MIDVALE CITY COUNCIL MEETING
AMENDED AGENDA
July 17, 2018

PUBLIC NOTICE IS HEREBY GIVEN that the Midvale City Council will hold a regular meeting on the 17th day of July, 2018 at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

6:30 PM
INFORMATIONAL ITEMS

I. DEPARTMENT REPORTS
II. CITY MANAGER BUSINESS

7:00 PM
REGULAR MEETING

III. GENERAL BUSINESS
A. WELCOME AND PLEDGE OF ALLEGIANCE
B. ROLL CALL
C. Proclamation Recognizing Abigail Slama-Catron – Utah State Honoree Award
* D. Recognize Harvest Days Committee Members

IV. PUBLIC COMMENTS
Any person wishing to comment on any item not otherwise on the Agenda may address the City Council at this point by stepping to the microphone and giving his or her name for the record. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Governing Body. Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting.

V. COUNCIL REPORTS
A. Council Member Quinn Sperry
B. Council Member Bryant Brown
C. Council Member Paul Hunt
D. Council Member Dustin Gettel
E. Council Member Paul Glover

VI. MAYOR REPORT
A. Mayor Robert M. Hale

VII. PUBLIC HEARINGS
A. Consider a Final Subdivision Plat for a 2-lot subdivision from Jarred Cameron located at 7509 South Lincoln Street [Alex Murphy, Associate Planner]
ACTION: Approve Final Subdivision Plat for a 2-lot subdivision from Jarred Cameron located at 7509 South Lincoln Street

B. Consider a 2-Lot Subdivision Plat from Sanchez Estates located at 611 West Fifth Avenue [Jana Ward, Planner 1]

ACTION: Approve a 2-Lot Subdivision Plat from Sanchez Estates located at 611 West Fifth Avenue

VIII. CONSENT AGENDA
A. Consider Minutes of June 19, 2018 [Rori Andreason, H.R. Director/City Record]

IX. ACTION ITEMS
A. Consider Resolution No. 2018-R-34 Authorizing the Mayor to enter into a Wireless and Telecommunication Services Franchise Agreement with Crown Castle [Lisa Garner, City Attorney]

B. Consider Resolution No. 2018-R-35 appointing Laurie Harvey to serve as a Midvale City Board Member on the Animal Services Advisory Committee [Kane Loader, City Manager]

C. Consider Resolution No. 2018-R-36 Authorizing the Mayor to enter into a Development Agreement with JF Capital, LLC for the MODA Union Project [Alex Murphy, Associate Planner]

D. Consider Ordinance No. 2018-O-06 Proposed Puppy Mill and Pet Lemon Ordinance [Lisa Garner, City Attorney]


X. DISCUSSION ITEMS
A. Discussion on Handicap Ramps [Kane Loader, City Manager, / Brian Berndt, Community Development Director]

B. Discuss Jordan Bluffs Master Development Agreement [Brian Berndt, Community Development Director]

XI. ADJOURN

In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the City Recorder at 801-567-7207, providing at least three working day notice of the meeting. TTY 711

A copy of the foregoing agenda was provided to the news media by email and/or fax. The agenda was also posted at the following locations on the date and time as posted above: City Hall Lobby, on the City’s website at www.midvalecity.org and the State Public Notice Website at http://pmn.utah.gov. Council Members may participate in the meeting via electronic communications. Council Members’ participation via electronic communication will be broadcast and amplified so other Council Members and all
other persons present in the Council Chambers will be able to hear or see the communication.

PLEASE MAKE SURE ALL CELL PHONES ARE TURNED OFF DURING THE MEETING

DATE POSTED: JULY 13, 2018

RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER
SUBJECT:

Public Hearing and Subdivision Plat Approval for 2-lot Cameron Subdivision located at 7509 South Lincoln Street

SUBMITTED BY:

Alex Murphy, Associate Planner

SUMMARY:

The proposed Cameron Subdivision plat consists of two (2) proposed lots on a total of 0.30 acres located on Lincoln Street at the intersection of Lincoln Street and 7500 South. This request was submitted by Jarred Cameron, representing himself as owner of the subject property, for the purpose of creating a new parcel. The existing house will remain on one of the new lots and the second lot will be ready to accommodate a new single-family dwelling. This property is zoned Single Family Residential (SF-2).

All subdivisions require a review and recommendation from the Planning Commission and approval from the City Council. Public hearings are required to be held by each body. The Planning Commission conducted a public hearing on this subdivision plat on May 9, 2018. Based on compliance with the City’s zoning and subdivision requirements, the Planning Commission forwarded a positive recommendation to the City Council to approve the subdivision plat for the Cameron Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
2. The applicant shall demonstrate the existing accessory buildings on the subject property comply with applicable development standards prior to recording the final plat.
3. A minimum of two street trees shall be planted on Lot 8A along Lincoln Street and a minimum of two street trees shall be planted on Lot 8B along Lincoln Street or guaranteed by a cash bond prior to recording the final plat. Existing, qualifying street trees along Lincoln Street on either lot may be counted towards this requirement.
4. The applicant shall obtain duty to serve letters for water and sewer prior to the subdivision plat being recorded.
5. The applicant shall provide evidence that courtesy notices has been sent to Dominion Energy, Rocky Mountain Power, Xfinity, Utopia and Century Link regarding the utility easements on the subdivision plat with the Final Subdivision Plat application.

The applicant has prepared and submitted the final plat (see attached). The proposed subdivision plat was reviewed and approved by the City Engineer and Fire Marshal. The required utility notices and duty to serve letters have been provided. Planning Commission conditions remaining to be addressed include the items below; these conditions do not affect the proposed subdivision layout, but will need to be addressed prior to the subdivision plat being recorded.
• The existing accessory building on the proposed Lot 8B has not been removed or relocated.
• Planting the street trees along Lincoln Street or posting a cash bond guaranteeing planting of the trees.

These items should be required before the final subdivision plat is recorded.

As a minor subdivision request, this request is subject to and complies with the requirements of the Single Family Residential (SF-2) zone and the subdivision ordinance (Title 16), subject to the recommended conditions below.

**FISCAL IMPACT:** N/A

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**STAFF RECOMMENDATION:**

Staff recommends the City Council approve the final subdivision plat for the Cameron Subdivision with the following conditions:

1. The applicant shall demonstrate the existing accessory buildings on the subject property comply with applicable development standards prior to recording the final plat.
2. Two 2-inch caliper deciduous street trees are required along Lincoln Street on each lot. These trees shall be in place or guaranteed by a cash bond prior to a Certificate of Occupancy being issued for each new residential structure. Existing street trees can count towards this requirement. A note indicating this shall be included on the final subdivision plat Mylar.

**RECOMMENDED MOTION – APPROVAL:**

“Based on compliance with the requirements of the Midvale City Municipal Code demonstrated in the application or addressed by conditions of approval, I move that we approve the final subdivision plat for the Cameron Subdivision with the following conditions:

1. The applicant shall demonstrate the existing accessory buildings on the subject property comply with applicable development standards prior to recording the final plat.
2. Two 2-inch caliper deciduous street trees are required along Lincoln Street on each lot. These trees shall be in place or guaranteed by a cash bond prior to a Certificate of Occupancy being issued for each new residential structure. Existing street trees can count towards this requirement. A note indicating this shall be included on the final subdivision plat Mylar.”

**RECOMMENDED MOTION – TABLE DECISION:**

“I move that we table decision on the Cameron Subdivision to address the following questions/comments:

1. ...
2. ‘”

**ATTACHMENTS:**

• Vicinity Map
• Final Subdivision Plat
SUBJECT:

Public Hearing and Subdivision Plat Approval for 2-lot Sanchez Estates Subdivision located at 611W Fifth Avenue

SUBMITTED BY:

Jana Ward, Planner I

SUMMARY:

The proposed Sanchez Estates Subdivision plat consists of two (2) proposed lots on a total of 0.26 acres located between Main Street and the I-15 freeway sound wall on Fifth Avenue. This request was submitted by Carlo Sanchez, representing himself as the owner of the subject property. Mr. Sanchez is requesting the creation of a second lot east of the existing single-family dwelling on the subject property. The single-family dwelling will remain on its own lot. This property is zoned Single Family Residential (SF-2). This zone will allow a single-family house to be constructed on the newly created lot.

All subdivisions require a review and recommendation from the Planning Commission and approval from the City Council. Public hearings are required to be held by each body. The Planning Commission conducted a public hearing on this subdivision plat on June 13, 2018. Based on compliance with the City’s zoning and subdivision requirements, the Planning Commission forwarded a positive recommendation to the City Council to approve the subdivision plat for the Sanchez Estates Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
2. The final subdivision plat shall include a note stating one two-inch caliper deciduous street tree is required to be planted or shown to be existing prior to a Certificate of Occupancy being issued for the new house on Lot 1.
3. One two-inch caliper deciduous street tree shall be planted on Lot 2 or guaranteed with a cash bond prior to recording the final subdivision plat.
4. The applicant shall obtain duty to serve letters for water and sewer prior to final approval of the subdivision plat.
5. The applicant shall provide evidence that courtesy notices have been sent to Dominion Energy, Rocky Mountain Power, X-finity, Utopia and CenturyLink regarding the utility easements on the subdivision plat prior to final approval.

The applicant has prepared and submitted the final plat (see attached). The applicable notes regarding the planting of street trees has been added. The proposed subdivision plat was reviewed and approved by the City Engineer and Fire Marshall.
A duty to serve letter for water and sewer service has been provided by Midvale City. All courtesy letters to the other utility providers have been submitted.

**FISCAL IMPACT:** N/A

**STAFF RECOMMENDATION:**

Staff recommends the City Council approves the final subdivision plat for the Sanchez Estate Subdivision with the following conditions:

1. One two-inch caliper deciduous street tree shall be planted on Lot 2 or guaranteed with a cash bond prior to recording the final subdivision plat.
2. The applicant shall obtain all required signatures on the final subdivision plat Mylar.

**RECOMMENDED MOTION – APPROVAL:**

“Based on compliance with the requirements of the Midvale City Municipal Code demonstrated in the application or addressed by the conditions of approval, I move that we approve the final subdivision plat for the Sanchez Estates Subdivision with the following conditions:

1. One two-inch caliper deciduous street tree shall be planted on Lot 2 or guaranteed with a cash bond prior to recording the final subdivision plat.
2. The applicant shall obtain all required signatures on the final subdivision plat Mylar.”

**RECOMMENDED MOTION – TABLE DECISION:**

“I move that we table decision on the Sanchez Estates subdivision to address the following questions/comments:

1. ...
2. ...”

**ATTACHMENTS:**

- Vicinity Map
- Final Subdivision Plat
Surveyor's Certificate

I, SPENCER W. LLEWELYN, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NUMBER 10516507 AS PRESCRIBED.

SANCHEZ ESTATES SUBDIVISION

AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND LOCATED IN THE SW1/4 OF SECTION 25, T2S, R1W, SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT

SALT LAKE BASE & MERIDIAN

WEST 1/4 CORNER OF

CATALAPA ST

FOUND 2.5" FLAT BRASS MONUMENT (RING & LID)

PROJECT LOCATION

3RD AVE

GRAPHIC SCALE

RIO GRANDE ST

PRELIMINARY INTERSTATE 15

5TH AVENUE (PUBLIC - 33' WIDE)

5' PU&DE (TYP.)

100.00

S0°00'00"E

100.00

50.00

50.00

21-25-307-011

21-25-307-027

MASSOUD SHAFIZADEH

LOT 1

LOPEZ ESTATES

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS THIS 10/23/2018

DOMINION ENERGY APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF DEDICATE THE EASEMENTS AS SHOWN FOR THE USE BY ALL SUPPLIERS OF UTILITY FACILITIES OR OPERATORS OF UTILITY FACILITIES.

SALT LAKE COUNTY HEALTH OFFICE OF PLANNING, ZONING, & PERMITS APPROVED AS TO FORM THIS ____________DAY OF __________________, A.D. 20______

DIRECTOR, SALT LAKE COUNTY HEALTH DEPARTMENT

RECORDED #__________ IN OFFICE OF THE SALT LAKE COUNTY RECORDER ON THE _____ DAY OF ______________________, A.D., 20______

BY-_________________________________

PRINTED FULL NAME OF NOTARY

DATE: 6/19/2018

ACKNOWLEDGMENT

OWNER(S) OR OPERATORS OF UTILITY FACILITIES OR OTHER PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED AND APPROVED THIS PLAT SOLELY FOR THE PURPOSE OF EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS

OWNER(S) OR OPERATORS OF UTILITY FACILITIES OR OTHER PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED AND APPROVED THIS PLAT SOLELY FOR THE PURPOSE OF EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS

NOTES

1. 1. #5 REBAR AND CAP (FOCUS ENG) TO BE SET AT ALL REAR LOT POWER HAS UNDER:

   a. A RECORDED EASEMENT OR RIGHT-OF-WAY

   b. PREVIOUSLY SET MONUMENTS

2. ONE TWO-INCH CALIPER DECIDUOUS STREET TREE IS REQUIRED TO BE PLANTED OR SHOWN TO BE EXISTING PRIOR TO A CERTIFICATE OF OCCUPANCY BEING ISSUED FOR THE NEW HOUSE ON LOT 1.

3. OWNER(S) OR OPERATORS OF UTILITY FACILITIES OR OTHER PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED AND APPROVED THIS PLAT SOLELY FOR THE PURPOSE OF EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS
CITY COUNCIL MEETING
Minutes
Tuesday June 19, 2018
Council Chambers
7505 South Holden Street
Midvale, Utah 84047

MAYOR: Mayor Robert Hale

COUNCIL MEMBERS: Council Member Paul Glover – electronic
Council Member Quinn Sperry
Council Member Bryant Brown
Council Member Paul Hunt
Council Member Dustin Gettel

STAFF: Kane Loader, City Manager; Brian Berndt, Asst. City Manager/CD Director; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Lisa Garner, City Attorney; Matt Dahl, Redevelopment Agency Director; Patrick O’Brien, RDA Housing Project Manager; Alan Hoyne, PW Operations Superintendent; Laura Magness, Communications Specialist; Chief Randy Thomson, UPD; Chief Brad Larson, UFA; and Juan Rosario, IT Tech.

Mayor Hale called the meeting to order at 6:30 p.m.

I. INFORMATIONAL ITEMS
   A. DEPARTMENT REPORTS
   Chief Randy Thomas reported that on June 4th he met with the business community at Top Golf for the quarterly meeting. They talked about the river clean up and boardwalk clean up. He attended his first Harvest Days meeting. Detective Jeff Nelson will be the main contact for Harvest Days. On June 21st they are going to conduct another crosswalk sting. The Community Council Meeting suggested that they give a warning to the residents as to when they are conducting a sting. He reported that the Life Start Village will have their annual BBQ on June 26th. He reported on the home on Harrison Street with the bulky waste issues. The home has been condemned and closed for occupancy by the Health Department, and has been since 2016. They will continue to follow up on this home.

   Mayor Hale asked about a carjacking that took place. Chief Thomas informed the Council of the details on that incident.

   Chief Brad Larson said that the fireworks season is almost upon us. The sales of fireworks are June 24th and July 25th. The legal dates for discharge are two days before and after the holiday. They are trying to get the word out to the public. They have an interactive map on their website that will show where fireworks are permitted and restricted. He encouraged everyone to enjoy the fireworks by attending the public professional fireworks shows.
Brian Berndt said he has met with S L County Parks and Recreation. Portions of the Copperview Park outfield will be taken with the freeway expansion. They are discussing solutions for this and may be able to offset this with the Jordan Bluffs Project. The Zoning Ordinance re-write has been started. The Zoning Ordinance has not been updated for about 18 years. He will be preparing a list of the code sections. He would like to hold a joint meeting with the Planning Commission to go on a tour of the City where the zoning changes will be applicable. He thought that a workshop would be a good time to do this. He will also be talking with developers and taking their suggestions into consideration. The Council agreed to discuss this in a workshop meeting.

Matt Dahl said in talking with S L County last fall regarding the traffic light at Coliseum Way and Bingham Junction Blvd., they said they are booked until June of next year. He interpreted that to be June of this year, however they really meant June of 2019. He said they had good attendance on the Housing Plan Open House meeting from all areas of Midvale City. They have been doing a lot of research on housing as far as trends etc. He will also be working with the business licensing regarding rental units that don’t have business licenses.

Alan Hoyne discussed the recent storm and the flooding of the underpasses.

Rori Andreason said that Council Member Paul Glover is in France, and will be calling him about 7:00 p.m. for the meeting.

II. CITY MANAGER’S REPORT
Kane Loader said he would like to schedule the handicap ramps discussion on the agenda for July 17th. Kane read a letter from a Texas citizen who stole a stop sign years ago. He sent $50 to replace the stop sign.

III. GENERAL BUSINESS
A. Welcome and Pledge of Allegiance

B. Roll Call - Council Members Paul Hunt, Quinn Sperry, Bryant Brown, Dustin Gettel were present at roll call. Council Member Paul Glover was present electronically.

