (d) in any public park.

(2) It shall be unlawful to ignite, discharge or throw any fireworks from or into any motor vehicle or at or near any person.

(3) It shall be unlawful to make, sell, or offer to sell or to discharge any type of homemade fireworks.

(4) It shall be unlawful to sell or to offer to sell fireworks:

- (a) without a permit;
- (b) in violation of any requirement of this Chapter or any regulations adopted by the Utah State Fire Prevention Board;
- (c) at a location not specified in the permit application;
- (d) without the insurance coverage required in the permit application; or,
- (e) in violation of the requirements of Section 9.43.040, Provo City Code.

(5) Except as provided in the County and Municipal Fireworks Act, Section 11-3-1 et seq., Utah Code Annotated, it shall be unlawful for any person, firm or corporation to at any time own, possess, control, sell or offer to sell any fireworks other than those defined in Subsection 53-7-202(6), Utah Code Annotated. (Am 2006-49)

#### **9.43.060. Conflicting Provisions.**

In the event there should at any time be a conflict between the provisions of this Chapter, and provisions of the Utah Fireworks Act or rules and regulations adopted pursuant thereto, the latter shall control.

#### **9.43.070. Uniform Fire Code Superseded.**

(1) This Chapter 9.43, Provo City Code applies to the sale and use of class C fireworks only and not to class A or B fireworks or explosives.

(2) With respect to class C fireworks only, the provisions of this Chapter, which conditionally authorize the sale of certain fireworks, shall supersede Section 78.102(b) of the 1985 edition of the Uniform Fire Code, and like provisions in any subsequent edition of the

Uniform Fire Code which purport to prohibit the sale of fireworks contrary to the provisions of this Chapter.

## Chapter 9.51. Uniform Fire Code.

- 9.51.010. Uniform Fire Code and Uniform Fire Code Standards Adopted by Reference.
- 9.51.020. Transport Routes and Regulation of Flammable Liquid Carriers.
- 9.51.030. Use of Open Flame Torches for Roofing Prohibited.
- 9.51.040. Open Burnings Prohibited - Exceptions.

### 9.51.010. Uniform Fire Code and Uniform Fire Code Standards Adopted by Reference.

(1) As required by Section 53-7-106 of the Utah Code, Provo City shall adhere to the Uniform Fire Code as promulgated by the International Fire Code Institute and adopted by the Utah Fire Prevention Board (the "State Fire Code"). When a new or revised edition of the State Fire Code is adopted by the State of Utah (by statute or administrative regulation), this Section shall be interpreted to refer to such edition of the State Fire Code.

(2) As authorized by Section 53-7-106(2)(a) of the Utah Code, Provo City hereby adopts as additional fire code requirements the appendices to the 1997 Uniform Fire Code, Volume I, as set forth below:

- (a) Division I (Existing Buildings), except:
  - (i) Appendix I-A (Life Safety Requirements for Existing Buildings Other than High-rise), and
  - (ii) Appendix I-B (Life Safety Requirements for Existing High-Rise).
- (b) Division II (Special Hazards), except:
  - (i) Appendix II-C (Marinas); and
  - (ii) Appendix II-D (Rifle Ranges).
- (c) Division III (Fire Protection), except:
  - (i) Appendix III-D (Basement Pipe Inlets).
- (d) Division IV (Special Combustion Hazards).
- (e) Division V (Standards).
- (f) Division VI (Informational).

(3) The fire codes set forth in Subsections (1) and (2) above shall constitute and shall be known as the Provo City Fire Code. (Am 1989-25, Am 1992-05, Am 1995-49, Am 1999-05)

### 9.51.020. Transport Routes and Regulation of Flammable Liquid Carriers.

(1) Ammunition, explosives, flammable or combustible liquids, or hazardous chemicals, as the same are defined in the Uniform Fire Code, may only be transported into or within Provo City as described in this Section.

(2) Transportation shall be by the most direct route, which shall mean that the transporting vehicle shall travel on principal transportation routes such as highway I-15, highway 89/91 or highway 189 at all times except when leaving the same is necessary to make a delivery. At no time shall a transporting vehicle travel through any area designated as a residential zone (R1, R2, R3, R4, R5 and RM) on the Zone Map of Provo City, Utah, unless the Fire Chief otherwise consents in writing, which consent shall be given only when there is no practical alternative to transportation through a residential zone.

(3) Transportation shall only be by the use of vehicles constructed and operated as described in the Uniform Fire Code and in the manner otherwise described by other applicable law, including, but not limited to, references therein to parking, garaging and vehicle repair.

(4) Flammable or combustible liquids may be transported to retail sales locations only as follows:

- (a) Delivery by tank vehicles having a capacity of more than three thousand (3,000) gallons shall not be made at any

location open to the public unless the tank vehicle is located entirely on private property while making the delivery.

(b) No delivery may be made or accepted if the intake pipe for an underground storage facility is within twenty (20) feet of a motor vehicle, a public street or retail pumps. If the requirements of this Subsection (4)(b) cannot be met, deliveries may be made only by completely closing off the business location and removing all customers during the time of delivery, or by making the delivery at night between the hours of eleven (11:00) p.m. and seven (7:00) a.m.

(c) When arriving for a delivery, during delivery, and when leaving thereafter, the delivery vehicle shall at all times move forward and not in reverse. The Fire Chief may, in writing, allow exceptions to this Subsection (4)(c), but only for circumstances where it is not possible to comply with this Subsection (4)(c).

(d) The person in charge of the delivery vehicle shall at all times during delivery remain within forty (40) feet of the discharge point and in full view of the delivery point.

(e) At the beginning of any delivery the unused capacity of the receiving tank shall be one hundred twenty (120%) of the maximum capacity (used or unused) of the delivering tank or compartment of the delivery vehicle.

(5) Neither ammunition nor explosives, in amounts regulated by the Uniform Fire Code, may be transported into or within Provo City without a permit therefor from the Fire Chief, and then only pursuant to the terms of said permit.

(6) Violation of any part of this Section shall be unlawful and a misdemeanor. (Enacted 1989-25)

### 9.51.030. Use of Open Flame Torches for Roofing Prohibited.

It shall be unlawful to use or operate, or permit the use or operation of, an open flame torch in the installation or application of roofing materials on any structure within the municipal limits of Provo City without the prior written approval of the Provo City Fire Chief. (Enacted 1995-31)

### 9.51.040. Open Burnings Prohibited - Exceptions.

(1) Except as provided in this Section, it shall be unlawful for any person to create or permit to be created an open burning of any kind.

(2) The following burnings are exempt from Subsection (1) of this Section:

(a) Upon obtaining all necessary permits, those held on property zoned as "agriculture" as said term is defined in Title 14 of the Provo City Code, as amended, and designated as agricultural on the Provo City Zoning Map, as amended; and

(i) are incident to horticultural or agricultural operations of:

(A) prunings from trees, bushes, and plants; or

(B) dead or diseased trees, bushes, and plants, including stubble;

(ii) controlling weed growth along ditch banks incident to clearing these ditches for irrigation purposes; or

(iii) heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards established by the federal "Clean Air Act" as amended and the state of Utah "Air Conservation Act" as amended.

(b) For the purpose of outdoor cooking, contained barbecues or pits with a cooking area no larger than six (6) feet in diameter.

(c) Other outdoor cooking facilities meeting the approval of the Fire Chief.

(d) Other open fires, fireworks, torches or open burnings specifically allowed for under another portion of the Provo City Code after obtaining any necessary approval of the Fire Chief.

(e) Controlling weed growth along ditch banks incident to clearing these ditches for irrigation purposes after obtaining any necessary approval or permit.

(f) Controlled burning of not more than two (2) structures per year under the direct control of the Provo City Fire Department for the purpose of training fire service personnel when the United States Weather Service clearing index is above 500. (Enacted 1995-75)

## Chapter 9.52. Technical Codes.

9.52.010. Technical Codes Adopted.

### 9.52.010. Technical Codes Adopted.

(1) As required by Section 58-56-4 of the Utah Code, Provo City shall adhere to the building code, National Electrical Code, plumbing code, and mechanical code as promulgated by nationally recognized code authorities and adopted by the Utah Uniform Building Code Commission (collectively, the "State Building Code"). When a new or revised edition of any component part of the State Building Code is adopted by the State of Utah (by statute or administrative regulation), this Section shall be interpreted to refer to such edition thereof.