C. ULGT – TAP Grant Presentation, Doug Folsom
Doug Folsom from the Utah Local Governments Trust was in attendance to present the TAP grant award to the City for the fourth year in a row. He congratulated staff for their efforts in safety management. The TAP program has been very successful since we have adopted this program a few years ago. The staff has made a significant effort to safety management and awareness. He congratulated the city staff and council on their award. Kane Loader thanked senior staff and Rori Andreason, Risk Manager, for all their help and team efforts.

D. Daughters of the Utah Pioneers – Jan Litster thanked the Midvale City Staff, City Council, and the Planning Commission for their help. There is a cabin that will be the oldest structure known in Midvale City that will now be called the Pioneer Memorial Park in the Founders Point area. It has been owned by the Daughters of the Utah Pioneers since about 1936. They are
thrilled with the park. They would like to have it open for Harvest Days. The dedication will be September 15th.

Council member Dustin Gettel asked to have this added to city website.

Matt Dahl said they are looking as ways to create a monument feature or signage to the park to memorialize some of the people who have lived in that area. They are also looking at signage on the street so that people are aware of where it is.

E. Proclamation declaring July 1-7 as Independents Week
Mayor Hale read the proclamation into the record. Kristin Lavelett of Local First of Utah was present to accept the proclamation.

IV. PUBLIC COMMENTS
There was no one who desired to speak.

V. COUNCIL REPORTS
A. Council Member Paul Glover – Said he is currently in France and has great pictures.

B. Council Member Quinn Sperry – Had nothing to report.

C. Council Member Bryant Brown – Said the trees on Roosevelt are being taken down. They are maple trees he planted when he moved into the home. Why are the trees being taken down? Also asked if there was a schedule for the street sweeper.

Kane Loader said the trees have moved and lifted the sidewalk and curb. The program is to take the trees out. We have offered the gentlemen a waiver that allows them to leave the tree if they take responsibility if the tree lifts the new sidewalk and curb.

Alan Hoyne said yes, there is a schedule. The goal is to get through the city twice a year.

Council member Bryant Brown said Laura is doing a great job of changing the city’s image. He said he attended the Arts Council show and invited everyone to go see these shows. He discussed the water rights letter that was sent out to the residents from the Utah Water Rights.

D. Council Member Paul Hunt – Said he is on the Municipal Council which is a council of all the cities in the valley. Some of the items discussed at the meeting were Utah being an inland port, where Utah could be the first stop for customs and for ways that would bring new businesses into Utah. They discussed the transportation tax of which the cities and towns are being asked to respond to. The homeless issues were discussed and how well Midvale City is doing. The building of the new homeless facilities, the homeless will go wherever the resources are. He doesn’t want to build a whole bunch of homeless facilities. Mayor Ben McAdams would rather use other resources to help with the issues of why people are homeless, rather than build more shelters. The conversations and discussions are very effective.

E. Council Member Dustin Gettel – Discussed the food trucks for Harvest Days. He reminded everyone that next Tuesday June 26th is the Primary election.
VI. **MAYOR REPORT**

Mayor Robert Hale – Said this morning the UFA and the UFSA budgets for the 2018-2019 year were passed. He attended the Canyons School District offices that had nine seventh graders, that received a $500 scholarship that went into their 529 college fund. Representative Bruce Cutler a few years ago, saw a report that if a middle grade student has money put into their college fund, their chances of graduating high school go from 20 percent to 60 percent. These are under privileged children. Representative Cutler introduced this to Canyons School District and they put the program into place. They will not have access to the money, but when they go to college it will be sent directly to the college they attend. He attended the Promise Partnership Regional Council meeting which is made up of business and government leaders that are working toward getting students to advancing. There is also a group on health and financial stabilities.

VII. **CONSENT AGENDA**

A. **CONSIDER MINUTES OF JUNE 5, 2018**

B. **CONSIDER RESOLUTION NO. 2018-R-33 AUTHORIZING CERTAIN INDIVIDUALS TO MAKE CHANGES TO MIDVALE CITY’S PUBLIC TREASURES INVESTMENT FUND (PTIF) ACCOUNT**

**MOTION:** Council Member Quinn Sperry MOVED to approve the consent agenda with the amendment. The motion was SECONDED by Council Member Bryant Brown. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

- Council Member Quinn Sperry Aye
- Council Member Paul Glover Aye
- Council Member Paul Hunt Aye
- Council Member Bryant Brown Aye
- Council Member Dustin Gettel Aye

The motion passed unanimously.

Council Member Dustin Gettel asked that the minutes be changed to indicate he spoke against the zero tolerance of weapons in the homeless shelter.

VIII. **ACTION ITEMS**

A. **CONSIDER RESOLUTION NO. 2018-R-29 ADOPTING THE 2018 CERTIFIED PROPERTY TAX RATE**

Laurie Harvey said the Certified Tax Rate for calendar year 2018 is .0011166 that will generate about 2.5 million. We budgeted 2.7 million dollars, so we will move 200,000 dollars to the other tax line so our budgeted revenue matches the certified tax rate. The tax rate was .001309 last year, so we had an increase in our values. We will be receiving about 32,000 new growth. Last year we received about 33,000 new growth.

Mayor Hale said that as the property values increase in our city the tax rate goes down, so there is no net gain on existing properties in the city. If there is new growth that does create, and it also creates workload in the city and creates tax dollars.
MOTION: Council Member Paul Hunt MOVED to approve Resolution No. 2018-R-29 setting the rate of tax for calendar year 2018 and levying taxes upon all real and personal property within the corporate boundaries of Midvale City, Utah. The motion was SECONDED by Council Member Quinn Sperry. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

- Council Member Quinn Sperry  Aye
- Council Member Paul Glover  Aye
- Council Member Paul Hunt  Aye
- Council Member Bryant Brown  Aye
- Council Member Dustin Gettel  Aye

The motion passed unanimously.

B. CONSIDER RESOLUTION NO. 2018-R-30 ADOPTING THE MIDVALE CITY FISCAL YEAR 2019 BUDGET BEGINNING JULY 1, 2018 AND ENDING JUNE 30, 2019

Laurie Harvey stated that we adopted the tentative budget on May 1st. On June 5th we held a public hearing. There are no proposed changes to the budget that was presented on June 5th other than the tax rate shift for $200,000 to other tax that was just discussed.

Council member Paul Hunt said the Council has been discussing the budget since February or March. It is a long process with a lot of research. He thanked the staff for their efforts.

Council Member Bryant Brown said the meetings are public and there is plenty of opportunity for the public to comment and discuss issues.

Council Member Dustin Gettel agreed with Council Member Hunt and thanked the staff. He read an email from a Midvale employee expressing their appreciation for the Council’s hard work on the budget and for the Council approving the Parental Leave.

MOTION: Council Member Quinn Sperry MOVED to approve Resolution No. 2018-R-30 adopting the agenda summary. The motion was SECONDED by Council Member Paul Hunt. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

- Council Member Quinn Sperry  Aye
- Council Member Paul Glover  Aye
- Council Member Paul Hunt  Aye
- Council Member Bryant Brown  Aye
- Council Member Dustin Gettel  Aye

The motion passed unanimously.

C. CONSIDER RESOLUTION NO. 2018-R-31 ADOPTING THE EMPLOYEE JOB CLASSIFICATION AND BENEFITS FOR FY2019

Rori Andreason briefly discussed the Employee Job Classification and benefits for FY 2019.
MOTION: Council Member Quinn Sperry MOVED to approve Resolution No. 2018-R-31 Adopting the Employee Job Classification Plan and Benefit Package for Fiscal Year 2019. The motion was SECONDED by Council Member Dustin Gettel. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

- Council Member Quinn Sperry  Aye
- Council Member Paul Glover  Aye
- Council Member Paul Hunt  Aye
- Council Member Bryant Brown  Aye
- Council Member Dustin Gettel  Aye

The motion passed unanimously.

D. CONSIDER RESOLUTION NO. 2018-R-32 ADOPTING THE FY 2019 MIDVALE CITY MUNICIPAL FEE SCHEDULE

Laurie Harvey said the Municipal Fee Schedule was discussed in the Public Hearing on June 5th. No comments have been made regarding the fees, and the fee schedule has been on the website.

MOTION: Council Member Bryant Brown MOVED to approve Resolution No. 2018-R-32 adopting the Midvale City Municipal Fee Schedule for the 2019 Fiscal Year. The motion was SECONDED by Council Member Dustin Gettel. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

- Council Member Quinn Sperry  Aye
- Council Member Paul Glover  Aye
- Council Member Paul Hunt  Aye
- Council Member Bryant Brown  Aye
- Council Member Dustin Gettel  Aye

The motion passed unanimously.

E. CONSIDER ORDINANCE NO. 2018-O-07 ADOPTING THE HANDBILL

Lisa Garner said the current Midvale City Ordinance with respect to litter, handbills and posters, was amended in 2002. The proposed amendments were prepared in response to citizens who felt that the current ordinance is unclear and confusing. The proposed amendment does not substantively change the ordinance but rather clarifies the intent to limit potential litter that may be caused by unsecured handbills. The amended ordinance more clearly provides for the distribution of handbills by either directly handing it to the person on the premises or securely attaching the handbill so that it cannot be blown away. The amendment also removes the definitions of “Commercial handbill” and “Noncommercial handbill” and replaces them with a single, all-inclusive definition of a handbill. In addition, all references made to commercial and noncommercial handbills are removed.

MOTION: Council Member Paul Hunt MOVED to approve Ordinance No. 2018-O-07 amending Chapter 8.04 of the Midvale Municipal Code entitled: Litter, Handbills, and Posters. The motion was SECONDED by Council Member Quinn Sperry. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:
Proceedings of City Council Meeting
June 19, 2018

Council Member Quinn Sperry  Aye
Council Member Paul Glover    Aye
Council Member Paul Hunt       Aye
Council Member Bryant Brown    Aye
Council Member Dustin Gettel   Aye

The motion passed unanimously.

IX. DISCUSSION ITEMS

MOTION: Council Member Quinn Sperry MOVED to move item D in from of item A. The motion was SECONDED by Council Member Paul Hunt. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

Council Member Quinn Sperry  Aye
Council Member Paul Glover    Aye
Council Member Paul Hunt       Aye
Council Member Bryant Brown    Aye
Council Member Dustin Gettel   Aye

The motion passed unanimously.

D. DISCUSS WIRELESS AND TELECOMMUNICATIONS SERVICES FRANCHISE AGREEMENTS FOR CROWN CASTLE
Lisa Garner said the Council has previously discussed the wireless and telecommunication services for the franchise agreement. There are only two issues that we need to come to an agreement on. She feels that it is important to stay consistent with the city’s franchise agreements. Crown Castle has a couple of issues staff is currently working through. Crown Castle would like to be able to assign its interest in the contract with the sister companies without city permission. She feels that the city needs to consent to the assignment so we know what entity the city has a contract with and it is consistent with our other contracts that have been entered into. The other issue is an insurance issue that staff is doing research on. Staff would like to know if the insurance policy by a provider is cancelled by having the provider send the City notice of the cancellation. Rich Bush said that this is not normal practice for insurance companies. Lisa introduced Rich Bush with Crown Castle.

Rich Bush, Crown Castle, said the insurance companies stopped providing notice to the additional of insured. He thanked the Council and the legal department for working with them.

Ms. Garner said this item will be brought back for action after these issues are resolved. Their goal is to be consistent with the providers.

A. DISCUSS PROPOSED PUPPY MILL AND PET LEMON ORDINANCE
Lisa Garner said at our last meeting, S L County Animal Services and the Humane Society were both here discussing the puppy mill ordinance as it has been called. The Council was in favor of that type of an ordinance so staff has prepared such an ordinance for consideration.

Council Member Dustin Gettel said he was in favor of this ordinance. The Council agreed to have this item brought back for action.
B. DISCUSS AMENDMENT TO BUSINESS LICENSING ORDINANCE
Lisa Garner said in the business licensing ordinance there is somewhat of a loop hole. The business owner is responsible for the acts committed by the employee. When businesses have issues with the city or UPD, the city would like to have recourse with the business owner, and the business comes back with they are an independent contractor. The ordinance does not define independent contractor. She would like to amend the ordinance to include an independent contractor so the city has some recourse with the businesses. The licensee is also responsible for any act by its agent, independent contractor, or employee while acting within the businesses compacity as well as the business owner him or herself for any illegal or criminal act that they do. The Council agreed to bring this item back for action.

C. DISCUSS PROPOSED AMENDMENT TO CHAPTER 13.04 OF THE MIDVALE MUNICIPAL CODE WATER SYSTEM AND CHAPTER 13.08 SEWER SYSTEM
Lisa Garner said that this is another code that needs to be updated. It says that the customer is responsible from the property to the meter. The city is responsible for maintenance from the meter out. Kane Loader said the city is responsible for the sewer main line, and the laterals are the property owner’s responsibility. The laterals are from the main line into the property. The water the city is responsible to the backside of the yolk. The yolk the meter and the line connecting that is the city responsibility to the main. From the backside of the meter yolk to the inside of the property is the property owner responsibility. Staff is trying to make it clear on who is responsible for what.

X. ADJOURN

MOTION: Council Member Dustin Gettel MOVED to adjourn the meeting. The motion was SECONDED by Council Member Paul Hunt. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The meeting adjourned at 8:21 p.m.

Rori L. Andreason, MMC
H.R. DIRECTOR/CITY RECORDER

Approved this 17th day of July 2018.
SUBJECT: Crown Castle NG West LLC, Telecommunications Services and Wireless Communication Services Franchise Agreements

SUBMITTED BY: Lisa Garner, City Attorney

SUMMARY: Midvale Municipal Code 5.52 and 5.54 require companies providing telecommunications and wireless communication services within Midvale to acquire a franchise agreement with the City prior to providing services. In addition to ensuring compliance with the City’s ordinance, each franchise agreement further specifies a number of requirements including those for insurance and bonding.

Crown Castle NG West LLC wishes to install small wireless facilities and corresponding fiber within Midvale and has requested to enter into the attached franchise agreements with the City. Crown Castle will not be using this system to directly provide service to Midvale residents, but will instead be leasing its system to other cellular companies such as Sprint, AT&T, and others. Under our Wireless Communication Services ordinance, Crown Castle will have to provide a binding lease from a service provided for any equipment that is installed in the right-of-way.

Crown Castle has not yet provided all the documentation as required by Midvale Municipal Code 5.52.230 and 5.54.230, and understands that the franchise agreements will not be executed by the City until that documentation is received. However, due to the time between City Council meetings, we are requesting that the franchise agreements be approved with the condition that the required documentation must be provided first.

FISCAL IMPACT: The City will receive revenue under its franchise agreements for access to the City’s right-of-way as well as access to City-owned poles within the right-of-way. This will be at a higher rate through August 31, 2018. On September 1, 2018, SB 189 will take effect and will likely decrease the City’s revenue.

STAFF’S RECOMMENDATION AND MOTION: I move that we approve Resolution No. 2018-R-34 authorizing the Mayor to execute a Telecommunications Services and a Wireless Communications Services Franchise Agreement with Crown Castle NG West LLC upon meeting the City’s franchise application requirements as expressed under Midvale Municipal Code 5.52.230 and 5.54.230.
A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A TELECOMMUNICATIONS SERVICES AND A WIRELESS COMMUNICATIONS SERVICES FRANCHISE AGREEMENT WITH CROWN CASTLE NG WEST LLC UPON MEETING THE CITY’S FRANCHISE APPLICATION REQUIREMENTS

WHEREAS, Midvale City allows the operation of telecommunications service providers under Midvale Municipal Code Chapter 5.52; and

WHEREAS, Midvale City allows the operation of wireless communications service providers under Midvale Municipal Code Chapter 5.54; and

WHEREAS, Crown Castle NG West LLC wishes to provide both telecommunications and wireless communications services to the residents of Midvale, Utah; and

WHEREAS, Crown Castle NG West LLC wishes to obtain franchises by entering into both a Telecommunications Services and a Wireless Communication Services Franchise Agreement with Midvale City; and

WHEREAS, Crown Castle NG West LLC is still providing the City with the franchise application documentation required under Midvale Municipal Code 5.52.230 and 5.54.230.

NOW THEREFORE BE IT RESOLVED, based on the foregoing, the Midvale City Council does hereby approve the Telecommunications Services and the Wireless Communication Services Franchise Agreements with Crown Castle NG West LLC and authorizes the Mayor to sign the same between Midvale City and Crown Castle NG West LLC upon receipt of the required documentation under Midvale Municipal Code 5.52.230 and 5.54.230.

APPROVED AND ADOPTED this 17th day of July, 2018.