(2) In addition to the State Building Code, the following technical codes are hereby adopted by reference as a portion of the Provo City Code. With respect to each of the following (unless otherwise expressly provided), Provo City adopts the same edition of the State Building Code which is adopted as a component part of the State Building Code. The technical codes adopted are the following:

(a) the Uniform Code for the Abatement of Dangerous Buildings;

(b) the Uniform Code for Building Conservation; and

(c) NCS BCS (National Conference of States on Building Codes and Standards) A225.1 Manufactured Home Installations (1987 edition).

(3) The following amendments apply to the technical codes adopted above:

(a) The following amendments apply to the Uniform Building Code:

(i) In the Building Code, Chapter 1, Section on 'Work exempt from permit.' 'Building' #14. Reroofing: "New roofing shall not be applied, when a fire-rated roof is required, without first obtaining written approval from the Building Official."

(ii) In the Building Code, Section 101.3 shall include the following: "Any building for which a moving or building permit is required which is moved into Provo City must be attached to a foundation in a manner required by the Building Code for new buildings. Provided, however, that buildings constructed in accordance with the Federal Manufactured Home Construction and Safety Standards may be installed in accordance with any one (1) of the following: (A) the manufacturers installation recommendations, (B) the NCS BCS technical code adopted in Subsection (3)(d) of this Section, or (C) the provisions of the Building Code. Fees for building permits and plan check fees for moved buildings shall be based on a minimum valuation of \$15,000.00, unless a higher valuation exists.

(b) The following amendments apply to the Uniform Plumbing Code:

(i) The Plumbing Code, Section 701.2, shall include the following as the second paragraph: The public sewer

may be considered as being available when such public sewer is within three hundred (300) feet of any property line with any building used for human occupancy.

(c) The following amendment applies to the NCS BCS A225.1 Manufactured Home Installations code:

(i) The provisions of the code above shall not supersede the development standards described in these ordinances for subdivisions and mobile home parks.

(4) Notwithstanding any contrary provision in the technical codes adopted herein, the fees applicable to said technical codes shall be the fees shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(5) Section 1.03.010, Provo City Code (Punishment for Criminal Violations) of these ordinances applies to violations of the technical codes adopted in this Section. (Am 1986-40, Am 1986-42, Am 1986-51, Am 1988-28, Am 1989-26, Am 1990-33, Am 1991-12, Am 1992-04, Am 1993-91, Am 1999-06, Am 2003-03, Am 2006-08, Am 2006-15)

## Chapter 9.60. Sexually-oriented Businesses.

9.60.010. Purpose.

9.60.020. Definitions.

9.60.030. Classification.

9.60.040. License Required.

9.60.050. Issuance of License.

9.60.060. Fees.

9.60.070. Inspection.

9.60.080. Expiration of License.

9.60.090. Suspension.

9.60.100. Revocation.

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9.60.120. Transfer of License.

9.60.130. Hours of Operation.

9.60.140. Exhibition of Sexually Explicit Films or Videos.

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9.60.170. Applicability of Chapter to Existing Businesses.

9.60.180. Prohibited Activities.

9.60.190. Scierter Required to Prove Violation or Business Licensee Liability.

9.60.200. Effect of City Failure to Act.

### 9.60.010. Purpose.

The purpose of this Chapter is to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent deleterious secondary effects of sexually-oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene or indecent material. (Rep&ReEn 2005-41)

### 9.60.020. Definitions.

For purposes of this Chapter, the following words and phrases shall have the meanings set forth below unless a different meaning is clearly indicated by the context.

"**Adult Bookstore**" or "**Adult Video Store**" means a commercial establishment which, as one (1) of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more of the following: books, magazines, periodicals or other printed

matter, photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or simulated display, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. For the purpose of this definition, "principal purpose" means the commercial establishment:

(a) has a substantial portion of its displayed merchandise which consists of said items, or

(b) has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or

(c) has a substantial portion of the retail value of its displayed merchandise which consists of said items, or

(d) derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items, or

(e) maintains a substantial section of its interior business space for the sale or rental of said items; or

(f) regularly features said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way; or

(g) maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

**"Adult Cabaret"** means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude and/or semi-nude.

**"Adult Motel"** means a motel, hotel, or similar commercial establishment which:

(a) offers accommodations to the public for any form of consideration; provides customers with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display or simulated display of specified sexual activities or specified anatomical areas and which advertises the availability of such material by means of a sign visible from a public right-of-way, or by means of any on- or off-premise advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(b) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

**"Adult Motion Picture Theater"** means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display or simulated display of specified sexual activities or specified anatomical areas are regularly shown to more than five (5) persons for any form of consideration.

**"Characterized by"** means describing the essential character or quality of an item. As applied in this Chapter, no business shall be classified as a sexually-oriented business solely by virtue of showing, selling, or renting materials rated "NC-17" or "R" by the Motion Picture Association of America.

**"City"** means the City of Provo, Utah.

**"Customer"** means a patron of a business as defined in this Chapter.

**"Employ," "Employee," and "Employment"** describe and pertain to any person who performs any service on the premises of a business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**"Establish" and "Establishment"** means any of the following:

(a) the opening or commencement of any sexually-oriented business as a new business;

(b) the conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business; or

(c) the addition of any sexually-oriented business to any other existing sexually-oriented business.

**"Finance Director"** means the Provo City Finance Director or the Director's designee.

**"Hearing officer"** means an attorney with an independent practice and not a full-time employee of Provo City, licensed to practice law in the State of Utah.

**"Influential interest"** means any of the following:

(a) the actual power to operate a sexually-oriented business or control the operation, management or policies of a sexually-oriented business or legal entity which operates a sexually-oriented business,

(b) ownership of a financial interest of twenty percent (20%) or more of a business or of any class of voting securities of a business, or

(c) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates a sexually-oriented business.

**"Licensee"** means a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually-oriented business license. In the case of an employee, "licensee" means the person in whose name a sexually-oriented business employee license has been issued.

**"Municipal Council"** means the Municipal Council of the City of Provo, Utah.

**"Nudity" or "A State of Nudity"** means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**"Operate" or "Cause to Operate"** means to cause to function or to put or keep in a state of doing business.

**"Operator"** means any person on the premises of a sexually-oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may operate or cause to be operated a sexually-oriented business whether or not that person is an owner, part owner, or licensee of the business.

**"Person"** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**"Premises"** means the real property upon which a sexually-oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually-oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in an application for a business license pursuant to Section 9.60.040 of this Chapter.

**"Regularly"** means the consistent and repeated doing of the act so described.

**"Semi-nude"** or **"State of Semi-nudity"** means the showing or the simulated showing of a female breast with less than a fully opaque covering below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**"Semi-nude Model Studio"** means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

- (a) by a college, junior college, or university supported entirely or partly by taxation;
- (b) by a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or
- (c) in a structure:
  - (i) which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
  - (ii) where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

**"Sexual Device"** means any three-dimensional object designed or marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include any device primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**"Sexual Device Shop"** means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

**"Sexual Encounter Center"** means a business or commercial enterprise that, as one (1) of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling when one (1) or more of the persons is semi-nude.

**"Sexually-oriented Business"** means an adult bookstore or adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a semi-nude model studio, sexual device shop, or a sexual encounter center.

**"Simulated Showing"** or **"Simulated Display"** means the utilization of a device or covering, exposed to view, that realistically appears to be any part of a specified anatomical area.

**"Specified Anatomical Area"** means and includes:

- (a) less than completely and opaquely covered human genitals, pubic region, anus, anal cleft, buttock and female breast below a point immediately above the top of the areola; and
- (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**"Specified Criminal Activity"** means:

- (a) any of the following specified crimes for which less than five (5) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (i) dissemination or distribution of obscenity or pornographic material;
- (ii) distribution of a controlled substance;
- (iii) engaging in organized criminal activity relating to a sexually-oriented business;
- (iv) indecency with a child, including:
  - (A) unlawful sexual activity with a minor;
  - (B) sexual abuse of a minor, and
  - (C) lewdness involving a child;
- (v) indecent exposure or lewdness;
- (vi) molestation of a child, including:
  - (A) rape of a child,
  - (B) object rape of a child,
  - (C) sodomy on a child;
  - (D) sexual abuse of a child, and
  - (E) aggravated sexual abuse of a child;
- (vii) sexual exploitation of a minor;
- (viii) prostitution or promotion of prostitution, including:
  - (A) patronizing a prostitute,
  - (B) aiding prostitution,
  - (C) exploiting prostitution, and
  - (D) aggravated exploitation of prostitution;
- (ix) rape, including,
  - (A) object rape,
  - (B) forcible sodomy, and
  - (C) forcible sexual abuse;
- (x) sale, distribution or display of harmful material to a minor, including:
  - (A) indecent public displays, and
  - (B) dealing in harmful material to a minor;
- (xi) sexual assault or aggravated sexual assault;
- (xii) sexual performance by a child;
- (xiii) criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or
- (xiv) any offense in another jurisdiction that, had the predicate act(s) been committed in Utah, would constitute any of the foregoing offenses; or
- (b) any attempt, solicitation, or conspiracy to commit one (1) of the foregoing offenses.