_______________________________
Robert M. Hale, Mayor

ATTEST:

_______________________________
Rori L. Andreason, MMC
City Recorder

Voting by the City Council
Bryant Brown “Aye” “Nay”
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TELECOMMUNICATIONS SERVICES FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (hereinafter “Agreement”) is entered into by and between the MIDVALE CITY, Utah (hereinafter “City”), a municipal corporation and political subdivision of the State of Utah, with principal offices at 7505 Holden St., Midvale, Utah 84047, and Crown Castle NG West LLC, a Delaware limited liability company (hereinafter “Provider”), with its principal offices at c/o Crown Castle, 2000 Corporate Drive, Canonsburg, PA 15317, attn: Kenneth Simon, General Counsel.

WITNESSETH:

WHEREAS, the Provider desires to provide telecommunications services within the City primarily through fiber-optic lines, and in connection therewith, to establish a telecommunications network in, under, along, over and across present and future Public Ways of the City; and

WHEREAS, the City has enacted Title 5, Chapter 52 of the Revised Ordinances of Midvale City (“Telecommunications Rights-of-Way Ordinance”), which governs the application and review process for Telecommunication Franchises in the City; and

WHEREAS, the City, in exercise of its management of Public Ways, believes that it is in the best interest of the public to grant the Provider a nonexclusive franchise to operate a telecommunications network in the City,

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the City and the Provider agree as follows:

ARTICLE 1. FRANCHISE AGREEMENT AND ORDINANCE

1.1 Agreement. Upon approval by the City Council and execution by the parties, this Agreement shall be deemed to constitute a contract by and between City and Provider.

1.2 Ordinance. The City has adopted the Telecommunications Rights-of-Way Ordinance which is incorporated herein by reference. The Provider acknowledges that it has had an opportunity to read and become familiar with the Telecommunications Rights-of-Way Ordinance. The parties agree that the provisions and requirements of the Telecommunications Rights-of-Way Ordinance are material terms of this Agreement, and that each party hereby agrees to be contractually bound to comply with the terms of the Telecommunications Rights-of-Way Ordinance, as it may be amended. The definitions in the Telecommunications Rights-of-Way Ordinance shall apply herein unless a different meaning is indicated. Nothing in this Section shall be deemed to require the Provider to comply with any provision of the Telecommunications Rights-of-Way Ordinance which is determined to be unlawful or beyond the City’s authority. If any term or condition of this Agreement shall be in conflict with any State law, City ordinance, rule or regulation, the provision of the ordinance, rule or regulation shall govern and control.

1.3 Ordinance Amendments. Nothing herein shall prevent the City from amending the Telecommunications Rights-of-Way Ordinance from time to time, as its City Council may deem necessary. Provided, however, City shall not enact any amendments to the Telecommunications Rights-of-Way Ordinance that will adversely impact Provider without allowing Provider 30 days, or such longer time as is necessary if 30 days is insufficient, in which to comply with the amendment. The City shall give the Provider notice and an opportunity to be heard concerning any proposed amendment. If there is
any inconsistency between the Provider's rights and obligations under the Telecommunications Rights-of-Way Ordinance as amended and this Agreement, the provisions of this Agreement shall govern during its term. Otherwise, the Provider agrees to comply with any such amendments.

1.4 Franchise Description, No Assignment. The Telecommunications Franchise provided hereby shall confer upon the Provider, subject to the City’s receipt of monetary and services compensation, the nonexclusive right, privilege, and franchise to construct, operate and maintain a fiber optic telecommunications network in, under, above and across the present and future Public Ways in the City. The grant of this franchise includes the service of providing dark fiber to end users as may be authorized by the Utah Public Service Commission or federal law. The Provider shall not permit the use of its fiber optic system, its duct or pathways, its pole attachments or any plant equipment on the Public Ways in any manner that would avoid or seek to avoid the need for a franchise from the City for the business of another person as provided herein below. Provider shall not provide services directly regulated by the Utah Public Service Commission (PSC) unless authorized by the PSC. Provider shall not operate a cable system as defined in the Cable Communications Policy Act of 1984 (47 USC §521, et seq., as amended) without first having obtained a separate cable franchise from the City. The Agreement does not grant to the Provider the right, privilege or authority to engage in the community antenna (or cable) television business; although, nothing contained herein shall preclude the Provider from (1) permitting those with a cable franchise who are lawfully engaged in such business to utilize the Provider’s System within the City for such purposes, or (2) from providing such service in the future if an appropriate franchise is obtained and all other legal requirements have been satisfied. The rights granted by this Agreement may not be subdivided, assigned, or subleased to another person unless agreed to in writing by the City or unless to an affiliate of Provider or to an entity succeeding to acquisition of substantially all of the assets of Provider.

1.5 Licenses. The Provider represents that it has obtained the necessary approvals, licenses or permits required by federal and State law to provide telecommunication services consistent with the provisions of this Agreement and with the Telecommunications Rights-of-Way Ordinance.

1.6 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in a manner that would indicate any such relationship with each other.

ARTICLE 2. DEFINITIONS

2.1 For the purposes of this Agreement, the following words and terms shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning. Unless otherwise expressly stated or clearly contrary to the context, words and terms not defined herein shall be given the meaning set forth in the City’s Standard Specifications – General Conditions; if a definition is not contained therein, then the word or term shall have the meaning defined in the Revised Ordinances of Midvale City; if not defined in the Revised Ordinances of Midvale City, the meaning set forth in any State orders of general applicability; and if not defined either in the Revised Ordinances of Midvale City or in a State order, their common and ordinary meaning.

2.2 When not inconsistent with the context, words used in the present tense include the future tense and vice versa; words in the plural number include the singular number and vice versa; and the masculine gender includes the feminine gender and vice versa. The words "shall" and "will" are mandatory; the word "may" is permissive. Genders and plurals are understood to refer to a corporation,
partnership or other legal entity when the context so requires. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

(a) “City” shall mean Midvale City, Utah, and its successors and assigns.

(b) “City Property” shall mean all properties, facilities (excluding Company Facilities, and the facilities and property of other utilities or persons), or objects currently or in the future Public Ways or other real property owned or operated by the City within the present and/or future corporate limits of the City.

(c) “Company” shall mean Provider and its successors and/or assigns.

(d) “Company Facilities” or “Facilities” shall include, but not be limited to a network of fiber optic cables and all related property, including conduit, carrier pipe, cable fibers, repeaters, power sources, and other attachments and appurtenances necessary for the telecommunications system located within the Public Ways within the City limits, whether located above or below ground, currently or in the future owned or operated or otherwise controlled by the Provider needed to provide telecommunications service.

(e) “Construction” or “Construct” shall mean, without limitation, constructing, acquiring, laying, maintaining, testing, operating, extending, renewing, relocating, removing, replacing, repairing, and using Company Facilities.

(f) “Dark fiber” is optical fiber infrastructure cabling and repeaters that is currently in place but in which light pulses are not being transmitted.

(g) “Emergency” means any unforeseen circumstance or occurrence, the existence of which constitutes an immediate and substantial risk of personal injury or damage to property, or which causes interruption of utility or public services or an interruption of telecommunications services.

(h) “Gross receipts from telecommunications services” or “gross receipts derived from telecommunications services” shall have the meaning defined in Utah Code Anno. Section 10-1-402 or its replacement section for the term “gross receipts from telecommunications services” as the definition may be changed from time to time.

(i) “Maintenance,” “maintaining,” or “maintain” shall mean, without limitation, repairing, replacing, relocating, examining, testing, and inspecting.

(j) “Person” shall mean any individual, person, firm, partnership, association, corporation, company, governmental entity, or organization of any kind.

(k) “Public Ways” shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, public ways court, boulevard, parks, parkway, or drive owned by the City for the purpose of public use, and shall include other rights of way as are now held or hereafter held by the City which shall, within their proper use and meaning entitle the Provider to the use thereof for the purposes of installing, maintaining and operating Company Facilities.
(l) “Service” or “Services” shall mean all telecommunications service lawfully provided by the Provider under this Agreement.

(m) “Standard Specifications” shall mean the Midvale City Specifications and Standard Details which govern construction in the Public Ways.

ARTICLE 3. FRANCHISE TAX

3.1 Franchise Tax. For the Franchise granted herein, the Provider shall pay to the City a tax on the Provider’s Gross Receipts from telecommunications services attributed to or services within the City in accordance with the Municipal Telecommunication License Tax Act (Utah Code Ann. 10-1-401 to 10-1-410), less any business license fee or business license tax enacted by the City. All payments shall be made to the Utah State Tax Commission, and sent as follows:

Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134.

If the Municipal Telecommunication License Tax may no longer be lawfully collected, then to the extent allowed by law, the Provider shall pay to the City a tax levy or franchise fee of three and one-half percent (3.5%) of its Gross Receipts derived from telecommunications services attributed to or services provided within the City.

3.2 Equal Treatment. The City agrees any fees or taxes charged to Provider under this Agreement shall be of the same nature and calculation of fees or taxes as to other similarly situated entities.

ARTICLE 4. TERM AND RENEWAL

4.1 Term and Renewal. The franchise granted to Provider shall be for a period of ten (10) years commencing on the first day of the month following this Agreement, unless this Franchise is sooner terminated as herein provided. At the end of the initial five-year term of this Agreement, the franchise granted herein may be renewed for up to one additional five (5)-year-term extension at least three months before and not earlier than six months before the termination date of the initial term of this Agreement.

4.2 Rights and Duties of Provider Upon Expiration or Revocation. Upon expiration of the franchise granted herein, whether by lapse of time, by agreement between the Provider and the City, or by revocation or forfeiture as provided herein, the Provider shall remove from the Public Ways any and all of its Company Facilities, but in such event, it shall be the duty of the Provider, immediately upon such removal, to restore the Public Ways from which such System is removed to as good condition as the same was before the removal was effected. In the alternative, Provider may, with the written approval of the City Engineer, abandon some or all of the Company Facilities in place.

ARTICLE 5. PUBLIC USE RIGHTS

5.1 City Uses of Poles and Overhead Structures. The City shall have the right, without cost, to use all above-ground electric or telecommunication-wire poles owned solely by the Provider (or
co-owned by other telecommunications company providers or public utilities who agree or have agreed with Provider to allow the City to use the poles) within the City for fire alarms, police signal systems, or any lawful public use; provided, however, any said uses by the City shall be for activities owned, operated or used by the City for any public purposes, and shall not include the provision of telecommunications service to non-governmental third parties. Nothing in this section shall be construed to allow Provider to place its Facilities above ground without the prior written approval of the City.

5.2 Limitations on Use Rights. Nothing in this Agreement shall be construed to require the Provider to increase pole capacity, alter the manner in which the Provider attaches equipment to the poles, or alter the manner in which the Provider operates and maintains its equipment. Such City attachments shall be installed and maintained in accordance with the reasonable requirements of the Provider and the then-current National Electrical Safety Code. City attachments shall be attached or installed only after written approval by the Provider, which approval will be processed in a timely manner and will not be unreasonably withheld.

5.3 Maintenance of City Facilities. The City’s use rights shall also be subject to the parties reaching an agreement regarding the maintenance of the City attachments.

ARTICLE 6. POLICE POWERS

The City expressly reserves, and the Provider expressly recognizes, the City’s right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the City’s property, the Public Ways, and the health, safety and welfare of its citizens and their properties.

ARTICLE 7. WORK IN THE CITY PUBLIC WAYS

7.1 Follow City Road-Cut Ordinance. The Provider shall comply with and follow the City’s road excavation ordinance, Title 12 Chapter 12, Revised Ordinances of Midvale, in all work it performs in the Public Ways.

(a) The Provider shall obtain all necessary permits or approvals for construction, maintenance and operations, and shall at all times be subject to and comply with all laws, statutes, codes, rules, regulations, standards, and procedures regarding the construction, operation and maintenance of the Provider's Facilities, whether federal, State or local, now in force or which, hereafter, may be promulgated (including but not limited to zoning, land use, historic preservation ordinances, safety standards, and other applicable requirements) and good industry practices. The City may inspect the manner of such work and require remedies as may be necessary to assure compliance. In the event the Provider should fail to comply with the terms of any City ordinance, regulation or requirement, the City shall give the Provider written notice of such non-compliance and the time for correction provided by ordinance or as provided herein.

(b) All work in City streets shall be done in a safe manner, and shall follow the City ordinances and Midvale City Standard Specifications and Details for Municipal Construction and the Manual of Uniform Traffic Control Devices (MUTCD) and APWA standard drawings and specifications. Upon the City's request, the Provider will provide the City with a status report of such measures.
(c) All Facilities constructed by the Provider shall be located so as to cause minimum interference with and injury to (i) public use of Public Ways; (ii) the City's water mains, storm water infrastructure, street lights, or any other municipal use of the Public Ways; and (iii) trees and other natural features.

7.2 **Workmanlike Manner.** The installation, maintenance, renovation, and replacement of Provider’s Facilities in the Public Ways shall be performed in a good and workmanlike manner.

7.3 **Emergency Repairs.** In any Emergency event in which Provider needs to cut or excavate a Public Way, and in which the Provider must act immediately and is unable to obtain a permit for excavating in the Public Ways from the City beforehand, the Provider shall provide the City Public Works Department with notification of such work as soon as practicable by calling the City Public Works Department at its regular number, or if after the Department’s business hours, by calling (801) 580-7274 or such other emergency telephone number provided to Provider by the City, and shall report the emergency and all related information requested by the City representative on call. In the event the Provider is unable to reach a City representative by calling the City’s emergency telephone number, then the Provider shall continue to try to reach a City representative by calling that number or by reaching the City’s Public Works Department by the fastest means possible, but shall in any event call the Public Works Department to report the emergency within the first hour of the next day on which the City is open for business. The Provider shall give the City the telephone number of the Provider’s representative for contact in an emergency.

7.4 **Damage to Public Property.** If, during the course of installation, removal, inspection, or work on its Facilities, the Provider causes damage to or alters any Public Ways or City property, the Provider shall (at its own cost and expense, and in accordance with the City’s Standard Specifications) replace and restore it to as good a condition as existed before the work commenced. Except in case of Emergency in which the Provider is unable to obtain a permit for excavating in the Public Ways from the City beforehand, the Provider shall, prior to commencing work in the Public Ways, or other City public places, obtain a permit to perform such work from the City. The Provider will abide by all applicable ordinances, rules, regulations, including the City’s Standard Specifications for such work. The Provider shall give the City the telephone number of the Provider’s representative for contact in an emergency.

7.5 **Removal of City Property.** No City property shall be removed from the Public Way, including signage on utility poles, without prior permission from an authorized representative of the City.

7.6 **Safety.** The Provider shall at all times operate, repair, and maintain its Facilities in a safe and careful manner.

7.7 **Excavations.** The Provider shall comply with all City laws and regulations for excavation and construction, including Chapter 12-12 Rev. Ordinances of Midvale City (“Road Excavation Ordinance”), and shall be responsible for obtaining all applicable permits before beginning work in the Public Ways. The City shall have the right to inspect all construction or excavation. All construction, excavation, maintenance and repair work done by the Provider shall be performed in a timely and expeditious way in conformity with the applicable laws and ordinances, including the City Standard Specifications and Details for Municipal Construction, and in a manner which minimizes the inconvenience to the public or individuals. All public and private property in or adjacent to dedicated easements disturbed by Provider’s construction or excavation activities shall be restored as soon as possible by the Provider, at its expense, to substantially its former condition or better, subject to inspection by the City and compliance by the Provider with remedial action required by the City Engineer
or his representative pursuant to said inspection. The Provider shall comply with the City's requests for prompt action to remedy all damage caused by Provider, its officers, employees, agents and contractors to private and public property adjacent to streets or dedicated easements where the Provider is performing excavation or construction work.

7.8 **Relocation.** Whenever the City shall, in the interest of the public convenience, necessity, health, safety and general welfare require the inspection, maintenance, repair, relocation or reinstallation of any Company Facility within a Public Way, the Provider shall, upon not less than 90 days prior notice, promptly commence and diligently complete such work to remove and relocate or reinstall such Company Facility as may be necessary to meet the requirements of the City. Notwithstanding the foregoing requirement, the Provider shall relocate its facilities upon 45 days prior written notice from the City when requested by the City due to an emergency, or as the parties may otherwise agree in writing. Such relocation, removal or reinstallation by the Provider shall be at no cost to the City. The Provider may ask for a meeting with the City to discuss the relocation, and alignment for the relocated Provider Facilities. If a City project is funded by federal or State monies that specifically includes an amount allocated to defray the expenses of relocation of Provider Facilities, the City shall reimburse the Provider up to the extent of such specified amount for any actual relocation costs mandated by the project to the extent that the City actually receives such federal or State funds earmarked for that purpose. The requirements of this Section 7.8 shall not be construed to be in derogation of any right or cause of action for reimbursement the Provider may have against a developer or other private interest which causes the need to move its lines or Facilities. Such right or cause of action, however, shall not be used as an excuse to delay or avoid its obligations under this section.

7.9 **Protect City Property.** The Provider shall not damage City property in its exercise of any rights or privileges herein granted. The Provider shall be liable for any damage or injury caused by Provider, its officers, employees, agents and contractors suffered by the City as a result of the exercise by the Provider of any rights or privileges herein granted. This section shall be applicable only to City and Provider relationships. Nothing herein contained shall be construed to affect the liability of the Provider to third-party claims.

7.10 **Underground Installations.** The Provider will be permitted to install Facilities overhead if it meets the following conditions: (a) it agrees at its sole cost to place the Facilities underground when the City directs, and so long as the City, at the same time, directs other telecommunication or utility providers with overhead facilities in the same location to move their facilities underground; (b) it is not feasible to go underground at the time; and (c) lines can be placed on already existing poles. Notwithstanding the foregoing, if other telecommunication or utility lines are currently underground in any Public Way in which Provider installs its Facilities, then Provider shall install its fiber optic cables and other Facilities underground. Only those Facilities may be left above ground which cannot practically be placed underground.

7.11 **Cooperation with Others in Placing Lines Underground.** The Provider shall, when undertaking a project of placing its fiber optic lines and other Facilities underground, cooperate with other utilities, agencies, or companies which have their lines overhead to have all lines placed underground as part of the same project. When other public utility companies or telecommunication companies are placing their lines underground, the Provider shall, where feasible, cooperate with these utilities and companies and undertake to place its Facilities underground as part of the same project. The City shall request that Provider be given at least 60 days notice of such project.
7.12 **Prohibitions.** Except as otherwise provided herein, Facilities maintained or installed by Provider within the City shall be so located and constructed as not to do any of the following acts:

(a) Interfere with access to or use of any water or fire hydrant; obscure the vision of or interfere with the installation of any traffic-control device or traffic or information sign or signal;

(b) Interfere with sight distance established by any ordinance or law;

(c) Obscure the light from any street light;

(d) Cross any water or sewer line except at a 90-degree angle, except in accordance with a specific permit for such crossing issued by the City;

(e) Damage irrigation, landscaping or trees owned or maintained by the City;

(f) Damage any communications lines owned or maintained by the City; and

(g) Install Facilities in the paved sidewalk area unless authorized in advance by the City.

7.13 **Removal and Relocation.** The City shall have authority to require Provider to remove or relocate any facility located in violation of this Article 7 at Provider’s sole expense. Such relocation or removal shall be completed within sixty (60) days (or other period of time as the parties may mutually agree to be acceptable for the required work) of written notice from the City. The notice shall prescribe the area where the facility is located and any other special conditions deemed necessary by the City.

7.14 **As-Built Drawings.** After construction of new Company Facilities or extensions of existing Facilities, Provider shall promptly develop and deliver to the City as-built drawings and maps in a format requested by the City.

7.15 **Damage to Others’ Facilities.** During construction or maintenance, if Provider, its contractors, subcontractors, employees, agents or assigns causes damage to or a break in any lines, cables, ducts, conduit or other facilities located in or out of the Public Ways, the Provider shall immediately notify the affected party and the City by the fastest practical means.

7.16 **Hazardous Materials.** If contaminated or Hazardous Material is discovered within or adjacent to the Public Way, the Provider shall stop work in that affected area, immediately notify the City Engineer of the hazardous material, and report accurately and in writing the facts of the encounter to the City Engineer. Work in the affected area shall not thereafter be resumed except by written order of the City Engineer unless and until the material is determined not to be a Hazardous Material or the Hazardous Material is remediated as required by law. Response to, remediation of, and liability for Hazardous Materials shall comply applicable federal and Utah law, provided, however, that Provider shall not be liable for any remediation or other work arising from Hazardous Materials unless Provider, its employees, agents, contractor, or subcontractor, is directly responsible for introducing Hazardous Material or causing the release of the Hazardous Material, or is otherwise liable under applicable law. To the extent that Provider is responsible for any remediation or similar work regarding Hazardous Substances, before recommencing work within the Public Way, the Provider shall provide the City Engineer with plans and other documentation that demonstrates that the contaminated or Hazardous Material has been or will be
properly handled, and that continued work within the Public Way poses no threat to the environment and/or human health or the safety of public or private property.

The terms of this section shall survive the termination of this Agreement.

7.17 The term “Hazardous Material” shall mean any substance:

(a) which is flammable, explosive, radioactive, toxic, corrosive, infectious, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States, the State of Utah or any political subdivision thereof; or

(b) which contains asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity or petroleum, including crude oil or any fraction thereof; or

(c) which is or becomes defined as a pollutant, contaminant, hazardous waste, hazardous substance, hazardous material or toxic substance under the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6987; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601-9657; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101-5127; the Clean Water Act, 33 U.S.C. §§ 1251-1387; the Clean Air Act, 42 U.S.C. §§ 7401-7410; the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2655; the Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. §§ 11001-11050; under title 19, chapter 6 of the Utah Code, as any of the same have been or from time to time may be amended; and any similar federal, State and local laws, statutes, ordinances, codes, rules, regulations, orders or decrees relating to environmental conditions, industrial hygiene or Hazardous Materials on the Public Ways, including all interpretations, policies, guidelines and/or directives of the various governmental authorities responsible for administering any of the foregoing, now in effect or hereafter adopted, published and/or promulgated; or

(d) the presence of which in the Public Ways requires investigation or remediation under any federal, State or local statute, regulation, ordinance, order, action, policy, or common law; or

(e) the presence of which on the Public Ways causes or threatens to cause a nuisance on the Public Ways or to adjacent properties or poses or threatens to pose a hazard to the health and safety of persons on or about the Public Ways.

ARTICLE 8. SEVERABILITY

If any section, sentence, paragraph, term or provision of this Agreement or the Telecommunications Rights-of-Way Ordinance is for any reason determined to be or rendered illegal, invalid or superseded by other lawful authority, including any State or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof unless the Agreement cannot reasonably be construed to effectively implement the intent of the parties as provided herein. Provided that if the invalidated portion is considered a material consideration for entering into this Agreement, the parties will negotiate a
mutually acceptable amendment to this Agreement. As used herein, “material consideration” for the City is the State of Utah’s right or ability to collect the Telecommunication License Tax, or if that tax may no longer be collected for Provider’s use of the City’s Public Ways, then a lawful franchise fee as provided in Section 3.1 above during the term of this Agreement, and its ability to manage the Public Ways as provided in this Agreement, the Telecommunications Rights-of-Way Ordinance, and the City’s Road Excavation Ordinance. For the Provider, “material consideration” is its ability to use the Public Ways for telecommunication purposes as provided in this Agreement, the Telecommunications Rights-of-Way Ordinance, and the City’s road excavation ordinance.

ARTICLE 9. EARLY TERMINATION, REVOCATION OF FRANCHISE AND OTHER REMEDIES

9.1 Grounds for Termination. The City may terminate or revoke this Agreement and all rights and privileges herein provided, upon ninety (90) days prior notice, for any of the following reasons:

(a) The Provider fails to make timely payments of the Telecommunication License Tax, or alternative payments due under Section 3.1 above and does not correct such failure within thirty (30) calendar days after receipt of written notice by the City of such failure;

(b) The Provider, by act or omission, violates a duty herein set forth in any particular circumstance within the Provider’s control, and with respect to which redress is not otherwise herein provided. In such event, the City determine, after a hearing, that such violation has occurred and thereupon, after written notice to the Provider of such determination, the Provider, within thirty (30) calendar days of such notice, shall commence and diligently pursue efforts to remedy the conditions identified in the notice and shall have thirty (30) calendar days from the date it receives notice (or if the violation is of such nature that a longer time as is necessary to complete the required work, then the time needed to complete the work ("Correction Time"), provided that the reason for the failure to complete the work within time required just above was not the intentional or negligent act or omission of the Provider) to remedy the conditions. After the expiration of such 30-day period (or if the failure is of such nature that a longer time as is necessary to complete the required work, then the time needed to complete the work, provided that the reason for the noncompliance was not the intentional or negligent act or omission of the Provider) and failure to correct such conditions, the City may declare the franchise forfeited and this Agreement terminated, and thereupon, the Provider shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be corrected within the 30-day time period provided above, the City shall provide additional time for the correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of the Provider; or

(c) The Provider becomes insolvent, unable or unwilling to pay its debts when due; is adjudged bankrupt; or all or part of its Facilities should be sold under an instrument to secure a debt and is not redeemed by the Provider within sixty (60) days.

9.2 Reserved Rights. Nothing contained herein shall be deemed to preclude the Provider from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

9.3 Remedies at Law. In the event the Provider or the City fails to fulfill any of its respective obligations under this Agreement, the City or the Provider, whichever the case may be, shall have a
breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement.

9.4 **Third-Party Beneficiaries.** The benefits and protection provided by this Agreement shall inure solely to the benefit of the City and the Provider. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

ARTICLE 10. PARTIES’ REPRESENTATIVES

10.1 **City Representative and Address.** The City Engineer or his/her designee(s) shall serve as the City’s representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Rights-of-Way Ordinance, all notices from the Provider to the City pursuant to or concerning this Agreement, shall be delivered to the City’s representative at the following address: City Engineer, Public Works Department, 7505 S. Holden Street, Midvale, Utah 84047 (“City Representative”), or such other officer and address as the City may designate by written notice to the Provider.

10.2 **Provider Representative and Address.** The Government Relations Manager (“Provider’s Representative”) or his/her designee(s) shall serve as the Provider’s representative regarding administration of and communication about this Agreement. Provider shall provide to the City’s Representative the Provider’s Representative’s current office and wireless telephone numbers, facsimile and e-mail contact information. Unless otherwise specified herein or in the Telecommunications Rights-of-Way Ordinance, all notices from the City to the Provider pursuant to or concerning this Agreement, shall be delivered to the Provider’s Representative at the following address: Network Operations Center (NOC) 888-632-0931 Crown Castle 2000 Corporate Drive, Canonsburg, PA 15317, or such officer and address as the Provider may designate by written notice to the City. Any legal notice to Provider shall also be copied to Provider’s Legal Department at the above address.

ARTICLE 11. INSURANCE AND INDEMNIFICATION

11.1 **Insurance.**

(a) On or before the effective date of this Agreement, Provider shall file with the City a certificate of insurance and thereafter continually maintain in full force and effect at all times for the full term of the franchise, at the expense of Provider, a commercial general liability insurance policy, including underground property damage coverage, written by a company authorized to do business in the State of Utah with an A.M. Best rating of at least A-IX protecting the City against liability for loss of bodily injury and property damage occasioned by the installation, removal, maintenance or operation of the communications system by Provider in the following minimum amounts:

(1) Ten Million Dollars ($10,000,000.00) combined single limit, bodily injury and for real property damage in any one occurrence.

(2) Ten Million Dollars ($10,000,000.00) aggregate.
(b) Provider shall also file with the City Recorder a certificate of insurance for a comprehensive automobile liability insurance policy written by a company authorized to do business in the State of Utah with an A.M. Best rating of at least A-IX for all owned, non-owned, hired and leased vehicles operated by Provider, with limits not less than Two Million Dollars ($2,000,000.00) each accident, single limit, bodily injury and property damage combined.

(c) Provider shall also maintain, and by its acceptance of any franchise granted hereunder, specifically agrees that it will continually maintain throughout the term of the franchise, workers compensation and employers liability, valid in the State, in the minimum amount of the statutory limit for workers compensation and Five Hundred Thousand Dollars ($500,000.00) for employer’s liability.

(d) All liability insurance required pursuant to this section (except worker’s compensation) shall name the City of Sandy and its officers, employees, board members and elected officials as additional insureds (as the interests of each insured may appear) and shall be kept in full force and effect by Provider during the existence of the franchise and until after the removal or abandonment with the City Engineer’s approval of all poles, wires, cables, underground conduits, manholes and any other conductors and fixtures installed by Provider incident to the maintenance and operation of the communications system as defined in this Agreement. Failure to obtain and maintain continuously the required insurance shall constitute a substantial violation of this agreement. All policies shall be endorsed to give the City thirty (30) days written notice of the intent to amend or cancel by either Provider or the insuring company. Provider will provide notice to the City of any intent to amend or cancel for any reason, including non-payment of premium within two (2) business days upon receipt of any such notice.

(e) The City reserves and the Provider acknowledges the right to modify the insurance requirements contained herein based upon changes in the Utah Governmental Immunity Act, Title 63G, Chapter 7, Utah Code Annotated.

11.2 Indemnification. Provider hereby agrees to indemnify, defend and hold harmless the City, its officials, officers, employees and insurance carriers, individually and collectively from all losses, claims, suits, judgments, demands, expenses, subrogation, reasonable attorney’s fees, costs or actions of any kind and nature resulting from personal or bodily injury to any person, including employees of Provider or of any contractor or subcontractor employed by Provider (including bodily injury and death) or damages to any property, arising directly out of the negligent acts or omissions of Provider, its contractors, subcontractors, officers, agents and employees while exercising any of the rights or privileges granted by this Agreement, except to the extent that such losses, claims, demands, or damages are caused by the negligent acts or omissions of the City, its officers, agents, or employees.

This section and the following section shall survive the termination of this Agreement.

11.3 City Participation in Litigation. The Provider shall immediately notify the City of any litigation which would affect the franchise or the City’s rights under this Agreement.

ARTICLE 12. SECURITY FOR PERFORMANCE

12.1 Form, Amount. The Provider shall post with the City a security fund in the form of a surety bond, cash, an irrevocable letter of credit or a performance bond in the amount determined by the City Engineer, but not less than $10,000 (“Bond Amount”). It is the Provider’s responsibility to maintain this security fund throughout the Agreement term.
12.2 **Use.** The City may draw on or make claim against the security fund to ensure the Provider's faithful performance of its obligations of this Agreement in accordance with applicable law. If Provider fails to perform its obligations under this Agreement in any respect, including making any payment to the City required by this Agreement or by applicable law, and reimbursable costs incurred by the City, the City may, after thirty (30) days' written notice to the Provider, withdraw or make a claim for that amount from the security fund. The City shall notify the Provider of the amount and date of any such withdrawal.

12.3 **Restoration of Fund.** Within forty-five (45) calendar days after the City gives Provider written notice that an amount has been withdrawn from the security fund or that the value of the surety bond has been reduced pursuant to Section 12.2 above, the Provider must deposit a sum of money in the security fund or shall restore the surety bond sufficient to restore it to the Bond Amount. If Provider fails to do so, such failure to restore shall be a material breach of this Agreement.

12.4 **Return of Fund.** If the Agreement terminates for any reason, and the Provider has ceased to provide service in the City, the balance of the security fund that remains following termination of the Agreement and satisfaction of all of Provider's obligations secured by the fund shall be returned to Provider. The City shall be under no obligation to return funds until it has had adequate time to evaluate Provider’s unmet obligations, but no longer than 180 days, has elapsed for the City to determine that all such obligations have been satisfied.

12.5 **Letter of Credit.** Any letter of credit used to satisfy any portion of the security fund requirement must:

(a) Be issued by a bank licensed to do and doing business in Utah;

(b) Be irrevocable;

(c) Provide for automatic renewal of the letter of credit unless the bank has given the City written notice of its termination by certified mail at least sixty (60) days prior to expiration of the letter of credit;

(d) Provide that the City may draw against the letter of credit at any time prior to expiration of the letter of credit;

(e) Provide that the City may draw against the letter of credit and hold the funds in escrow after termination of the Agreement:

(1) if the City has filed an action;

(2) if the City has sought to draw against the letter of credit prior to termination and Provider has contested the action or appealed the notice and order prior to termination; or

(3) if the bank or the Provider has challenged or appealed the draw.

**ARTICLE 13. GENERAL PROVISIONS**

13.1 **Binding Agreement.** The parties represent that (a) when executed by their respective representatives who sign below, this Agreement shall constitute legal and binding obligations of the parties; and (b) that each party has complied with all relevant statutes, ordinances, resolutions, by-laws
and other legal requirements applicable to their operation in entering into this Agreement. This Agreement shall be binding upon the successors, administrators and permitted assigns of each of the parties.

13.2 **Utah Law, Litigation.** This Agreement shall be interpreted pursuant to Utah law. Any claim or lawsuit arising out of this Agreement shall be brought in the Third District Court of the State of Utah, or if the Third District Court lacks jurisdiction, then suit shall be brought in the U.S. District Court for the State of Utah located in Salt Lake County, Utah, if that court has jurisdiction. The parties waive any right to trial by jury or to have a jury participate in resolving any dispute, whether sounding in contract, tort, or otherwise, between them arising out of this Agreement or any other instrument, document, or agreement executed or delivered in connection herewith or the transactions related hereto.

13.3 **Meet and Discuss; Mediation.** Notwithstanding any other provision contained herein, before the City or the Provider brings an action or claim before any court or regulatory body arising out of a duty or right arising under this Agreement, the Provider and the City shall first make a good-faith effort to resolve their dispute by discussion and then, if that fails, by nonbinding mediation by a mediator acceptable to both parties, the cost of which shall be borne equally by the parties.

13.4 **Time of Essence.** Time shall be of the essence of this Agreement.