**"Specified Sexual Activity"** means any of the following:

- (a) actual or simulated intercourse, oral copulation, masturbation or sodomy; or
- (b) actual or simulated excretory functions as a part of or in connection with any of the activities described in (a) above.

**"Substantial"** means at least thirty-five percent (35%) of the item(s) or word(s) so modified.

**"Transfer of Ownership or Control"** of a sexually-oriented business means any of the following:

- (a) the sale, lease, or sublease of the business;
- (b) the transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (c) the establishment of a trust, gift, or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**"Viewing Room"** means the room, booth, or area where a customer of a sexually-oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction. (Rep&ReEn 2005-41, Am 2006-49)

#### 9.60.030. Classification.

The classifications for sexually-oriented businesses shall be as follows:

- (1) adult bookstore or adult video store;
- (2) adult cabaret;
- (3) adult motel;
- (4) adult motion picture theater;
- (5) semi-nude model studio;
- (6) sexual device shop; or
- (7) sexual encounter center. (Rep&ReEn 2005-41)

#### **9.60.040. License Required.**

(1) It shall be unlawful for any person to operate a sexually-oriented business in Provo City without a valid sexually-oriented business license.

(2) It shall be unlawful for any person to be an employee, as defined in this Chapter, of a sexually-oriented business in Provo City without a valid sexually-oriented business employee license.

(3) An applicant for a sexually-oriented business license or a sexually-oriented business employee license shall file in person at the Provo City business license office a complete application made on a form provided by the Finance Director. The application shall be signed as required by Subsection (5) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in subsections (a) through (g) below, accompanied by the appropriate fee identified in Section 9.60.060 of this Chapter:

(a) the applicant's full true name and any other names used by the applicant in the preceding five (5) years;

(b) current business address or another mailing address of the applicant;

(c) written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a government agency;

(d) if the application is for a sexually-oriented business license, the business name, location, legal description, mailing address and phone number of the sexually-oriented business;

(e) if the application is for a sexually-oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process;

(f) a statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in Section 9.60.020 of this Chapter, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable; and

(g) a statement of whether any sexually-oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance;

or

(ii) been subject to a court order of closure or padlocking.

(h) The information provided pursuant to Subsections (a) through (g) of this Subsection (3) shall be supplemented in writing by certified mail, return receipt requested, to the Finance Director within ten (10) working days of a change of circumstances which renders the information originally submitted false or incomplete.

(4) An application for a sexually-oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to

comply with Subsections 9.60.140 and 9.60.180 of this Chapter shall submit a diagram indicating that the interior configuration meets the requirements of those Sections.

(5) If a person who wishes to operate a sexually-oriented business is an individual, the person shall sign the application for a license as the applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as the applicant. Each applicant shall be qualified under Section 9.60.050 and each applicant shall be considered a licensee if a license is granted.

(6) The information provided by an applicant in connection with an application for a license under this Chapter shall be maintained by the office of the Finance Director on a confidential basis, and such information may be disclosed only as may be required by law or court order, and only to the extent required, by law or court order. (Rep&ReEn 2005-41)

#### **9.60.050. Issuance of License.**

(1) Upon the filing of a complete application under Subsection 9.60.040(3) of this Chapter for a sexually-oriented business license, the Finance Director shall immediately issue a temporary license to the applicant, which temporary license shall expire upon a final decision of the City to deny or grant a business license. Within twenty (20) days of the filing date of a complete sexually-oriented business license application, the Finance Director shall issue a business license to the applicant or issue to the applicant a letter of intent to deny the application. The Finance Director shall issue a license unless:

(a) an applicant is less than eighteen (18) years of age;

(b) an applicant has failed to provide information required by Section 9.60.040 of this Chapter for issuance of a license or has falsely answered a question or request for information on the application form;

(c) the license application fee required by Section 9.60.060 of this Chapter has not been paid;

(d) the sexually-oriented business does not comply with the interior configuration requirements of this Chapter or does not comply with locational requirements set forth in Chapter 14.48, Provo City Code;

(e) any sexually-oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance;

or

(ii) been subject to an order of closure or padlocking;

or

(f) an applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this Chapter.

(2) Upon the filing of a complete application under Subsection 9.60.040(3) of this Chapter for a sexually-oriented business employee license, the Finance Director shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant a business license. Within twenty (20) days of the filing date of a complete sexually-oriented business employee license application, the Finance Director shall either issue a business license or issue a written notice of intent to deny a license to the applicant. The Finance Director shall approve the issuance of a license unless:

(a) the applicant is less than eighteen (18) years of age;

(b) the applicant has failed to provide information as required by Section 9.60.040 of this Chapter for issuance of a license or has falsely answered a question or request for information on the application form;

(c) the license application fee required by Section 9.60.060 of this Chapter has not been paid;

(d) any sexually-oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance;

or

(ii) been subject to an order of closure or padlocking,

or

(e) the applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this Chapter.

(3) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually-oriented business, the address of the sexually-oriented business. The sexually-oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be read at any time. A sexually-oriented business employee shall have possession of the employee's license on his or her person or keep the license on the premises where the licensee is then working or performing. (Rep&ReEn 2005-41, Am 2006-49)

#### **9.60.060. Fees.**

The initial license and annual renewal fees for sexually-oriented business licenses and sexually-oriented business employee licenses shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council. (Rep&ReEn 2005-41, Am 2006-16)

#### **9.60.070. Inspection.**

(1) A sexually-oriented business and any sexually-oriented business employee shall permit the Finance Director and the Director's agents to inspect, from time to time on an occasional basis, the portions of the sexually-oriented business premises where customers are permitted, for the purpose of ensuring compliance with applicable requirements of this Chapter, during those times when the sexually-oriented business is occupied by customers or is open to the public. This Section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this Chapter, but not to authorize a harassing or excessive pattern of inspections.

(2) The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. (Rep&ReEn 2005-41, Am 2006-49)

#### **9.60.080. Expiration of License.**

(1) Except for a temporary license or as otherwise provided in this Section, the term of a license shall be as provided in Section 6.01.090, Provo City Code, unless suspended or revoked.

(2) A license may be renewed only by submitting an application as provided in Section 9.60.040 and paying the fee required by Section 9.60.060 of this Chapter.

(3) Application for renewal of a license should be made at least ninety (90) days before the expiration date pursuant to the procedures set forth in Section 9.60.040 of this Chapter. When made less than ninety (90) days before the expiration date, the expiration of the license shall not be affected. (Rep&ReEn 2005-41)

#### **9.60.090. Suspension.**

(1) If a sexually-oriented business licensee knowingly violates or knowingly allows an employee to violate the provisions of this Chapter, the Finance Director shall issue a letter to the licensee

indicating the City's intent to suspend the licensee's sexually-oriented business license for a period of up to thirty (30) days.

(2) If an employee knowingly violates the provisions of this Chapter, the Finance Director shall issue a letter to the employee indicating the City's intent to suspend the employee's sexually-oriented business employee license for a period of up to thirty (30) days. (Rep&ReEn 2005-41)

#### **9.60.100. Revocation.**

(1) The Finance Director shall issue a letter of intent to revoke a sexually-oriented business license or a sexually-oriented business employee license, as applicable, if the licensee knowingly violates a provision of this Chapter or has knowingly allowed an employee to violate a provision of this Chapter and the licensee's license has been suspended within the previous twelve (12) month period.

(2) The Finance Director shall issue a letter of intent to revoke a sexually-oriented business license or a sexually-oriented business employee license, as applicable, if:

(a) the licensee has knowingly given false information in the application for the sexually-oriented business license;

(b) the licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances or alcoholic beverages on the premises;

(c) the licensee has knowingly or recklessly engaged in or allowed prostitution on the premises; or

(d) the licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.

(3) The fact that any relevant conviction is being appealed shall have no effect on the revocation of a license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, such conviction shall be treated as null and of no effect for revocation purposes.

(4) When, after the notice and hearing procedure described in Section 9.60.110 of this Chapter, a license is revoked, such revocation shall continue for one (1) year and the licensee shall not be issued a sexually-oriented business license or sexually-oriented business employee license for one (1) year from the date revocation becomes effective. (Rep&ReEn 2005-41)

#### **9.60.110. Hearing - Denial, Revocation, and Suspension - Appeal.**

(1) When the Finance Director issues a written notice of intent to deny, suspend, or revoke a license, the Finance Director shall immediately send such notice, which shall include the specific grounds under this Chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Provo City business license office for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which a hearing officer shall conduct a hearing on the Finance Director's intent to deny, suspend, or revoke the license.

(a) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on the respondent's behalf, and cross-examine any of the Finance Director's witnesses. The Finance Director shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) consecutive days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a written decision, including specific reasons for the decision pursuant to this Chapter, to the respondent within five (5) days after concluding the hearing.

(b) If a decision is to deny, suspend, or revoke a license, the decision shall not become effective until the thirty (30) days after the decision is rendered. The decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction.

(i) If the Hearing Officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the Hearing Officer shall, contemporaneously with the issuance of the decision, order the Finance Director to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action.

(ii) If the respondent is not yet licensed, the Finance Director shall contemporaneously therewith issue the license to the applicant.

(2) If any court action challenging the Finance Director's or Hearing Officer's decision is initiated, the City Attorney shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The City shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.

(3) The following shall apply to any sexually-oriented business that is in operation as of the effective date of this Chapter:

(a) Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the respondent a provisional license.

(b) The provisional license shall allow the respondent to continue operation of the sexually-oriented business or to continue employment as a sexually-oriented business employee and shall expire upon the court's entry of judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement. (Rep&ReEn 2005-41, Am 2006-49)

#### **9.60.120. Transfer of License.**

A licensee shall not transfer the licensee's sexually oriented business license to another person, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated on the license. (Rep&ReEn 2005-41, Am 2006-49)

#### **9.60.130. Hours of Operation.**

No sexually-oriented business shall be or remain open for business between 12:00 midnight and six (6:00) a.m. on any day. (Rep&ReEn 2005-41)

#### **9.60.140. Exhibition of Sexually Explicit Films or Videos.**

(1) A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than three hundred fifty (350) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(a) Each application for a sexually-oriented business license shall contain a diagram of the premises showing the location of each restroom, operator station, viewing room, overhead lighting fixture, video camera and monitor installed for monitoring purposes and shall designate those portions of the premises where customers will not be permitted.

(i) Restrooms shall not contain video reproduction equipment.

(ii) The diagram shall also designate the place where the license will be conspicuously posted, if granted.

(iii) A professionally prepared diagram in the nature of an architectural drawing shall not be required; however, the top of each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Finance Director may waive the foregoing diagram for renewal applications if the applicant presents a previously submitted diagram and certifies that the configuration of the premises has not been altered since it was prepared.

(b) It shall be the duty of the operator, and of any employee present on the premises, to ensure no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to Subsection (1)(a) of this Section.

(c) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place where customers are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level. The operator and any employee present on the premises shall have the duty to ensure the illumination described above is maintained at all times when the premises are occupied by customers or open for business.

(d) The operator and any employee present on the premises shall have the duty to ensure no sexual activity occurs in or on the licensed premises.

(e) The operator shall have the duty to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) occupancy of viewing rooms is limited to one (1) person;

(ii) sexual activity on the premises is prohibited;

(iii) making of openings between viewing rooms is prohibited;

(iv) violators will be required to leave the premises; and

(v) violations of Subsections (i), (ii) and (iii) of this Section (e) are unlawful.

(f) The operator shall have the duty to enforce the regulations set forth in Subsections (e)(i) through (e)(iv) above.

(g) The interior of the premises shall be configured to provide an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room, but excluding restrooms, to which any customer is permitted access for any purpose.

(i) An operator's station shall not exceed thirty-two (32) square feet of floor area.

(ii) If the premises have two (2) or more operator's stations designated, then the interior of the premises shall be configured to provide an unobstructed view of each area of the premises to which any customer is permitted access for any purpose from at least one (1) of the operator stations. The view required in this subsection shall be by direct line of sight from an operator's station.

(iii) The operator shall have the duty to ensure at least one (1) employee is on duty and situated in each operator's station at all times when a customer is on the premises, and

(iv) The operator and any employees present on the premises shall have the duty to ensure the view area specified in this Subsection remains unobstructed by any door, curtain, wall, merchandise, display rack or other

material or enclosure at all times when a customer is present on the premises.

(2) It shall be unlawful for a person having a duty under this Section to knowingly fail to fulfill that duty. (Rep&ReEn 2005-41, Am 2006-49)

#### **9.60.150. Loitering, Exterior Lighting, Visibility, and Monitoring Requirements.**

(1) The operator of a sexually-oriented business shall have the duty to:

(a) post conspicuous signs stating that no loitering is permitted on the premises;

(b) designate one (1) or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and

(c) provide lighting of the exterior portion of the premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously whenever the premises are open for business. Such monitors shall be installed within an operator's station.

(d) It shall be unlawful for a person having a duty under this Section to knowingly fail to fulfill that duty.

(3) No sexually-oriented business licensee or other person shall erect a fence, wall, or other barrier which prevents any portion of a parking lot for employees or customers of the business from being visible from a public right of way. (Rep&ReEn 2005-41)

#### **9.60.160. Penalties and Enforcement.**

(1) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be guilty of a class B misdemeanor. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

(2) The City Attorney is hereby authorized to institute civil proceedings necessary for the enforcement of this Chapter to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the City.

(3) Nothing in this Section and no action taken hereunder shall:

(a) prohibit a criminal or administrative proceeding as may be authorized by other provisions of this Chapter, the Provo City Code, or other law, or

(b) exempt any person violating this Chapter, the Provo City Code, or other law from a penalty which may be incurred. (Rep&ReEn 2005-41)

#### **9.60.170. Applicability of Chapter to Existing Businesses.**

Any existing sexually-oriented business and sexually-oriented business employee are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this Chapter. By the end of said ninety (90) days each sexually-oriented business and sexually-oriented business employee shall conform to and abide by the requirements of this Chapter. (Rep&ReEn 2005-41)

#### **9.60.180. Prohibited Activities.**

(1) It is unlawful for a sexually-oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

(a) It shall be a violation of this Chapter for a customer, employee, or any other person to knowingly or intentionally, in a sexually-oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

(b) It shall be a violation of this Chapter for a person to knowingly or intentionally, in a sexually-oriented business,

appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.

(c) It shall be a violation of this Chapter for any employee who regularly appears semi-nude in a sexually-oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually-oriented business.

(d) It shall be a violation of this Chapter for any person to sell, use, or consume alcoholic beverages on the premises of a sexually-oriented business.

(2) A sign, in a form prescribed by the Finance Director, summarizing the provisions of Subsections (a), (b), (c), and (d) of this Section shall be posted near the entrance of a sexually-oriented business in a location where it is clearly visible to customers upon entry. (Rep&ReEn 2005-41)

#### **9.60.190. Scientist Required to Prove Violation or Business Licensee Liability.**

This Chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Chapter. Notwithstanding anything to the contrary, for the purposes of this Chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually-oriented business licensee for purposes of finding a violation of this Chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (Rep&ReEn 2005-41)

#### **9.60.200. Effect of City Failure to Act.**

In the event a City official is required to act or do a thing pursuant to this Chapter within a prescribed time, and fails to act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this Chapter and not completed in the time prescribed includes approval of condition(s) necessary for approval by the City of an applicant's or licensee's application for a sexually-oriented business license or a sexually-oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee shall be allowed to commence operations or employment the day after the deadline for the City's action has passed. (Rep&ReEn 2005-41)

### **Chapter 9.70. Aggressive Solicitation.**

9.70.010. Definitions.

9.70.020. Prohibited Acts.

9.70.030. Penalties.

9.70.040. Construction and Severability.

#### **9.70.010. Definitions.**

For the purposes of this Chapter the following definitions shall apply:

"**Solicit**" means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

"**Aggressive manner**" means and includes:

(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(b) Following the person being solicited, if that conduct is:

(i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(ii) intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation;

(c) Continuing to solicit within five (5) feet of the person being solicited after the person has given a negative response, if continuing the solicitation is:

(i) intended to, or is likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(ii) intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation;

(d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person or the driver of a vehicle to take evasive action to avoid physical contact with the person making the solicitation;

(e) Intentionally or recklessly using obscene or abusive language or gestures that are:

(i) intended to, or likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(ii) intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation; and

(f) Approaching the person being solicited in a manner that is:

(i) intended to, or is likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(ii) intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation.