13.5 **Entire Agreement, Modification, No Waiver.** This Agreement constitutes the entire agreement between the parties and supersedes any and all prior negotiations, agreements or understandings between the parties related to the subject matter hereof. None of the provisions of this Agreement may be altered or modified except through an instrument in writing signed by both parties. No failure by any party to insist on the strict performance of any covenant, duty or condition of this Agreement or to exercise any right or remedy consequent on a breach of this Agreement shall constitute a waiver of any such breach or any other covenant, duty or condition. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership or other legal entity when the context so requires.

13.6 **No Presumption.** Both parties have participated in preparing this Agreement. Therefore, the parties stipulate that any court interpreting or construing the Agreement shall not apply the rule of construction that the Agreement should be more strictly construed against the drafting party.

13.7 **Warranty of Authorization.** The person signing for and on behalf of Provider warrants and represents that he or she is duly authorized and empowered to enter into this agreement for and on behalf of Provider, and that Provider is duly organized and validly existing under the laws of the State of Delaware, and that by his or her signature, he or she does bind Provider to the terms of this Agreement. The person signing below for Provider warrants to the City that all necessary company approvals, authorizations and consents have been obtained, and all company procedures required to be taken by Provider’s articles of organization, have been followed to enable Provider to enter into this Agreement and to perform its duties hereunder.

13.8 **Effective Date.** This Agreement shall be effective on the day the following requirements have been completed: the Agreement has been signed by the City Council chairman; the Agreement has been signed by both parties; and the Provider has filed with the City the certificates of insurance required in Section 11.1 above.
SIGNED AND APPROVED this ____ day of ______________________, 2018.

Signature page follows.
SIGNED AND APPROVED this ___ day of _____________________, 2018.

MIDVALE CITY

____________________________________
Mayor

ATTEST:

____________________________________
City Clerk

APPROVED AS TO FORM:

____________________________________
City Attorney

CROWN CASTLE NG WEST LLC

By: ________________________________
Its: ________________________________

STATE OF ____________) __________________
COUNTY OF _________________): ss.

On the ____ day of ________________, 2018, personally appeared before me (name of signer) ____________________, who, being by me duly sworn on oath did say that he or she is the ________________________________, who duly acknowledged to me that he or she executed the same, and has authority to bind said company by his or her signature to this Agreement, and that the foregoing instrument was signed on behalf of said company.

______________________________
My commission Expires:

______________________________
NOTARY PUBLIC, Residing in

SIGNED this ___ day of _____________________, 2018.
WIRELESS COMMUNICATION SERVICES FRANCHISE AGREEMENT

This Franchise Agreement (“Agreement”) as of the___ day of __________, 2018 (“Effective Date”), is between Midvale City, a Utah municipal corporation (“City”), and Crown Castle NG West LLC, a Delaware limited liability company (“Grantee”).

RECITALS

A. Grantee desires to install, maintain and operate wireless communication facilities in the City’s rights-of-way. The equipment includes, but is not limited to antennas, power supplies and meters, monitoring devices, communications equipment, radio amplifiers, radio frequency and optical signal converters, fiber optic and other cabling, connectors and other equipment necessary to serve Grantee’s WCFs as shown in Exhibit A (collectively, the “Facilities”).

B. The City is willing to grant Grantee a franchise for the operation of the Facilities under the terms of this Agreement, subject to the approval of the City Council, whose approval shall not be unreasonably withheld. This Agreement is subject to the requirements of Chapter 5.54 “Wireless Communication Services”.

C. Grantee desires the use of the Franchised Area within the City for the purpose of installing, maintaining and operating WCFs in order to provide wireless communication service pursuant to federal laws.

D. The installation, maintenance, and operation of Grantee’s WCFs within the Franchised Area will be done in a manner consistent with the City’s rights-of-way management regulations, and all other applicable local, state and federal regulations.

E. Grantee has entered, or intends to enter, into a Pole Attachment Agreement with pole owners for the purpose of attaching WCFs on poles erected within the Franchised Area.

In consideration of the following mutual covenants, terms and conditions, the parties agree as follows:

1. DEFINITIONS.

All terms shall have the meanings established in Midvale Municipal Code 5.54.040, as amended. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular include the plural. The word “shall” is always mandatory and not merely permissive. For the purposes of this Agreement, the listed terms shall have the following meanings:

“Cost” means any actual, reasonable, and documented costs, fees, or expenses, including but not limited to attorneys’ fees.
“Gross Revenue” has the same meaning as ‘gross receipts from telecommunications service’ as defined in Utah Code Ann. § 10-1-402, as amended.

2. **FRANCHISED AREA.**

The Franchised Area includes and is limited to the public rights-of-way either owned or regulated by the City. The WCFs of Grantee in the Franchised Area will be used solely to provide personal wireless services. The use of the Franchised Area for any other purpose may require additional permits, agreements, and approvals. Nothing in this Agreement shall be interpreted to authorize the installation of macro wireless towers, equipment or facilities, nor the installation on poles of wireless equipment and facilities designed for macro wireless towers.

3. **CITY’S REPRESENTATIONS AND WARRANTIES.**

A. The City represents and warrants to the Grantee that: (i) the City, and its duly authorized signatory, have full right, power, and authority to execute this Agreement on behalf of the City; (ii) for property which it owns, the City has good and unencumbered title to the Franchised Area free and clear of any liens or mortgages, except those disclosed to the Grantee that will not interfere with Grantee’s right to use the Franchised Area; and (iii) the City’s execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, franchises or other agreements binding on the City.

B. The Grantee has studied and inspected the Franchised Area and accepts the same “AS IS” without any express or implied warranties of any kind, other than those warranties contained in Subsection (3)(A) immediately above, including any warranties or representations by the City as to its condition or fitness for any particular use. The Grantee has inspected the Franchised Area and obtained information and professional advice as the Grantee has determined to be necessary related to this Agreement.

4. **GRANT OF FRANCHISE; TERM.**

A. City hereby grants Grantee, a non-exclusive franchise to use and occupy the Franchised Area for the purpose of developing and installing WCFs, including the right to attach, operate, maintain, install, and replace WCFs as approved by the City subject to the conditions outlined in this Agreement. Grantee shall install its WCFs consistent with the City’s Chapter 5.54 ‘Wireless Communication Services.’

B. The Grantee’s right to use and occupy the Franchised Area shall not be exclusive as the City reserves the right to grant a similar use of same to itself or any person or entity at any time during the term of this Agreement.

C. Nothing in this Agreement will be construed as granting the Grantee the authority to use any property that is owned or regulated by any person or entity other than the City including, but not limited to, state-owned or -maintained highways. Nor does it confer any right to use City property other than the Franchised Area.
D. The initial term of this Agreement shall be for a period of ten (10) years (the “Initial Term”), commencing on the Effective Date and ending on the tenth anniversary thereof, unless sooner terminated as stated herein. Provided, however, that if Grantee is not operational and providing services to customers within the City within two hundred seventy (270) days of the effective date of this Agreement, this Agreement may be terminated by the City, in its sole discretion, upon thirty (30) days written notice. Following the expiration of the Initial Term, this Agreement shall be automatically renewed for no more than one successive five-year renewal term, unless either party notifies the other in writing of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the Initial Term.

E. If Grantee continues to occupy the Franchised Area after the expiration or termination of this Agreement, holding over will not be considered to operate as a renewal or extension of this Agreement, but shall be a month-to-month franchise. Grantee shall be subject to Chapter 5.54 and the terms of this Agreement throughout the period of such operation. Grantee shall pay the City fees in an amount that is double the amount of the normal franchise fees that would otherwise be due under Section 6. Either party may terminate the month-to-month franchise by providing fourteen (14) days written notice to the other party.

F. Notwithstanding any provision in this Agreement to the contrary or any negotiation, correspondence, course of performance or dealing, or any other statements or acts by or between the parties, Grantee’s rights in the Franchised Area are limited to the rights created by this Agreement. Grantee’s rights are subject to all covenants, restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title regarding the Franchised Area. Grantee’s rights under this Agreement are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or later having jurisdiction over, the Franchised Area or Grantee’s use of the Franchised Area.

5. **PERMITTED USE OF FRANCHISED AREA.**

A. The Franchised Area may be used by Grantee, seven (7) days a week, twenty-four (24) hours a day, only for the purposes authorized by this Franchise and not for any other purpose. This Agreement shall include new types of WCFs that may evolve or be adopted using wireless technologies. Grantee shall, at its expense, comply with all applicable present and future federal, state, and local laws, ordinances, rules and regulations (including but not limited to laws and ordinances relating to health, safety and radio frequency emissions) in connection with the use (and installation, operation, maintenance, and replacement of WCFs on) within the Franchised Area.

B. Subject to the terms of this Agreement, WCFs may only be installed on City’s poles under the terms of a fully executed pole attachment agreement with the City, on poles under the terms of a fully executed pole attachment agreement with the owner of such poles, or on Grantee’s proprietary poles.
C. The use of Franchised Area under this Agreement does not include a franchise to install and operate fiber optic cable, wires, equipment and facilities to provide front-haul or backhaul transmission service, whether provided by a third-party provider or Grantee. Any entity that provides front-haul or backhaul transmission service must have a separate legal authorization from the City to use Public Rights-of-Way outside of this Agreement unless provided otherwise in this Agreement.

D. Nothing under this Agreement shall be interpreted to create or vest in Grantee any easement or other ownership or property interest to any City property or Rights-of-Way. This Agreement shall not constitute an assignment of any City’s rights to City property or Rights-of-Way. Grantee shall, at all times, be and remain a franchisee only.

E. Grantee shall not use or permit the WCFs to be used for any activity violating any applicable local, state, or federal laws, rules, or regulations.

6. **FRANCHISE FEES; COSTS.**

A. Prior to September 1, 2018, Grantee agrees to pay an annual fee (the “Annual Franchise Fee”) in the amount equal to five percent (5%) of Grantee’s Gross Revenues. The Annual Franchise Fee shall compensate the City for the Grantee’s access to the Franchised Area as well as any of the Grantee’s WCFs attached to City-owned poles in the Franchised Area.

(i) In lieu of the payment of the Annual Franchise Fee described in 6.A. above, Grantee shall pay a flat fee (“Alternative Minimum Fee”) for each WCF site approved by the City. The Alternative Minimum Fee shall be in the amount of five hundred dollars ($500.00) per year per WCF that is not installed on a City-owned pole and one thousand dollars ($1,000.00) per year per WCF that is installed on a City-owned pole. The Alternative Minimum Fee shall be paid by Grantee to the City so long as the Alternative Minimum Fee is equal to or greater than the Annual Franchise Fee. If at any time during the term of the Agreement, the Alternative Minimum Fee is less than the Annual Franchise Fee, Grantee shall cease to pay the Alternative Minimum Fee, and instead, shall pay the City the Annual Franchise Fee as provided in Section 6.A. above. Said another way, the City will receive either the Alternative Minimum Fee or the Annual Franchise Fee, whichever is greater. Grantee’s representation that the Alternative Minimum Fee is equal or greater than the Annual Franchise Fee is subject to the City’s review and audit consistent with Section 21 below.

B. Beginning September 1, 2018, Grantee shall pay all rates and fees in accordance with Part 5 of the Small Wireless Facilities Deployment Act (Utah Code Ann. §§ 54-21-101 to 54-21-602), as amended.

C. Grantee shall pay the City an Annual Franchise Fee for every WCF site approved by the City regardless of whether Grantee attaches its WCF to a light or other pole owned by the
City, utility pole owned by a third-party, or pole owned by Grantee. Except as otherwise approved by the City, Grantee shall not make multiple installations on a single pole.

D. In addition to Annual Franchise Fees as set forth in Sections 6.A. and 6.B. above, Grantee shall be responsible for paying administrative fees for the processing of WCF site applications by City staff as prescribed in this Agreement. Starting on the Effective Date, Grantee shall pay a non-refundable administrative fee to the City for each WCF site application submitted for review and approval as set forth under Midvale Municipal Code 5.54. The administrative fee shall be submitted with every WCF site application as a prerequisite to begin review of the WCF site application. Grantee shall have the right to amend the WCF site application to correct errors or provide additional information without having to pay a second administrative fee.

E. Additionally, Grantee shall pay for reimbursement as further set forth in Chapter 5.54 of the Midvale City Code or as provided elsewhere in local laws or regulations.

F. To the extent that Grantee wishes to utilize the Franchised Area for the installation, use or operation of fiber or conduit in connection with the WCF, a separate Franchise for wireline (as opposed to wireless) usage shall be required from the City.

G. In addition to other payments required herein, Grantee shall pay all permit fees and all other required City fees in connection with construction, inspection, traffic and pedestrian flow and other City requirements without any offset against any other fees or payments required herein.

H. The Grantee shall remit payments of the Annual Franchise Fee on the first day of every month. If the Effective date of this Agreement is not the first day of a month, the Grantee’s payment for the first and last month of this Agreement will be prorated accordingly.

I. If the Grantee fails to pay any franchise fee or other amount due in full within ten (10) days after receipt of written notice of delinquency, the Grantee is responsible for paying interest on the unpaid principal balance at the rate charged for delinquent state taxes, from the due date until payment is made in full.

J. Grantee shall pay the City actual costs for inspections, materials testing and other costs incurred by the City as a direct result of the operation, construction, repair, alteration or relocation of the Facilities. All costs shall be paid in full within thirty (30) days of invoice.

K. City agrees that any fees or taxes charged to Grantee under this Agreement shall be of the same nature and calculation of fees or taxes as other similarly situated entities.
7. **APPROVAL OF WCF SITES.**

A. Grantee shall file with the City a WCF site application in accordance with Chapter 5.54. Said application form may be modified from time-to-time by the City as deemed necessary in order to more efficiently process applications from Grantee.

B. All WCF site applications requesting access to a City pole must include a load bearing study to determine whether the attachment of a WCF may proceed without pole modification or whether the installation will require pole re-enforcement or replacement. If pole re-enforcement or replacement is necessary, Grantee shall provide engineering design and specification drawings demonstrating the proposed alteration to the pole. Moreover, all WCF site applications requesting the installation of a new pole shall include engineering design and specification drawings demonstrating compliance with the Americans with Disabilities Act. For each WCF site application, the City or its designee shall verify that the WCF site application is complete and the appropriate administrative fee has been submitted and review engineering design documents to determine compliance with contractual requirements under this Agreement and that there is no interference with City public safety radio systems, traffic signal light systems or other communications components. If requested by the City, the Grantee will provide a copy of study conducted by a qualified Utah-licensed engineer demonstrating that the proposed WCF will not interfere with City public safety radio systems, traffic signal light systems or other communications components. The Grantee shall include appropriate design of stealth components necessary to comply with historic preservation requirements or aesthetic design elements and compliance with City pole attachment regulations for poles, including replacement of existing electric meters with dual meters.

C. As appropriate, the City or its designee shall require Grantee to make design modifications in order to comply with applicable contractual, regulatory, or legal requirements. Failure to make the requested design modifications shall result in a denied WCF site application which may not be processed under this Agreement.

D. Upon finding that the WCF site application is complete and in compliance with all applicable requirements as outlined above and in Chapter 5.54, the City or its designee shall approve such WCF site application. Grantee shall comply with the requirements of the Wireless Communication Services Ordinance and City Code. Grantee shall pay all appropriate permit fees. Upon obtaining all necessary permits, Grantee may proceed to install the WCF in coordination with any affected City departments. Upon completion of the installation, Grantee shall notify the City, or its designee, in writing and provide a picture of said installation to be included in the WCF site application records.

E. Grantee shall maintain a current inventory of WCFs throughout the term of this Agreement. Grantee shall provide to the City a copy of the inventory of WCF sites every July 1 until the end of the term. The inventory of WCFs shall include GIS coordinates, date of installation, Company Site ID#, type of pole used for installation, pole owner, and description/type of installation for each WCF installation. Concerning WCF sites that become inactive, the inventory of WCF sites shall include the same information as active...
installations in addition to the date the WCF site was deactivated and the date the WCF was removed from the Right-of-Way. The City shall compare the inventory of WCF sites to its records to identify any discrepancies.

F. Any unauthorized WCF sites that are identified by the City as a result of comparing the inventory of WCF sites to internal records or through any other means will be subject to the payment of unauthorized installation charges by Grantee. The City shall provide written notice to Grantee of any unauthorized WCF site identified by City staff, and Grantee shall have thirty (30) days thereafter in which to submit an approved application for said site. Failure to produce an approved application corresponding with the unauthorized WCF site will result in the imposition of an unauthorized installation charge, which shall be calculated by applying the Annual Franchise Fee formula set out in Section 6 to the period spanning from the original date of installation of the unauthorized WCF site to the date of the written notice sent by the City. The total amount resulting from this calculation shall be assessed an interest rate of eighteen percent (18%) per annum to constitute the applicable unauthorized installation charge. Thereafter, Grantee shall submit an application fee and administrative fee for the unauthorized WCF site and, if approved by the City, Grantee shall become liable for paying Annual Franchise Fees going forward. If the WCF site application for the unauthorized WCF site is not approved based on applicable considerations under this Agreement, Grantee shall remove the WCF and any related facilities from the Right-of-Way within thirty (30) days.