**"Automated Teller Machine"** means a device, linked to a financial institution's account records, which is able to carry out transactions, including but not limited to account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

**"Automated Teller Machine Facility"** means the area comprised of one (1) or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

**"Bank"** means any business establishment authorized to perform one (1) or more of the following services: receive and safeguard money and other valuables; lend money at an interest; execute bills of exchange, such as checks and drafts; purchase and exchange foreign currency; and issue notes of circulation or currency.

**"Check Cashing Business"** means any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

**"Public Area"** means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings and the grounds enclosing them. (Enacted 1997-69)

#### 9.70.020. Prohibited Acts.

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(a) In an aggressive manner in a public area.

(b) In any public transportation vehicle or passenger terminal for such vehicles.

(c) Within thirty (30) feet of any entrance or exit of any bank or check cashing business or within thirty (30) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities.

(i) When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility.

(d) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

(e) From any operator or occupant of a motor vehicle that is in traffic on a public street, whether in exchange for (i) cleaning the vehicle's windows, (ii) blocking, occupying, or reserving a public parking space, or (iii) directing the occupant to a public parking space.

(i) This Subsection shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of a disabled vehicle.

(f) From any person sitting in a parked motor vehicle.

(Enacted 1997-69)

#### 9.70.030. Penalties.

(1) A violation of this Chapter may be punished by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment for a term not to exceed thirty (30) days, or by both. If the person has been convicted of a violation of this Chapter within the previous one (1) year, the person shall be fined not more than two hundred and fifty (\$250.00) or imprisoned for not more than ninety (90) days, or both.

(2) In lieu of, or in addition to the penalty provided in this Section, a person in violation of this Chapter may be required to perform community service work as described by a court of competent jurisdiction. (Enacted 1997-69)

#### 9.70.040. Construction and Severability.

(1) Severability is intended throughout and within the provisions of the Chapter. If any section, sentence, clause, or phrase of this Chapter is held invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this Chapter.

(2) This Chapter is not intended to prescribe any demand for payment for services rendered or goods delivered.

(3) This Chapter is not intended to create a result through enforcement that is absurd, impossible or unreasonable. The Chapter shall be held inapplicable in any such cases where its application would be unconstitutional under the Constitution of the State of Utah or the Constitution of the United States of America. (Enacted 1997-69)

### Chapter 9.80 Permit Parking Areas.

9.80.010. Purpose.

9.80.020. Legislative Findings.

9.80.030. Scope.

9.80.040. Definitions.

9.80.050. Designation of Permit Parking Areas—Parking Restrictions.

9.80.060. Designation Criteria.

9.80.070. Designation Process.

- 9.80.080. Modification or Removal of Permit Parking Area Designation.
- 9.80.090. Posting of Permit Parking Area.
- 9.80.100. Permit Fees.
- 9.80.110. Penalty Provisions.
- 9.80.120. Revocation of Permit.

#### **9.80.010. Purpose.**

This Chapter is enacted to establish a regulatory framework to address serious adverse effects caused in certain areas of the City by motor vehicle congestion, particularly the parking of motor vehicles on the streets where on- and off-site parking is inadequate to meet the demand for parking. As set forth in more specific detail in Section 9.80.020 of this Chapter, parking by non-residents of such areas threatens the health, safety and welfare of all the residents of the City. In order to protect and promote the integrity of these areas, parking regulations are needed to restrict unlimited parking therein by non-residents, while also providing the opportunity for residents to park near their homes. For the reasons set forth in this Chapter, a system of preferential resident parking is enacted. (Enacted 2002-45, Am 2007-39)

#### **9.80.020. Legislative Findings.**

(1) The Municipal Council finds that continued vitality of the City depends on the preservation of safe and attractive neighborhoods. Demand for parking in certain areas of the City regularly exceeds available on- and off-street parking spaces and undermines neighborhood viability. A system allowing preferential resident on-street parking in various areas of the City will promote the stability of such neighborhoods and thus promote the general public welfare.

(2) The following specific legislative findings of the Municipal Council in support of preferential resident on-street parking are set forth as illustrations of the need for the enactment of such parking regulations. They are intended as illustrations only and do not provide the sole basis supporting their adoption.

(a) The safety, health and welfare of the residents of the City can be greatly enhanced by maintenance of the attractiveness and livability of its neighborhoods and other areas.

(b) A majority of City residents possess automobiles and as a result are daily faced with the need to store these automobiles at or near their residences.

(c) Certain neighborhoods in the City are often burdened by the presence of motor vehicles owned by non-residents which compete for on-street parking spaces, congest City streets, and detract from neighborhood values. The presence of non-resident vehicle parking often disrupts the delivery of basic essential services, such as trash collection and mail delivery by blocking access.

(d) There further exist certain parking "attractors" within the City, i.e., hospitals, schools, industrial and educational facilities, employment centers, UTA stops and stations, and locations convenient for commuter parking, which further aggravate resident parking problems.

(e) Unnecessary vehicle miles, noise, pollution, and strains on relationships between residents and non-residents caused by the conditions set forth herein work unacceptable hardships on residents of these neighborhoods by causing the deterioration of air quality, safety, tranquility, aesthetics and other values normally available in a residential environment.

(f) If allowed to continue unchecked, the adverse effects of excessive parking demand on City residents will contribute to a further decline of living conditions, a reduction in the attractiveness of residing in such areas, and consequent injury to the general public welfare.

(g) A system of preferential on-street parking as provided in this Chapter will increase pedestrian and traffic safety by reducing traffic congestion; improve traffic circulation, promote the health and welfare of all City residents by reducing unnecessary motor vehicle travel, noise and pollution; promote improvements in air quality, the convenience and attractiveness of residential areas, and the increased use of public mass transit facilities available now and in the future; and encourage the use of car pools. The public welfare will also be served by insuring a more stable and valuable property tax base in order to generate revenues necessary to provide essential public services. (Enacted 2002-45, Am 2007-39)

#### **9.80.030. Scope.**

The provisions of this Chapter shall apply to any permit parking area established under the authority of this Chapter. The provisions of this Chapter are not intended to regulate parking on private property. (Enacted 2002-45, Am 2007-39)

#### **9.80.040. Definitions.**

In the construction of this Chapter the following words and phrases shall be defined as set forth in this section.

"**Authorized vehicle**" means a motor vehicle which:

(i) displays a valid parking permit issued pursuant to the requirements of this Chapter, and any chapter adopted under the authority of this Chapter, for the specific permit parking area where the vehicle is parked, or

(ii) is authorized by the regulations of a permit parking area to park within such area without a permit.

"**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.

"**Motor vehicle**" means an automobile, truck, motorcycle or other motor driven or self-propelled form of transportation intended primarily for use and operation on a public street.

"**Parking permit**" means a permit issued by the City affixed to or displayed by a qualifying motor vehicle pursuant to the requirements of this Chapter, and any chapter adopted under the authority of this Chapter, for the specific permit parking area where the permit is used.

"**Permit parking area**" means a contiguous or nearly contiguous area where the Municipal Council has imposed parking limitations as provided in this Chapter, and any chapter adopted under the authority of this Chapter, for a specific permit parking area.

"**Unauthorized vehicle**" means a motor vehicle which:

(i) does not display a valid parking permit issued pursuant to the requirements of this Chapter, and any chapter adopted under the authority of this Chapter, for the specific permit parking area where the vehicle is parked, or

(ii) is not authorized by the regulations of a permit parking area to park within such an area without a permit.

(Enacted 2002-45, Am 2007-39, Am 2007-40)

#### **9.80.050. Designation of Permit Parking Areas–Parking Restrictions.**

(1) The Municipal Council in its discretion may by ordinance:

(a) designate permit parking areas pursuant to the requirements of this Chapter, and

(b) prohibit or restrict parking on any public street as the Council may deem necessary to address parking problems, protect public safety and promote public welfare.

(2) The boundaries of any permit parking area shall be shown on an Official Permit Parking Area Map adopted by the Municipal Council. (Enacted 2002-45, Am 2007-39, Am 2007-40)

#### **9.80.060. Designation Criteria.**

(1) An area shall be eligible for permit parking if an investigation establishes the area is impacted by:

(a) nonresident vehicles for any extended period during the day or night, on weekends, or during holidays, or

(b) continuous use of on-street parking due to inadequate on-site parking.

(2) In determining whether to designate a permit parking area, the Municipal Council shall consider:

(a) the desire and need of residents for permit parking and their willingness to bear administrative costs in connection therewith;

(b) the extent to which:

(i) legal on-street parking spaces are occupied by motor vehicles during the period proposed for parking restriction;

(ii) motor vehicles parking in the area during the period proposed for parking restriction are non-resident vehicles rather than resident vehicles;

(iii) motor vehicles registered to persons residing in the residential area cannot be accommodated by the number of available off-street parking spaces; and

(c) any other factor which contributes to the need for a permit parking area. (Enacted 2002-45, Am 2006-49, Am 2007-08, Am 2007-39)

#### **9.80.070. Designation Process.**

(1) Each permit parking area shall be established by ordinance consistent with the provisions of this Chapter.

(2) A proposal to designate a permit parking area may be initiated by a Municipal Council member, the Mayor, or a resident of the area where a permit parking program is proposed and shall include at least the following information:

(a) a brief description of the current parking circumstances in the area; and

(b) a conceptual description of the proposed permit program which includes at least the following information:

(i) boundaries of the area, which shall be logical in configuration and be in increments of block faces,

(ii) parking time restrictions,

(iii) time restriction exemptions, if any,

(iv) any other aspect the initiator wishes to propose, and

(c) if proposed by a resident, a petition which shows the names of residents in the proposed permit parking area who favor the proposal. The petition shall be on a form approved by the City Permit Parking Coordinator and shall include at least the following information:

(i) a statement at the top of each page summarizing the proposal; and

(ii) the name and address of each person signing the petition.

(3) Following receipt of a proposed permit parking program, the Municipal Council shall hold a public hearing to determine the level of public interest in the proposed program and may thereafter vote to direct that a study of the proposed permit parking area be undertaken.

(4) Within one hundred twenty (120) days after directing that a study of the proposed permit parking area be undertaken, the City Permit Parking Coordinator shall review the application and submit a report to the Mayor and Municipal Council which:

(a) verifies and quantifies petition signatures, if applicable,

(b) analyzes the proposed permit parking area in light of designation criteria set forth in Section 9.80.060, Provo City Code, and

(c) at a minimum, makes recommendations regarding the following:

(i) permit parking area boundaries,

(ii) parking time restrictions on public streets,

(iii) time restriction exemptions, if any,

(iv) permit cost,

(v) permit design/type,

(vi) planned enforcement method, and

(vii) time line for implementing the program.

(5) Within ninety (90) days after receiving such report, the Municipal Council shall hold a public hearing to consider a resolution of intent to create a permit parking area. The Municipal Council may adopt, reject, or adopt with modifications the terms and conditions of the proposed permit parking area. If the Municipal Council adopts a resolution of intent which sets forth the details of the program to be considered a copy of the resolution shall thereafter be mailed to:

(a) each address of record within the proposed permit parking area through a mailing sent to "postal patron"; and

(b) each property owner of record within the area as shown in Utah County land records.

(6) Within ninety (90) days after adopting a resolution of intent, the Municipal Council shall conduct a public hearing on the proposal. The City Recorder shall cause notice of such hearing or hearings to be published twice in a newspaper of general circulation in the City. The first publication shall be not less than ten (10) days prior to the date of such hearing. The notice of the public hearing shall be conspicuously posted in the proposed permit parking area. The notice shall clearly state the purpose of the hearing, the location and boundaries proposed as a permit parking area, any prohibition or time limitation under which permit parking will be exempt therefrom and, if applicable, the permit fee to be charged therefor. During such hearing or hearings, any interested person shall be entitled to appear and be heard, subject to ordinary rules of order.

(7) Following the public hearing, the Municipal Council may enact an ordinance which establishes the boundaries of a permit parking area and any time or other restrictions imposed on the area. In order to establish a permit parking area, the Council shall find that the designation will contribute to the health, safety, and general welfare of persons residing in the area designated. In making such finding the Council shall consider resident support for permit parking, existing parking conditions, expected effectiveness of a permit parking area in improving parking conditions, and the location and size of the permit parking area.

(8) A permit parking program shall balance affected interests, as determined by the Municipal Council, including public safety, neighborhood concerns, and the welfare of the general public. A particular permit parking program shall specify the permit area and the duration of parking restrictions applicable within the parking permit area. Such restrictions may be different than those in a request to establish a permit parking area.

(9) Following adoption of an ordinance establishing a permit parking area, a summary of the ordinance and its effective date shall be mailed to:

(a) each address of record within the proposed permit parking area through a mailing sent to "postal patron", and

(b) each property owner of record within the areas as shown in Utah County land records.. (Enacted 2002-45, Am 2006-49, Am 2007-08, Am 2007-39)

#### **9.80.080. Modification or Removal of Permit Parking Area Designation.**

After holding a public hearing the Municipal Council may by ordinance modify or remove a designated permit parking area or any associated program requirement in any manner consistent with this Chapter. (Enacted 2002-45, Am 2007-39, Am 2008-15)

#### **9.80.090. Posting of Permit Parking Area.**

Upon the adoption by the Municipal Council of an ordinance designating a permit parking area, the Mayor shall cause appropriate signs to be erected in the area indicating prominently thereon the area prohibition or time limitation, period of the day for its application, and conditions, if any, when permit parking rules apply. (Enacted 2002-45, Am 2006-49, Am 2007-39)

#### **9.80.100. Permit Fees.**

Permit fees shall be charged as shown on the Consolidated Fee Schedule adopted by the Municipal Council. (Enacted 2002-45, Am 2006-49, Am 2007-39)

#### **9.80.110. Penalty Provisions.**

(1) No person may park a motor vehicle in violation of a permit parking area ordinance.

(2) It shall be unlawful for a person to falsely claim eligibility for a parking permit or to furnish false information in an application therefor.

(3) It shall be unlawful for a person holding a valid parking area permit to allow the use or display of such permit on a motor vehicle in a manner not permitted by this Chapter or any ordinance adopted under the authority of this Chapter for the specific permit parking area where the permit is used. Such conduct shall constitute an unlawful act and violation of this Chapter both by the person holding the parking permit and the person who so uses or displays the permit on an unauthorized vehicle.

(4) It shall be unlawful and a violation of this Chapter for a person to copy, produce, or otherwise bring into existence a facsimile or counterfeit parking permit or permits. It shall further be unlawful and a violation of this Chapter for a person to transfer the beneficial ownership of or a continuous right to use a visitor parking permit or to knowingly use or display a facsimile or counterfeit parking permit in order to evade area prohibitions or time limitations on parking applicable in a permit parking area.

(5) Violation of a parking area permit requirement shall be a civil infraction and shall be enforced as provided in Chapter 9.17 of this code.

(6) Any motor vehicle for which four (4) or more citations are issued is hereby declared to be a public nuisance and the City may authorize said motor vehicle to be towed from a public street at the expense and risk of the registered owner. Said motor vehicle shall be held and not released until the reasonable costs of towing and storage have been paid.

(7) If a motor vehicle has been towed from a public street pursuant to the provisions of this Chapter and is being held for the payment of fees and charges, the owner thereof, or the agent of the owner, may in writing request a hearing to determine the validity of the action taken with respect to said motor vehicle. Such hearing shall take place within seventy-two (72) hours from the date of the request unless the applicant agrees to a longer period of time before the hearing. The Mayor or the Mayor's designee shall designate a hearing officer who shall conduct the hearing as provided in Chapter 17.02, Provo City Code, except as otherwise provided in this Section. The Hearing Officer may order the release of any motor vehicle without cost to the owner or the owner's agent if the officer determines the motor vehicle was towed from a public street in violation of this Chapter or other applicable law. (Enacted 2002-45, Am 2006-49, Am 2007-39, Am 2008-05)

#### **9.80.120. Revocation of Permit.**

(1) The Mayor or the Mayor's designee is authorized to revoke a parking permit of any person found to be in violation of this Chapter or any provision of an ordinance which establishes a specific permit parking area, and, upon written notification thereof, the person shall surrender such permit to the Police Chief or the Chief's designee. Failure, to surrender a parking permit so revoked shall constitute a violation of law and of this Chapter.