8. UTILITIES.

Grantee is responsible for obtaining and paying for all utilities necessary to operate the Facilities.

9. USE RESTRICTIONS.

A. Subject to the interference provisions set forth below, Grantee shall at all times use reasonable efforts to minimize any impact that its use of the Franchised Area will have on other users of the Franchised Area.

B. Grantee shall not remove, damage or alter in any way any improvements or personal property of the City or third parties in the Franchised Area without the owner’s prior written approval. Grantee shall repair any damage or alteration to another’s property caused by Grantee’s use of the Franchised Area to the same condition that existed before the damage or alteration, reasonable wear and tear excepted.

C. Whenever the Grantee performs construction activities within the Franchised Area, the Grantee shall obtain all necessary construction permits and promptly, upon completion of construction, restore the Franchised Area to the condition existing before construction to the satisfaction of the City Engineer. Grantee represents and warrants that it has obtained all government licenses, permits and authorization by the Federal Communications Commission and the Utah Public Service Commission, which are required to provide the Services.
If the Grantee fails to restore the Franchised Area as required, the City may take all reasonable actions necessary to restore the Franchised Area, and the Grantee, within thirty (30) days of demand and receipt of an invoice, together with reasonable supporting documentation, will pay all of the City’s reasonable costs of restoration.

D. Grantee shall use the Franchised Area solely for constructing, installing, operating, maintaining, repairing, modifying and removing the Facilities. The Facilities are limited to the equipment and facilities approved by the City in writing.

E. Grantee shall have a non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, for the construction, installation, operation, maintenance, modification and removal of the Facilities. In no event shall the City’s use of the Franchised Area be unreasonably interrupted by the Grantee’s work. Prior to entering upon the Franchised Area for activities that disrupt vehicular and/or pedestrian traffic, the Grantee shall give the City Engineer or designee at least seven (7) days advance notice in the manner provided in this Agreement or, in the event of emergency repairs, any prior notice as is practical.

F. Grantee shall at all times have on call and at the City’s access, an active, qualified, and experienced representative to supervise the Facilities, and who is authorized to act for the Grantee in matters pertaining to all emergencies and the day-to-day operation of the Facilities. The Grantee shall provide the City Engineer or designee with the names, addresses and 24-hour telephone numbers of designated persons in writing.

G. In the vicinity of any above-ground facilities Grantee may have in the Franchised Area, Grantee shall keep the Franchised Area maintained, orderly and clean at all times.

H. Grantee acknowledges that: i) the Grantee’s use of the Franchised Area is subject and subordinate to, and shall not adversely affect, the City’s use of the Franchised Area; and ii) the City reserves the right to further develop, maintain, repair, or improve the Franchised Area, provided that the City shall reasonably cooperate with Grantee to ensure that Grantee’s use and operation of WCFs is not interfered with or interrupted.

I. Grantee shall not install any signs in the Franchised Area other than required safety or warning signs or other signs necessary for the use of the Franchised Area as requested or approved by the City. Grantee bears all costs pertaining to the erection, installation, maintenance and removal of all of its signs.

10. **HAZARDOUS WASTE.**

The Grantee shall not produce, dispose, transport, treat, use or store any hazardous waste or toxic substance upon or about the Franchised Area in violation of any federal, state or local law pertaining to hazardous waste or toxic substances. Grantee shall not use the Franchised Area in a manner inconsistent with any regulations, permits or approvals issued by any federal or state agency. The City and Grantee acknowledge that if Grantee uses sealed batteries, such batteries
shall be used and maintained pursuant to industry standards and applicable laws. The Grantee shall defend, indemnify and hold the City harmless against any loss or liability, claims, damages, costs, expenses and attorneys’ fees incurred by reason of any hazardous waste or toxic substance release on or affecting the Franchised Area to the extent caused by the Grantee, and shall immediately notify the City of any hazardous waste or toxic substance release at any time discovered or existing upon the Franchised Area. Grantee shall promptly and without request provide the City with copies of all written communications between the Grantee and any governmental agency concerning environmental inquiries, reports or problems in the Franchised Area.

11. GRANTEE’S IMPROVEMENTS; GENERAL REQUIREMENTS.

A. The following provisions govern all improvements, repairs; installation and other construction, removal, demolition or similar work of any description by the Grantee related to the Facilities or the Franchised Area (collectively referred to as the “Grantee’s Improvements”):

(i) In no event, including termination of this Agreement for any reason, is the City obligated to compensate the Grantee in any manner for any of Grantee’s Improvements or other work provided by the Grantee during or related to this Agreement. The Grantee shall timely pay for all labor, materials and work and all professional and other services related to Grantee’s Improvements and defend, indemnify and hold harmless the City against the same for any claims, damages, costs, expenses and attorneys’ fees;

(ii) Grantee shall perform all work in a good, workmanlike manner, and shall diligently complete the work in conformance with all building codes and similar requirements. Grantee’s Improvements shall be commensurate with high quality industry standards as approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed;

(iii) Grantee acknowledges that as of the Effective Date of this Agreement, the City has not approved or promised to approve any plans for the Grantee’s Improvements;

(iv) Grantee shall make no structural or grading alterations, or similar structural modifications or additions or other significant construction work in the Franchised Area without having first received the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Review shall include all Improvements, equipment, fixtures, paint and other construction work of any description as described in all plans delivered by the Grantee to the City. All such plans and construction are subject to inspection and final approval by the City as to materials, design, function and appearance;

(v) Grantee shall keep as-built records of the Grantee’s Improvements and upon request, shall furnish copies of records to the City, at no cost to the City, upon
completion of Improvements and any changes to the same. Grantee shall participate as a member of Blue Stakes of Utah regarding underground facilities, and submit proof of participation to the City upon request;

(vi) All changes to utility facilities shall be limited to the Franchised Area and shall be undertaken by the Grantee only with the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed;

(vii) All of the Grantee’s Improvements shall, be designed so as to present uniformity of design, function, appearance and quality throughout and consistency with other improvements located in the Franchised Area; and

(viii) Grantee shall properly mark and sign all excavations and maintain barriers and traffic control in accordance with applicable laws, regulations and best management practices.

B. The following procedure governs the Grantee’s submission to the City of all plans for the Franchised Area and the Grantee’s Improvements, including any proposed changes by the Grantee of previously submitted plans:

(i) Grantee shall coordinate with the City as necessary on significant design issues prior to submission of plans;

(ii) Upon execution of this Agreement, the Grantee shall each designate a project manager to coordinate the Grantee’s participation in designing and constructing Grantee’s Improvements. The project manager shall devote time and efforts to the project as may be necessary for timely, good faith and convenient coordination among all persons involved with the project and compliance with this Agreement;

(iii) No plans are considered finally submitted until the Grantee delivers to the City a formal certification by an Utah-licensed engineer, acceptable to the City Engineer, to the effect that all of the Grantee’s Improvements are properly designed to be safe and functional as designed and as required by this Agreement. The certification shall be accompanied by and refer to any backup information and analysis as the City Engineer may reasonably require;

(iv) No plans are considered approved until stamped “APPROVED” and dated and signed by the City Engineer;

(v) Grantee is responsible to secure all zoning approvals, design revisions or other governmental approvals and to satisfy all governmental requirements pertaining to the project and may not rely on the City to initiate or suggest any particular process or course of action;
(vi) The City’s issuance of permits shall not be considered valid unless the plans have been approved as stated in subsection (iv) above. City staff shall be reasonably available to coordinate and assist the Grantee in working through issues that may arise in connection with such plan approvals and requirements;

(vii) The Grantee shall, in the submittal of all plans, allow adequate time for all communications and plan revisions necessary to obtain approvals and shall schedule its performance and revise its plans as necessary to timely obtain all approvals and make payment of all applicable fees;

(viii) Subject to federal, state, and local law, any delay in the City’s review of or marking Grantee’s plans with changes necessary to approve the plans, or approve revised plans in accordance with the City’s normal plan-review procedures, will not be considered approval of the plans but may operate to extend Grantee’s construction deadlines. The City agrees to use reasonable efforts to review, mark or approve Grantee’s plans in a prompt and timely manner and in conformance with established policies and procedures;

(ix) The Grantee shall provide the City with two (2) complete sets of detailed plans and specifications of the work as completed if submitted in paper, or the Grantee shall provide the City with one (1) complete set of detailed plans and specifications of the work as completed if submitted electronically;

(x) The parties shall use reasonable efforts to resolve any design and construction issues to their mutual satisfaction but, in the event of an impasse for any reason, final decision authority regarding all design and construction issues shall rest with the City in its sole discretion; and

(xi) Before any construction begins in the Franchised Area, the Grantee shall provide the City with performance bonds and, if considered necessary by the City, payment bonds, in amounts equal to the full amount of the written construction contract pursuant to which such construction is to be done. The payment bond shall be solely for the protection of claimants supplying labor or materials for the required construction work and the performance bond shall be solely for the protection of the City, conditioned upon the faithful performance of the required construction work. Bonds shall be executed by a surety company duly authorized to do business in Utah, and acceptable to the City and shall be kept in place for the duration of the work.

12. GRANTEE’S CONSTRUCTION.

Subject to state law, the Grantee shall install the Facilities in the Franchised Area within two hundred seventy (270) days of the City’s approval in accordance with the approved application and applicable law.
13. **CONSTRUCTION WORK - REGULATION BY CITY.**

A. The work done by Grantee in connection with the installation, construction, maintenance, repair, and operation of WCFs on poles within the Franchised Area shall be subject to and governed by all pertinent federal, state, and local laws, rules, and regulations.

B. All pole excavations, construction activities, and aerial installations on poles in the Franchised Area shall be performed as to minimize interference with the use of the Franchised Area and with the use of private property, in accordance with all regulations of the City necessary to provide for public health, safety and convenience.

14. **CONSTRUCTION, RESTORATION AND MAINTENANCE ACTIVITIES.**

A. The City shall have the authority at any time to order and require Grantee to remove and abate any WCF or other structure that is in violation of the City Code. In case Grantee, after receipt of written notice and thirty (30) days opportunity to cure, fails or refuses to comply, the City shall have the authority to remove the same at the expense of Grantee (which shall be paid to the City within thirty (30) days of receipt of an invoice), all without compensation or liability for damages to Grantee.

B. The parties agree that this Agreement does not in any way limit the City’s right to locate, operate, maintain, and remove City poles in the manner that best enables the operation of the City and protect public safety. The City Engineer may deny access to City poles subject to the Small Wireless Facilities Deployment Act (Utah Code Ann. §§ 54-21-101 to 54-21-602), as amended. Further, nothing in this Agreement shall be construed as granting Grantee any attachment right to install WCFs to any specific pole, other than to an approved WCF site application under the terms of this Agreement.

C. Grantee may construct new poles in order to install WCFs in accordance with Midvale Municipal Code 5.54. Such poles shall be set so that they will not interfere with the flow of water in any gutter or drain, and so that they will not unduly interfere with ordinary travel on the streets or sidewalk. The location of all Grantee’s personal property, poles, and electrical connections placed and constructed by the Grantee in the installation, construction, and maintenance of WCF shall be subject to the lawful, reasonable and proper control, direction and/or approval of the City Engineer.

15. **INTERFERENCE WITH OTHER FACILITIES PROHIBITED.**

A. Grantee shall not impede, obstruct or otherwise interfere with the installation, existence and operation of any other facility in the Franchised Area including, but not limited to, sanitary sewers, water mains, storm water drains, gas mains, poles, aerial and underground electrical infrastructure, cable television and telecommunication wires, public safety and City networks, and other telecommunications, utility or municipal property.
B. In the event that Grantee’s WCFs interferes with the City’s traffic light signal system, public safety radio system, or other City communications infrastructure operating on spectrum where the City is legally authorized to operate, Grantee will respond to the City’s request to address the source of the interference as soon as practicable, but in no event later than two (2) hours of receiving notice.

C. If the interference is creating a public safety hazard, the Grantee shall immediately shut down the WCF pending approval and implementation of a remediation plan. The Grantee shall provide the City Engineer an Interference Remediation Report that includes a remediation plan to stop the event of interference, an expected timeframe for execution of the remediation plan and any additional information relevant to the execution of the remediation plan. In the event that interference with City facilities cannot be timely eliminated, Grantee shall remove or relocate the WCF that is the source of the interference as soon as possible to an approved alternative location.

D. If the interference is not creating a public safety hazard, the Grantee shall provide the City Engineer an Interference Remediation Report that includes a remediation plan to stop the event of interference, an expected timeframe for execution of the remediation plan and any additional information relevant to the execution of the remediation plan. In the event that interference with City facilities cannot be timely eliminated, Grantee shall shut down the WCF and remove or relocate the WCF that is the source of the interference as soon as possible to an approved alternative location.

16. **MAINTENANCE.**

A. The Grantee has, at its own cost, all responsibilities for improvements to and maintenance of the Facilities in the Franchised Area during the term of this Agreement.

B. Grantee, at its expense, shall use reasonable efforts to minimize the visual and operational impacts of the equipment as required by any City Ordinance, permit, or other permission necessary for the installation or use of the Franchised Area.

C. Subject to state law, Grantee shall provide the City five (5) business days’ advanced notice of:

   (i) routine maintenance;

   (ii) the replacement of a Grantee WCF with a WCF that is substantially similar or smaller in size; and

   (iii) the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.

D. Grantee shall:
(i) install and maintain all parts of its system in a nondangerous condition throughout the entire term of the franchise;

(ii) maintain its system in accordance with standard prudent engineering practices and shall conform with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations; and

(iii) at all reasonable times, permit examination by any duly authorized representative of the City of the system and its effect on the Franchised Area.

E. Grantee shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights-of-way so as to prevent the branches of such trees from coming in contact with its system.

17. COMPLIANCE WITH UTILITY, HEIGHT AND HISTORIC PRESERVATION REGULATIONS.

Grantee shall comply with all applicable local, state, and federal design and historic preservation regulations, including, but not limited to, the following:

A. Grantee shall comply with all relevant legal requirements for connecting the WCF to electricity and telecommunications service. The City is not responsible for providing electricity or transport connectivity to Grantee.

B. All WCF installations shall be in compliance with height restrictions applicable to poles and other structures in the zoning districts.

C. The design plans for all WCF site installations shall be compatible with the character and aesthetics of the neighborhoods, plazas, boulevards, parks, public spaces and commercial districts. Subject to applicable law and in coordination with the City’s Community Development Department, Grantee shall implement design concepts and the use of camouflage or stealth materials, as necessary, to blend its WCF installations with the overall character of the selected site. Grantee shall comply with the City regulations applicable to aesthetics, stealthing, and materials.

18. RELOCATION AND REMOVAL OF FACILITIES.

A. Subject to state law, the City may require the Grantee to relocate or adjust a WCF in the Franchised Area in a timely manner and without cost to the City.

B. Grantee’s duty to relocate or adjust its WCFs at its expense under this subsection is not contingent on the availability of an alternative location acceptable for relocation. The City will make reasonable efforts to provide an alternative location in the Franchised Area for relocation, but regardless of the availability of an alternative site acceptable to Grantee, Grantee shall comply with the notice to remove its property as instructed.
C. If Grantee fails to relocate or adjust its facilities to the satisfaction of the City or its
designee by the 90th day after the date of notice, the City may remove the WCF at the
expense of Grantee (which shall be paid to the City within thirty (30) days of receipt of
an invoice).

D. Any damage to the Franchised Area or adjacent property caused by Grantee that occurs
during the relocation or adjustment of Grantee’s WCF shall be promptly repaired or
replaced at Grantee’s sole expense. Should Grantee not make nor diligently pursue
adequate repairs within thirty (30) days of receiving written notice, the City may make all
reasonable and necessary repairs on behalf of Grantee, and reimburse itself from
proceeds from the surety bond required under this Agreement. Any remaining amount
will be charged to Grantee. Grantee shall within thirty (30) days remit payment of such
costs after receipt of an invoice from the City.

E. The City shall not bear any cost of relocation of existing facilities, irrespective of the
function served, where the City facilities or other facilities occupying the Franchised
Area or right-of-way in close proximity to the Franchised Area are already located, and
the conflict between the Grantee’s potential Facilities and existing facilities can only be
resolved expeditiously, as determined by the City, by the movement of the existing City
or other permitted facilities. Any relocation of City infrastructure is purely discretionary
on the part of the City and may not be demanded by the Grantee.

F. If Grantee’s relocation effort delays construction of a public project causing the City to
be liable for delay or other damages, the Grantee shall reimburse the City for those
damages, attorneys’ fees, expenses and costs attributable to the delay created by the
Grantee. If the Grantee fails to pay the damages, attorneys’ fees, expenses and costs in
full within thirty (30) days after receiving an invoice, the Grantee is responsible for
interest on the unpaid balance at the rate of 18% per annum from that date until payment
is made in full.