(2) A permit holder found to violate the terms of this Chapter may have parking privileges revoked and the permit holder may be prohibited from obtaining a parking permit for one (1) year from the date of the violation. (Enacted 2002-45, Am 2007-39)

### **Chapter 9.83 Foothill Park Permit Parking Area.**

9.83.010. Purpose.

9.83.020. Definitions.

9.83.030. Permit Parking Area Authorized - Boundaries.

9.83.040. On-Street Parking Restrictions.

9.83.050. Enforcement of Parking Restrictions.

9.83.060. Limit on Available Number of Permits.

9.83.070. Permit Eligibility - Issuance and Display.

9.83.080. Fees.

9.83.090. Transferability.

9.83.100. Temporary Permits.

9.83.110. Expiration.

9.83.120. Signs.

9.83.130. Handicapped Parking.

9.83.140. Other Parking Regulations.

#### **9.83.010. Purpose.**

The Provo Municipal Council finds that the geographic area described in Section 9.83.030 of this Chapter meets the criteria for designating a permit parking area as provided in Section 9.80.060 and Subsections 9.80.070(7) and 9.80.070(8), Provo City Code. (Enacted 2007-41)

#### **9.83.020. Definitions.**

Words and phrases defined in Chapter 9.80 of this Title, as amended, which are used in this Chapter shall have the meanings set forth in Chapter 9.80. (Enacted 2007-41)

#### **9.83.030. Permit Parking Area Authorized - Boundaries.**

(1) A permit parking area is hereby established within the geographic area encompassed by the following boundaries and applying to both sides of a street unless otherwise provided: Commencing at the intersection of 580 North and Belmont Place; thence east along 580 North to Summit Drive; thence north along Summit Drive to 1420 East; thence south along 1420 East to the corner of 1480 East; thence southeast along 1480 East to the corner of 300 North; thence west on 300 North until the corner of Belmont Place on the north side of the street only; thence north on Belmont Place to 580 North, including dwelling units located only to the east.

(2) The foregoing described area shall be known as the Foothill Park Permit Parking Area and the boundaries thereof, as described in Subsection (1) above, shall be shown on the Official Permit Parking Area Map. (Enacted 2007-41)

#### **9.83.040. On-Street Parking Restrictions.**

(1) Parking on a public street within the Foothill Park Permit Parking Area shall be restricted as follows:

(a) Except as otherwise set forth in Subsection (2) of this Section, between the hours of 5:30 a.m. and 12:30 a.m. only authorized motor vehicles shall be parked on a public street within the Foothill Park Permit Parking Area. Between the hours

of 12:30 a.m. and 5:30 a.m. no motor vehicle shall be parked on a public street within the Foothill Park Permit Parking Area.

(b) A motor vehicle being used to provide repair, service, or emergency assistance within the Foothill Park Permit Parking Area shall be exempt from the provisions of Subsection (a) of this Section. Such exemption shall terminate upon completion of repair, service, or assistance provided. Nothing in this Section is intended to prohibit a resident of the Foothill Park Permit Parking Area from obtaining a parking permit for such vehicles as provided in this Chapter.

(c) A public agency vehicle with an exempt ("EX") license plate shall be exempt from the provisions of Subsection (1)(a) of this Section.

(2) A parking permit may be issued for a motor vehicle used in conjunction with a building permit for authorized construction within the Foothill Park Permit Parking Area. The parking permit shall expire in six (6) months from the date of issuance. (Enacted 2007-41, Am 2008-15)

#### **9.83.050. Enforcement of Parking Restrictions.**

Foothill Park Permit Parking Area restrictions shall be regularly enforced by Police Department personnel. The on-street parking restrictions set forth in this Chapter shall apply every day except the following: no enforcement shall occur on Easter, Thanksgiving and three (3) days following, and Christmas Eve through New Year's Day. (Enacted 2007-41, Am 2008-16)

#### **9.83.060. Limit on Available Number of Permits.**

There shall be no limit on the number of parking permits issued within the Foothill Park Permit Parking Area except as set forth in Subsection 9.83.070(3)(c) of this Chapter. (Enacted 2007-41)

#### **9.83.070. Permit Eligibility - Issuance and Display.**

(1) The Parking Permit Coordinator shall issue parking permits which comply with the requirements set forth in this section.

(2) (a) Annual application for one (1) or more parking permits authorized under this Chapter shall be made on a form provided by the Parking Permit Coordinator which includes at least the following information:

- (i) applicant's name and address, and
- (ii) proof of eligibility for the permit.

(b) Additional information may be required which will aid the enforcement of the provisions of this Chapter and Chapter 9.80, Provo City Code.

(3) A parking permit shall be issued for a motor vehicle only upon compliance with each of the following requirements:

(a) The permit applicant shall be a person who resides in a dwelling located within the Foothill Park Permit Parking Area and who is:

- (i) an owner occupant, or
- (ii) an occupant of a qualifying rental dwelling unit for which a valid rental dwelling license has been issued.
- (iii) No permit shall be issued to a person who resides in a rental dwelling which does not comply with the requirements of Chapter 6.26, Provo City Code, when the permit is issued.

(iv) A resident of the Arlington, Belmont, Highland Park, or King Henry apartments shall not qualify for a parking permit.

(b) Applicable fees, as set forth in the Consolidated Fee Schedule adopted by the Municipal Council, have been paid.

(c) Not more than two (2) parking permits shall be issued to all the residents of a qualifying dwelling unit.

(4) A parking permit shall be displayed by hanging the permit on the motor vehicle's interior rear view mirror. Such permit may be displayed only if:

- (a) the vehicle has a valid license and vehicle registration, and
- (b) the owner possesses proof of current vehicle insurance.

(5) A person who is issued a parking permit shall be deemed the permit holder.

(6) A parking permit shall be designed to display information necessary to allow enforcement personnel to identify the permit holder.

(7) The issuance of a parking permit does not guarantee or reserve to the permit holder a particular parking space within the Foothill Park Permit Parking Area, but only authorizes a motor vehicle to be parked on a public street in a legally available parking space.

(8) In the event a permit holder loses a permit issued under this Chapter, a duplicate may be obtained from the Parking Permit Coordinator.

(a) The cost of such permit shall be as set forth in the Consolidated Fee Schedule adopted by the Municipal Council.

(b) No duplicate permit shall be issued unless and until the applicant has furnished to the Parking Permit Coordinator an affidavit stating that the applicant has lost the original permit.

(c) No person shall apply for a duplicate permit unless the original permit has, in fact, been lost. (Enacted 2007-41)

#### **9.83.080. Fees.**

Parking permit fees shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council. (Enacted 2007-41)

#### **9.83.090. Transferability.**

The holder of a parking permit for the Foothill Park Permit Parking Area may display the permit on any motor vehicle at any time within such area. (Enacted 2007-41)

#### **9.83.100. Temporary Permits.**

During a calendar year up to eighteen (18) temporary one-day permits and one (1) 7-day permit may be issued to residents of a qualifying dwelling unit within the Foothill Park Permit Parking Area. (Enacted 2007-41, Am 2008-16)

#### **9.83.110. Expiration.**

Each parking permit issued for the Foothill Park Permit Parking Area shall expire annually after the establishment thereof. Any permit issued after the establishment date shall expire on the same day as all other permits. (Enacted 2007-41)

#### **9.83.120. Signs.**

An adequate number of signs shall be posted in the Foothill Park Permit Parking Area as determined by the Mayor pursuant to Section 9.80.090, Provo City Code. (Enacted 2007-41)

#### **9.83.130. Handicapped Parking.**

Nothing in this Chapter shall abrogate the scope of parking privileges granted to handicapped persons established by the Provo City Code or other applicable law. (Enacted 2007-41)

#### **9.83.140. Other Parking Regulations.**

The provisions of this Chapter shall not relieve any person from the duty to observe other and more restrictive provisions of the Provo City Code which prohibit or limit the stopping, standing, or parking of vehicles at specific times or places. (Enacted 2007-41)

## Chapter 9.85 North Joaquin Permit Parking Area. (Repealed 2011-05)

## Chapter 9.88 University Garden/North Foothills Permit Parking Area.

- 9.88.010. Purpose.
- 9.88.020. Definitions.
- 9.88.030. Permit Parking Area Authorized - Boundaries.
- 9.88.040. On-Street Parking Restrictions.
- 9.88.050. Enforcement of Parking Restrictions.
- 9.88.060. Limit on Available Number of Permits.
- 9.88.070. Permit Eligibility - Issuance and Display.
- 9.88.080. Fees.
- 9.88.090. Transferability.
- 9.88.100. Temporary Permits.
- 9.88.110. Expiration.
- 9.88.120. Signs.
- 9.88.130. Handicapped Parking.
- 9.88.140. Other Parking Regulations.