19. **COLLOCATION.**

A. Subject to subsection (B) below, the Grantee shall, at all times, use reasonable efforts to
cooperate with the City or any third parties with regard to the possible collocation of
additional equipment, facilities or structures in and around the Franchised Area
(“Collocation”). If a Collocation on a City-owned pole is feasible, the City may, in its
sole discretion, negotiate a Collocation franchise agreement with any third party on terms
as the City considers appropriate, not inconsistent with the rights and obligations of the
parties under this Agreement. Grantee’s consent in connection with the final
determination of Collocation of a third party is not required, provided that Grantee’s
operations are not unreasonably interfered with or interrupted. Any fees or charges paid
by an additional collocation company belong solely to the City.

B. Prior to permitting the installation of a Collocation by any third party in or around the
Franchised Area which may interfere with the Grantee’s operations, the City shall give
the Grantee forty-five (45) days’ notice of the proposed Collocation so that the Grantee
can determine if the Collocation will interfere with the Facilities. If the Grantee determines that interference is likely, the Grantee shall, within the notice period, give the City a detailed written explanation of the anticipated interference, including supporting documentation as may be reasonably necessary for the City to evaluate the Grantee’s position. The City and the Grantee shall promptly use reasonable efforts to resolve any interference problems before the City permits a Collocation to the third party. If a subsequent franchisee is permitted to operate near the Franchised Area, and the subsequent franchisee’s operations materially interfere with Grantee’s Facilities, then the City shall direct the subsequent franchisee to remedy the interference within seventy-two (72) hours. If the interference is not resolved within this period, then the City will direct the subsequent franchisee to cease its operation until the interference is resolved. These same procedures apply to any interference caused by Grantee with respect to any Collocation existing and as configured prior to the installation of Grantee’s Facilities.

20. **RECORDS.**

A. Grantee shall keep complete and accurate GIS and mapping information, deployment plans, equipment inventories and other relevant records of its WCF deployments in the Franchised Area.

B. The City may, at reasonable times and for reasonable purposes, examine, verify and review the maps, plans, equipment inventories and other records of Grantee pertaining to WCFs installed in the Franchised Area. Grantee shall make the above records available to the City for review within ten (10) business days after requested by the City.

21. **RIGHT TO AUDIT.**

A. The City, or its designees, shall have the right to audit, examine or inspect, at the City’s election and at City’s expense, all of the Grantee records at any and all Grantee’s locations relating to WCF deployments under this Agreement (“Grantee’s Records”) during the term of the Agreement and retention period herein. The audit, examination or inspection may be performed by the City’s designee, which may include internal City auditors or outside representatives engaged by the City. The Grantee agrees to retain the Grantee’s records for a minimum of two (2) years following termination or expiration of the Agreement, unless there is an ongoing dispute under the Agreement. Then, such retention period shall extend until final resolution of the dispute beyond the two (2) year retention period.

B. Grantee’s records shall be made available at the Grantee’s place of business, if within fifty (50) miles from the City, or the City’s designated offices within thirty (30) calendar days of the City’s request and shall include any and all information, materials and digital data of every kind and character generated as a result of this Agreement. Examples of Grantee’s records include, but are not limited to, copies of inventory of WCF sites, WCF site applications, supplemental franchises, ROW Permits, third-party pole Attachment Permits, payment records for Annual Franchise Fees and administrative fees, equipment invoices, subcontractor invoices, engineering documents, vendor contracts, network
diagrams, internal network reports and other documents related to installation of WCFs at WCF sites. The Grantee bears the cost of producing, but not reproducing any and all requested business records.

C. If an audit inspection or examination discloses that Grantee’s Annual Franchise Fee payments to the City as previously remitted for the period audited were underpaid, Grantee shall pay within thirty (30) days to the City the underpaid amount for the audited period together with interest at the interest rate of eighteen percent (18%) per annum from the date(s) such amount was originally due.

22. ASSIGNMENT.

A. Grantee may not assign or transfer this Agreement nor may there be a change in control to any person or entity controlling, controlled by or under common ownership with the Grantee or Grantee’s parent company, or to any person or entity that, acquires the Grantee’s business and assumes all obligations of the Grantee under this Agreement without the prior written consent of the City which consent may not be unreasonably withheld, delayed or conditioned.

B. Control means actual working control in whatever manner exercised. Control includes, but may not necessarily require, majority stock ownership. The requirements of Subsection 22 shall also apply to any change in control of Grantee. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of fifty-one percent (51%) or more of the voting shares of Grantee. The consent required shall not be unreasonably withheld or delayed, but may be conditioned upon the performance of those requirements necessary to ensure compliance with the specific obligations of this Agreement imposed upon Grantee by City. For the purpose of determining whether it should consent to transfer of control, the City may inquire into the qualifications of the proposed transferee and Grantee shall assist the City in the inquiry.

C. For assignments requiring City approval, the City may, as a condition of approval, postpone the effective date of the assignment and require that any potential transferee submit reasonable evidence of its financial, technical and operational ability to fully perform under the terms of this Agreement to the City at least thirty (30) days prior to any transfer of the Grantee’s interest. In no event will the City unreasonably withhold, condition or delay its approval to a proposed assignment.

D. The Grantee may, upon notice to the City, mortgage or grant a security interest in this Agreement and the Facilities, and may assign this Agreement and the Facilities to any mortgagees, deed of trust beneficiaries or holders of security interests, including their successors or assigns (“Mortgagees”), so long as the Mortgagees agree to be bound by the terms of this Agreement. If so, the City shall execute consent to leasehold or other financing as may be reasonably required by Mortgagees. In no event will Grantee grant or attempt to grant a security interest in any of the real property underlying the Franchised Area.
E. Subject to subsections (A) and (B) above, Grantee shall not sublease any of its interest under this Agreement, nor permit any other person to occupy the Franchised Area. The Parties acknowledge that Facilities deployed by Grantee in the Franchised Area pursuant to this Agreement may be owned and/or remotely operated by a third-party wireless carrier customer (“Carriers”) and installed and maintained by Grantee pursuant to existing agreements between Grantee and a Carrier. Grantee shall provide the City of prior written notice of any such Facilities and identify the associated Carrier. Such Facilities shall be treated as Grantee’s Facilities for all purposes under this Agreement and any applicable pole attachment agreements. A Carrier’s ownership and/or operation of such Facilities shall not constitute an Assignment under this Agreement, provided that Grantee shall not actually or purport to sell, assign, encumber, pledge, or otherwise transfer any part of its interest in the Franchised Area or this Agreement to a Carrier, or otherwise permit any portion of the Franchised Area to be occupied by anyone other than itself. Grantee shall remain solely responsible and liable for the performance of all obligations under this Agreement and applicable pole attachment agreements with respect to any Facilities owned and/or remotely operated by a Carrier.

23. BOND/LETTER OF CREDIT REQUIREMENT.

Before undertaking any of the work authorized by this Agreement, as a condition precedent to the City’s issuance of any permits, Grantee shall, upon the City’s request, furnish an annually renewed performance bond or letter of credit from a Utah-licensed financial institution in the amount of at least twenty-five thousand dollars ($25,000). Every July 1 during the term of this Agreement, except for the initial year of this Agreement, the amount of the Grantee’s performance bond or letter of credit shall be adjusted to one-hundred ten percent (110%) of the value of the Grantee’s system and its associated installation costs or twenty-five thousand dollars ($25,000), whichever is greater. The bond or letter credit shall remain in effect for the entirety of the term of this Agreement as well as an additional year after the expiration or termination of this Agreement. The bond shall be conditioned so that Grantee shall observe all the covenants, terms and conditions and shall faithfully perform all of the obligations of this Agreement, and to repair or replace any defective work or materials discovered in the Franchised Area, and to remove any WCFs and their associated equipment that are not in service or remain in the Franchised Area after the termination or expiration of this Agreement. The bond shall ensure the faithful performance of Grantee’s obligations under the Agreement, including, but not limited to, Grantee’s payment of any penalties, claims, liens, or fees due the City that arise by reason of the operation, construction, or maintenance of the Facilities within the Franchised Area. Grantee shall pay all premiums or other costs associated with maintaining the bond.

24. REGULATORY AGENCIES, SERVICES AND BANKRUPTCY.

A. The Grantee shall upon request provide to the City:

(i) All non-proprietary and relevant petitions, applications, communications and reports submitted by the Grantee to the Public Service Commission or other state or federal authority having jurisdiction that directly relates to Grantee’s operations in the Franchised Area;
(ii) Non-proprietary licensing documentation concerning all services of whatever
nature being offered or provided by the Grantee over Facilities in the Franchised
Area. Non-proprietary copies of responses from regulatory agencies to the
Grantee shall be available to the City upon request. To the extent permitted by
the Utah Government Records Access and Management Act, the City will treat all
documentation and information obtained pursuant to this Section 24 as proprietary
and confidential.

B. The Grantee shall upon request provide the City copies of any petition, application,
communications or other documents related to any filing by the Grantee of bankruptcy,
receivership or trusteeship.

25. **DEFAULT; TERMINATION BY CITY.**

A. The City may terminate this Agreement for any of the following reasons upon thirty (30)
days’ written notice to Grantee:

(i) Failure of Grantee to perform any obligation under this Agreement, after Grantee
fails to cure a default within the notice and cure period. However, if a cure cannot
reasonably be implemented within the notice period, Grantee must commence and
diligently pursue to cure within thirty (30) days of the City’s notice.

(ii) The taking of possession for a period of ten (10) days or more of substantially all
of Grantee’s personal property in the Franchised Area by or pursuant to lawful
authority of any legislative act, resolution, rule, order or decree or any act,
resolution, rule, order or decree of any court or governmental board, agency,
officer, receiver, trustee or liquidator.

(iii) The filing of any lien against the Facilities in the Franchised Area, or against the
City’s underlying real property, due to any act or omission of the Grantee that is
not discharged or fully bonded within thirty (30) days of receipt of actual notice
by the Grantee.

B. The City may place the Grantee in default of this Agreement by giving the Grantee
fifteen (15) days written notice of the Grantee’s failure to timely pay the fees required
under this Agreement or any other charges required to be paid by the Grantee pursuant to
this Agreement. If Grantee does not cure the default within the notice period, the City
may terminate this Agreement or exercise any other remedy allowed by law or equity.

C. If the Grantee, through any fault of its own, at any time fails to maintain all insurance
coverage required by this Agreement, the City may, upon written notice to the Grantee,
immediately terminate this Agreement or secure the required insurance at Grantee’s
expense (which shall be paid to the City within thirty (30) days of receipt of an invoice).
D. Failure by a party to take any authorized action upon default by the other party does not constitute a waiver of the default nor of any subsequent default by the other party. The City’s acceptance of the franchise fee or any other fees or charges for any period after a default by the Grantee is not considered a waiver or estoppel of the City’s right to terminate this Agreement for any subsequent failure by the Grantee to comply with its obligations.

26. **TERMINATION.**

A. This Agreement may be terminated for any of the following reasons:

(i) By either party upon issuance by a court of competent jurisdiction of an injunction in any way preventing or restraining the Grantee’s use of any portion of the Facilities in the Franchised Area and remaining in force for a period of thirty (30) consecutive days.

(ii) By either party upon the inability of the Grantee to use any substantial portion of the Facilities in the Franchised Area for a period of thirty (30) consecutive days due to the enactment or enforcement of any law or regulation or because of fire, flood or other acts of God or the public enemy.

(iii) By either party upon ninety (90) days’ written notice, if the Grantee is unable to obtain or maintain any franchise, permit or governmental approval necessary for the construction, installation or operation of the Facilities or the Grantee’s business.

B. In order to exercise the termination provisions above, the party exercising termination must not itself be in default under the terms of this Agreement beyond any applicable grace or cure period and must provide reasonable written notice to the other party.

27. **INDEMNIFICATION.**

A. The Grantee shall defend, indemnify and hold harmless the City and its elected and appointed officials, agents, boards, commissions and employees from all loss, damages or claims of whatever nature, including attorneys’ fees, expert witness fees and costs of litigation, that arise out of any act or omission of the Grantee or its agents, employees or invitees in connection with the Grantee’s operations in the Franchised Area and that result directly or indirectly in the injury to or death of any person or the damage to or loss of any property, or that arise out of the failure of Grantee to comply with any provision of this Agreement. The City shall in all instances, except for loss, damages or claims resulting from the negligence or willful acts of the City, be indemnified by Grantee against all losses, damages or claims, attorneys’ fees, expenses and costs. The City shall give the Grantee prompt written notice of any claim made or suit instituted that may subject the Grantee or the City to liability under this Section, and Grantee shall have the right to compromise and defend the same at Grantee’s cost and expense provided that Grantee may not enter into any settlement imposing liability or cost on the City. The
City shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of the City’s selection and at the City’s sole cost without relieving the Grantee of any obligations under this Agreement. Grantee’s obligations under this Section survive any termination of this Agreement or the termination of Grantee’s activities in the Franchised Area.

B. The City shall not be liable to Grantee, or its customers, agents, representatives or employees for any claims arising from this Agreement for lost revenue, lost profits, loss of equipment, interruption or loss of service, loss of data or incidental, indirect, special, consequential or punitive damages, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

28. INSURANCE.

A. On or before the effective date of this Agreement, Grantee shall file with the City a certificate of insurance and thereafter continually maintain in full force and effect at all times for the full term of the franchise, at the expense of Grantee, a comprehensive commercial liability insurance policy, including underground property damage coverage, written by a company authorized to do business in the State of Utah with an A.M. Best rating of at least A-IX protecting the City against liability for loss of bodily injury and property damage occasioned by the installation, removal, maintenance or operation of the communications system by Grantee in the following minimum amounts:

(i) Ten Million Dollars ($10,000,000.00) combined single limit, bodily injury and real property damage in any one occurrence; and

(ii) Ten Million Dollars ($10,000,000.00) aggregate.

B. Grantee shall also file with the City Recorder a certificate of insurance for a comprehensive automobile liability insurance policy written by a company authorized to do business in the State of Utah with an A.M. Best rating of at least A-IX for all owned, non-owned, hired and leased vehicles operated by Grantee, with limits not less than Two Million Dollars ($2,000,000.00) each accident, single limit, bodily injury and property damage combined.

C. Grantee shall also maintain, and by its acceptance of any franchise granted hereunder, specifically agrees that it will continually maintain throughout the term of the franchise, workers compensation and employers liability, valid in the State, in the minimum amount of the statutory limit for workers compensation and Five Hundred Thousand Dollars ($500,000.00) for employer’s liability.

D. All liability insurance required pursuant to this section, except for employers’ liability, shall name the Midvale City and its officers, employees, board members and elected officials as additional insureds (as the interests of each insured may appear) and shall be kept in full force and effect by Grantee during the existence of the franchise and until after the removal or abandonment with the City Engineer’s approval of all WCFs, poles,
wires, cables, underground conduits, manholes and any other conductors and fixtures installed by Grantee incident to the maintenance and operation of the system as defined in this Agreement. Failure to obtain and maintain continuously the required insurance shall constitute a substantial violation of this agreement. All policies shall be endorsed to give the City thirty (30) days written notice of the intent to cancel by either Grantee or the insuring company. Provider will provide notice to the City of any intent to amend or cancel for any reason, including non-payment of premium within two (2) business days upon receipt of any such notice. Grantee may utilize primary, excess, and umbrella liability insurance policies to satisfy insurance policy limit requirements in this Section.

E. The City reserves and the Grantee acknowledges the right to modify the insurance requirements contained herein based upon changes in the Utah Governmental Immunity Act, Title 63G, Chapter 7, Utah Code Annotated.

F. In addition to any other remedies the City may have upon the Grantee’s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order the Grantee to stop work hereunder until the Grantee demonstrates compliance with the requirements hereof.

G. Nothing herein contained shall be construed as limiting in any way the extent to which the Grantee may be held responsible for payments of damages to persons or property resulting from the Grantee’s or its subcontractors’ performance of the work covered under this Agreement.

H. It is agreed that the Grantee’s insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this Agreement.

I. Any self-insurance by the Grantee may be disapproved by the City in its sole and absolute discretion.

29. **DAMAGE OR DESTRUCTION OF REPLACEMENT POLES.**

A. The City has no obligation to reimburse the Grantee for the loss of or damage to fixtures, equipment or other personal property of the Grantee, except for loss or damage caused by the negligence of the City or its officers, employees or agents. The Grantee may insure such fixtures, equipment or other personal property for its own protection if it so desires.

B. If the City approves a Grantee proposal to install antennas on a City-owned pole, then in addition to the other requirements of this Agreement the following shall apply:

(i) Grantee shall provide and deliver to the City replacement poles so that a replacement is immediately available to City in case an original pole is damaged.

(ii) If the City uses a replacement pole, then Grantee shall provide another replacement pole.
(iii) Grantee shall remove any pole which is damaged and replace it with a pole that meets the original approved standard within sixty (60) days, weather permitting.

(iv) All performance under this paragraph shall be at Grantee’s expense. The City owns the original pole and all replacement poles.