### 9.88.010. Purpose.

The Provo Municipal Council finds that the geographic area described in Section 9.88.030 of this Chapter meets the criteria for designating a permit parking area as provided in Section 9.80.060 and Subsections 9.80.070(7) and 9.80.070(8), Provo City Code. (Enacted 2007-42)

### 9.88.020. Definitions.

Words and phrases defined in Chapter 9.80 of this Title, as amended, which are used in this Chapter shall have the meanings set forth in Chapter 9.80. (Enacted 2007-42)

### 9.88.030. Permit Parking Area Authorized - Boundaries.

(1) A permit parking area is hereby established within the geographic area encompassed by the following boundaries and applying to both sides of a street unless otherwise provided: Commencing at 975 East 820 North; thence east along 820 North to 1100 East; thence north along 1100 East to 950 North; thence east along 950 North to 1200 East; thence north along 1200 East to 1010 North; thence east along 1010 North to 1325 East; thence southeasterly along the rear property line of lots fronting on 1200 East to 950 North; thence east along 950 North to 1260 East; thence southeasterly along the rear property line of lots fronting on 1260 East to a point located at 860 North 1420 East; thence easterly, parallel to 820 North, to the west right-of-way line of Locust Lane; thence south to the south right-of-way line of 820 North; thence west along 820 North to 1275 East; thence south along 1275 East to 700 North; thence west along 700 North to 1200 East; thence south on 1200 East to 690 North; thence east to 1225 East; thence south along the rear property line of two lots fronting on 1200 East to 630 North; thence west to 1200 East, thence south along 1200 East to 530 North; thence west along 530 North to 1100 East; thence south along 1100 East to 475 North; thence west along 475 North to 1000 East; thence North along 1000 East to 530 North; thence west along 530 North to the east right-of-way line of 900 East; thence north along the east right-of-way line of 900 East to 700 North; thence east to 975 East; thence north 975 East to 820 North to the point of beginning.

(2) The foregoing described area shall be known as the University Garden/North Foothills Permit Parking Area and shall be shown on the Official Permit Parking Area Map. (Enacted 2007-42, Am 2008-16)

### 9.88.040. On-Street Parking Restrictions.

(1) Parking on a public street within the University Garden/North Foothills Permit Parking Area shall be restricted as follows:

(a) Except as otherwise set forth in Subsection (2) of this Section, between the hours of 10 p.m. and 7 a.m. only authorized motor vehicles shall be parked on a public street within the University Garden/North Foothills Permit Parking Area.

(b) A motor vehicle being used to provide repair, service, or emergency assistance within the University Garden/North Foothills Permit Parking Area shall be exempt from the provisions of Subsection (a) of this Section. Such exemption shall terminate upon completion of repair, service, or assistance provided. Nothing in this section is intended to prohibit a resident of the University Garden/North Foothills Permit Parking Area from obtaining a parking permit for such vehicles as provided in this Chapter.

(c) A public agency vehicle with an exempt ("EX") license plate shall be exempt from the provisions of Subsection (1)(a) of this Section.

(2) A parking permit may be issued for a motor vehicle used in conjunction with a building permit for authorized construction within the University Garden/North Foothills Permit Parking Area. The parking permit shall expire in six (6) months from the date of issuance. (Enacted 2007-42, Am 2008-15)

### 9.88.050. Enforcement of Parking Restrictions.

University Garden/North Foothills Permit Parking Area restrictions shall be regularly enforced by Police Department personnel. The on-street parking restrictions set forth in this Chapter shall apply every day except the following: no enforcement shall occur on Easter, Memorial Day weekend, Independence Day, Pioneer Day, Labor Day weekend, Thanksgiving Day and three (3) days following, and Christmas Eve through New Year's Day. (Enacted 2007-42, Am 2008-16)

### 9.88.060. Limit on Available Number of Permits.

There shall be no limit on the number of parking permits issued within the University Garden/North Foothills Permit Parking Area except as set forth in Subsection 9.88.070(3)(c) of this Chapter. (Enacted 2007-42)

### 9.88.070. Permit Eligibility - Issuance and Display.

(1) The Parking Permit Coordinator shall issue parking permits which comply with the requirements set forth in this section.

(2) (a) Annual application for one (1) or more parking permits authorized under this Chapter shall be made on a form provided by the Parking Permit Coordinator which includes at least the following information:

- (i) applicant's name and address, and
- (ii) proof of eligibility for the permit.

(b) Additional information may be required which will aid the enforcement of the provisions of this Chapter and Chapter 9.80, Provo City Code.

(3) A parking permit shall be issued for a motor vehicle only upon compliance with each of the following requirements:

(a) The permit applicant shall be a person who resides in a dwelling located within the University Garden/North Foothills Permit Parking Area and who is:

- (i) an owner occupant, or
- (ii) an occupant of a qualifying rental dwelling unit for which a valid rental dwelling license has been issued.

(iii) No permit shall be issued to a person who resides in a rental dwelling which does not comply with the requirements of Chapter 6.26, Provo City Code, when the permit is issued.

(iv) A resident of the Arlington, Belmont, Highland Park, or King Henry apartments shall not qualify for a parking permit.

(b) Applicable fees, as set forth in the Consolidated Fee Schedule adopted by the Municipal Council, have been paid.

(c) Not more than two (2) parking permits shall be issued to all the residents of a qualifying dwelling unit.

(4) A parking permit shall be displayed by hanging the permit on the motor vehicle's interior rear view mirror. Such permit may be displayed only if:

(a) the vehicle has a valid license and vehicle registration, and

(b) the owner possesses proof of current vehicle insurance.

(5) A person who is issued a parking permit shall be deemed the permit holder.

(6) A parking permit shall be designed to display information necessary to allow enforcement personnel to identify the permit holder.

(7) The issuance of a parking permit does not guarantee or reserve to the permit holder a particular parking space within the University Garden/North Foothills Permit Parking Area, but only authorizes a motor vehicle to be parked on a public street in a legally available parking space.

(8) In the event a permit holder loses a permit issued under this Chapter, a duplicate may be obtained from the Parking Permit Coordinator.

(a) The cost of such permit shall be as set forth in the Consolidated Fee Schedule adopted by the Municipal Council.

(b) No duplicate permit shall be issued unless and until the applicant has furnished to the Parking Permit Coordinator an affidavit stating that the applicant has lost the original permit.

(c) No person shall apply for a duplicate permit unless the original permit has, in fact, been lost. (Enacted 2007-42)

#### **9.88.080. Fees.**

Parking permit fees shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council. (Enacted 2007-42)

#### **9.88.090. Transferability.**

The holder of a parking permit for the University Garden/North Foothills Permit Parking Area may display the permit on any motor vehicle at any time within such area. (Enacted 2007-42)

#### **9.88.100. Temporary Permits.**

During a calendar year up to eighteen (18) temporary one-day permits and one (1) 7-day permit may be issued to residents of a qualifying dwelling unit within the University Garden/North Foothills Permit Parking Area. (Enacted 2007-42, Am 2008-16)

#### **9.88.110. Expiration.**

Each parking permit issued for the University Garden/North Foothills Permit Parking Area shall expire annually after the establishment thereof. Any permit issued after the establishment date shall expire on the same day as all other permits. (Enacted 2007-42)

#### **9.88.120. Signs.**

An adequate number of signs shall be posted in the University Garden/North Foothills Permit Parking Area as determined by the Mayor pursuant to Section 9.80.090, Provo City Code. (Enacted 2007-42)

#### **9.88.130. Handicapped Parking.**

Nothing in this Chapter shall abrogate the scope of parking privileges granted to handicapped persons established by the Provo City Code or other applicable law. (Enacted 2007-42)

#### **9.88.140. Other Parking Regulations.**

The provisions of this Chapter shall not relieve any person from the duty to observe other and more restrictive provisions of the Provo City Code which prohibit or limit the stopping, standing, or parking of vehicles at specific times or places. (Enacted 2007-42)