(v) If applicable, Grantee will provide the City with five (5) replacement light poles. Annually, the City may reasonably request additional poles directly in proportion to the number of light pole attachments added by Grantee, but in no event greater than 10% of the total number of Grantee-provided light poles then in the City’s possession.

(vi) This paragraph does not diminish the plan approval or any other requirement of this Agreement.

C. If the Grantee installs or replaces a pole, the replacement pole shall meet the requirements of Chapter 5.54.

30. **SURRENDER OF POSSESSION.**

Upon the expiration or termination of this Agreement, the Grantee’s right to occupy the Franchised Area and exercise the privileges and rights granted under this Agreement shall cease, and it shall surrender and leave the Franchised Area in good condition, normal wear and tear excepted. Unless otherwise provided, all trade fixtures, equipment, and other personal property installed or placed by the Grantee in the Franchised Area shall remain the property of the Grantee, and the Grantee may, at any time during the term of this Agreement, and for an additional period of ninety (90) days after its expiration, remove the same from the Franchised Area so long as Grantee is not in default of any of its obligations, and shall repair at its sole cost any damage caused by the removal. Any property not removed by the Grantee within the 90-day period becomes a part of the Franchised Area, and ownership vests in the City; or the City may, at the Grantee’s expense, have the property removed (which shall be paid to the City within thirty (30) days of receipt of an invoice). Grantee’s indemnity under this Agreement applies to any post-termination removal operations.

31. **NOTICE.**

A. Except as otherwise provided, all notices required or permitted to be given under this Agreement may be mailed by certified mail, return receipt requested, postage prepaid; or sent via national overnight courier to the following addresses:

**TO THE CITY:**

Midvale City
7505 South Holden Street
Midvale City, Utah 84047
Attention: City Engineer
TO THE GRANTEE:  Crown Castle NG West LLC
                          c/o Crown Castle
                          2000 Corporate Drive
                          Canonsburg, PA 15317
                          Attn:  Ken Simon, General Counsel

                          with a copy to:
                          Crown Castle NG West LLC
                          c/o Crown Castle
                          2000 Corporate Drive
                          Canonsburg, PA 15317
                          Attn:  SCFS Contracts Management

B. Any notice given by certified mail or overnight courier is considered to be received on the date delivered or refusal to accept. Either party may designate in writing a different address for notice purposes pursuant to this Section.

C. All notices of Grantee’s intent to enter the Franchised Area shall be provided to the project manager, or designee, at telephone numbers to be provided to Grantee by separate correspondence upon execution of this Agreement.

32. **TAXES AND FRANCHISES.**

A. The Grantee shall pay any leasehold tax, possessory-interest tax, sales tax, personal property tax, transaction privilege tax, use tax or other exaction assessed or assessable as a direct result of its occupancy of the Franchised Area under authority of this Agreement, including any tax assessable on the City. If laws or judicial decisions result in the imposition of a real property tax on the interest of the City as a direct result of Grantee’s occupancy of the Franchised Area, the tax shall also be paid by the Grantee on a proportional basis for the period this Agreement is in effect.

B. The Grantee shall, at its own cost, obtain and maintain in full force and effect during the term of this Agreement all permits required for all activities authorized by this Agreement.

33. **GOVERNING LAW AND VENUE.**

This Agreement is governed by federal laws, the laws of the State of Utah and local laws. Venue for any litigation or dispute between the parties shall be in the Third District Court of Salt Lake County in Utah. If any claim or litigation between the City and the Grantee arises under this Agreement, the successful party is entitled to recover its reasonable attorneys’ fees, expert witness fees and other costs and expenses incurred in connection with the claim or litigation.
34. **RULES AND REGULATIONS.**

The Grantee shall at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its operations in the Franchised Area, including all laws, ordinances, rules and regulations adopted after the Effective Date. The Grantee shall display to the City, upon request, any permits, or other reasonable evidence of compliance with the law.

35. **RIGHT OF ENTRY RESERVED.**

A. The City may, at any time, enter upon the Franchised Area for any lawful purpose, so long as the action does not unreasonably interfere with the Grantee’s use or occupancy of the Franchised Area. The City shall have access to the Facilities itself only in emergencies.

B. Without limiting the generality of the foregoing, the City and any furnisher of utilities and other services shall have the right, at their own cost, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Franchised Area at any time to make repairs, replacements or alterations that may, in the opinion of the City, be necessary or advisable and from time to time to construct or install over, in or under the Franchised Area all necessary systems or parts and in connection with maintenance, use the Franchised Area for access to other areas in and around the Franchised Area. Exercise of rights of access to repair, to make alterations or commence new construction will not unreasonably interfere with the use and occupancy of the Franchised Area by the Grantee.

C. Exercise of any of the foregoing rights by the City or others pursuant to the City’s rights do not constitute an eviction of the Grantee, nor are grounds for any abatement of fees or any claim for damages.

36. **FORCE MAJEURE.**

Notwithstanding any other provision of this Agreement, the Grantee shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to an event or events reasonably beyond the ability of the Grantee to anticipate and control. “Force majeure” includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes and work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which Grantee’s facilities are attached or are to be attached, or conduits in which Grantee’s facilities are located or are to be located.

37. **SEVERABILITY.**

If any Section, subsection, paragraph or provision of this Agreement becomes void, voidable, or unenforceable for any reason, such provision or provisions shall be deemed severable from the remaining provisions of this Agreement and shall have no effect on the legality, validity, or
constitutionality of any other Section, subsection, paragraph or provision of this Agreement, all of which will remain in full force and effect for the term of the Agreement.

38. MISCELLANEOUS.

This Agreement constitutes the entire agreement between the parties concerning the subject matter stated and supersedes all prior negotiations, understandings and agreements between the parties concerning those matters. This Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions. The captions in this Agreement are for convenience of reference only and shall in no way limit or enlarge the terms and conditions of this Agreement. No provision of this Agreement may be waived or modified except in writing. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other. The relationship between the City and Grantee is at all times solely that of City and Grantee, and not that of partners or joint venturers. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The terms of this Agreement are binding upon the parties hereto and inure to the benefit of the parties’ permitted successors and assigns. There are no third-party beneficiaries of this Agreement.

MIDVALE CITY

________________________________________
Mayor

ATTEST:

________________________________________
City Clerk

APPROVED AS TO FORM:

________________________________________
City Attorney

CROWN CASTLE NG WEST LLC
By: ____________________
Its: ____________________
SUBJECT: Resolution No. 2018-R-35, appointing Laurie Harvey as the Midvale City Representative on the Salt Lake County Animal Services Advisory Committee

SUBMITTED BY: Kane Loader, City Manager

SUMMARY:
Salt Lake County recently passed an ordinance establishing the Salt Lake County Animal Services Advisory Committee. The membership of the committee consists of:

- a representative from each contract City
- a representative from each Metro Township
- a representative of all unincorporated County Community Councils
- the Salt Lake County Mayor or designee
- a member of the Salt Lake County Council or its designee, and
- one member of the public with technical expertise in the field of animal control or shelter services

Laurie Harvey, Midvale Assistant City Manager, has agreed to serve on this committee as the Mayor’s designee for Midvale City. The Mayor is requesting confirmation of the appointment by the City Council.

RECOMMENDED MOTION: “I move we approve Resolution 2018-R-35, appointing Laurie Harvey, Assistant City Manager, to the Salt Lake County Animal Services Advisory Committee”

FISCAL IMPACT: None
MIDVALE CITY, UTAH

RESOLUTION NO. 2018-R-35

A RESOLUTION CONFIRMING THE APPOINTMENT
OF LAURIE HARVEY AS THE MIDVALE CITY REPRESENTATIVE
ON THE SALT LAKE COUNTY ANIMAL SERVICES ADVISORY COMMITTEE

Whereas, Midvale City contracts with Salt Lake County Animal Services for animal control services; and

Whereas, Salt Lake County has established the Salt Lake County Animal Services Advisory Committee; and

Whereas, the County desires one member from each contract City serve on the Advisory Committee; and

Whereas, Mayor Hale desires to appoint Assistant City Manager Laurie Harvey as Midvale City’s representative to serve on the Salt Lake County Animal Services Advisory Committee for a two-year term beginning July 1, 2018 to June 30, 2020; and

Whereas, the City Council desires to consent to this appointment,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MIDVALE, UTAH:

Section 1. The City Council hereby confirms the Mayor’s appointment of Laurie Harvey to serve on the Salt Lake County Animal Services Advisory Committee for a two-year term beginning July 1, 2018 to June 30, 2020.

Section 2. This Resolution shall take effect immediately.

Adopted by the City Council of Midvale, Utah, this 17th day of July 2018.

________________________________________
Robert M. Hale
Mayor

ATTEST:

Rori L. Andreason, MMC
City Recorder

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<tr>
<th>Voting by the City Council</th>
<th>“Aye”</th>
<th>“Nay”</th>
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<tr>
<td>Quinn Sperry</td>
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<td>Paul Glover</td>
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<td>Paul Hunt</td>
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<td>Bryant Brown</td>
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<td>Dustin Gettel</td>
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SUBJECT:
Development Agreement for the MODA Union Project - Resolution No. 2018-R-36

SUBMITTED BY:
Alex Murphy, Associate City Planner

SUMMARY:
On March 15, 2018, the Planning Commission approved a Conditional Use Permit and Preliminary Site Plan for the property located at 7304 South Cottonwood Street. This property includes approximately 3.17 acres located on the northwest corner of the Cottonwood Street (300 West) and Millennium Street intersection. The approved site plan allows 206 residential units and provides the layout of the building, landscape areas, recreational amenity areas, a pedestrian system, parking, and vehicular circulation. The building is divided into two sections, one 2 stories in height and one 5 stories in height, and parking is provided with surface stalls and a parking garage.

This project was reviewed under Chapter 17-7-17 of the Midvale City Municipal Code, the Transit Oriented Development Overlay zone, and complies with the development standards in this ordinance. Section 17-7-17-9 requires a Development Agreement between Midvale City and the property owner/developer for this type of project. The intent of the Development Agreement is to ensure compliance with the development standards of the ordinance and the approved site plan over the course of completion of this project.

A development agreement has been written and has been through a few iterations after review and comments by the property owner, the City Attorney, and Community Development Staff. The attached Development Agreement has been agreed upon by all involved and is now before the City Council for its consideration. The agreement includes the following:

- The agreement will run with the property and will be binding on any successors and assigns of the current Developer/Property Owner in the future.
- Requires developer to develop the property as shown on the approved site plan, which is attached as an exhibit.
- Vests property owner for site plan.
- Term of the agreement is 5 years.

If the City Council is comfortable with this agreement, Staff has prepared a resolution that would authorize the Mayor to sign the Development Agreement on behalf of the City.
FISCAL IMPACT:

N/A

STAFF RECOMMENDATION:

Staff recommends that the City Council approves Resolution No. 2018-R-36, authorizing the Mayor to enter into the Development Agreement for the MODA Union Project, as presented.

RECOMMENDED MOTION:

“I move that we adopt Resolution 2018-R-36, authorizing the Mayor to enter into the Development Agreement for the MODA Union Project, as presented.”

ALTERNATE MOTION:

“I move that we table Resolution 2018-R-36 to address the following questions/concerns:

1. ...
2. ...”

Attachments:

- Vicinity Map
- Resolution
- Development Agreement
MIDVALE CITY, UTAH
RESOLUTION 2018-R-36

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT BETWEEN MIDVALE CITY CORPORATION AND JF CAPITAL, LLC FOR THE MODA UNION PROJECT

WHEREAS, pursuant to Section 10-9a-102 (2) of the Utah State Code, Midvale City (the “City”) is authorized as follows: “To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with landowner’s private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law”; and

WHEREAS, the City adopted a Transit Oriented Development Overlay zone (“Overlay Zone”) to encourage a mix of residential and commercial uses to help provide the critical mass necessary to support existing commercial, attract new and viable businesses and support the growth of the region. The Overlay Zone includes development standards to be applied in approving or disapproving a proposed development; and

WHEREAS, the Overlay Zone requires a development agreement between the property owner and the City to accompany an approved development plan to ensure the property owner complies with the development standards of the Overlay Zone, conditional use permits and site plan approvals, and allows the property owner the right to develop in accordance with the approved plan for a specified period of time, not to exceed five years; and

WHEREAS, the parties have negotiated such agreement, and, as of the date of this Resolution, agree to enter into said agreement; and

WHEREAS, the City Council has reviewed said Development Agreement and agrees that entering into such agreement will help further the goals of the Midvale City General Plan 2016 and compliance with the Overlay Zone land use regulations.
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MIDVALE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. The Midvale City Council has reviewed the attached Development Agreement between Midvale City Corporation and JF Capital, LLC (“Developer”).

Section 2. The Midvale City Council, through its understanding of the goals of the Midvale City General Plan, the Overlay Zone land use regulations and the proposed MODA Union Project, believes it is in the best interest of the Developer and the City to enter into such Development Agreement.

Section 3. The Midvale City Council on this date does hereby authorize the Mayor to enter into the attached agreement on behalf of the City.

PASSED AND APPROVED this __________ day of ____________, 2018.

________________________________________
Robert M. Hale, Mayor

ATTEST:

________________________________________
Rori Andreason, MMC
City Recorder

Voting by City Council        “Aye”       “Nay”
Bryant Brown                _______      _____
Dustin Gettel               _______      _____
Paul Glover                 _______      _____
Paul Hunt                   _______      _____
Quinn Sperry                _______      _____
When recorded, return to:

Midvale City
7505 S. Holden Street
Midvale City, UT 84047
Attn: Midvale City Recorder

DEVELOPMENT AGREEMENT
(MODA UNION PROJECT)
Midvale City, Utah

THIS DEVELOPMENT AGREEMENT (this “Development Agreement”) is entered into as of this ___ day of ___________, 2018 by and between JF Capital, LLC, a Utah limited liability company (“Developer”), and Midvale City Corporation, a Utah municipal corporation (“Midvale City” or “City”). Developer and City are sometimes referred to herein, individually, as a “Party,” and collectively, as the “Parties.”

A. Property. Developer is the owner of certain real property within Midvale City (as more particularly defined below, the “Property”).

B. MODA Union Project. Developer intends to construct on the Property a multi-family housing project (as more particularly defined below, the “MODA Union Project”).

C. Zoning. Property is zoned, pursuant to the City’s Zoning Ordinance, as Transit Oriented Development Overlay (hereinafter referred to as “TODO Zone”). This zone establishes the procedural and substantive requirements for approval by the City for development on the Property. Section 17-7-17.9 of the Midvale Municipal Code requires the Property to develop in accordance with this Agreement, including the development plans contained herein.

D. Conditional Use Permit and Preliminary Site Plan. The Midvale City Planning Commission approved a Conditional Use Permit allowing the multi-family/medium and high density residential development use included in the MODA Union Project and Preliminary Site Plan for the MODA Union Project on March 14, 2018. The conditions of approval of the Conditional Use Permit and Preliminary Site Plan are set forth in the letter from the City to Developer attached as Exhibit B.

E. Final Site Plan. The City approved the Final Site Plan for the MODA Union Project on ____________ __, 2018, subject to the Developer’s execution of this Agreement, and a copy of the Final Site Plan stamped as “approved” by the City is attached as Exhibit C (the “Final Site Plan”).

F. State Authority. Pursuant to Section 10-9a-102 of the Utah Code, Midvale City is authorized to enter into development agreements as provided therein and, as a legislative act, desires to enter into this Development Agreement in order to obtain the benefits for the City provided herein.
NOW THEREFORE, in consideration of the above recitals, terms of this Development Agreement, and the mutual benefits to be derived herefrom, the Parties agree as follows:

Article 1
The MODA Union Project

1.1 Legal Description of Property. The property owned by Developer that is covered by this Agreement consists of approximately 3.17 acres of land located at 7236-7304 South Cottonwood Street, at the intersection of Cottonwood Street and Millennium Street, and is more fully described in Exhibit A (the “Property”).

1.2 Description of Project. The Developer’s planned project for the Property consists of a 206-unit apartment building. The building includes one level of podium style parking with 207 parking stalls, four stories of residential units above, a two-story leasing and fitness center component, indoor and outdoor recreation amenity space, 85 surface parking stalls, landscaping, and public sidewalk improvements. These project improvements are shown and described on the Final Site Plan.

1.3 The MODA Union Project Approval.

1.3.1 Approval. Pursuant to the provisions of Title 17 of the Midvale Municipal Code and the TODO Zone (Chapter 17-7-17 of the Midvale City Municipal Code) in effect as of the date of this Agreement (together, the “Zoning Ordinance”), the MODA Union Project has been approved by the City, subject to the provisions of the Zoning Ordinance in effect on the date hereof, the Conditional Use Permit and Conditional Use Permit Conditions, the Final Site Plan, and this Agreement.

1.3.2 Vested Rights. The City acknowledges and agrees that Developer has the vested right to develop and construct the MODA Union Project in accordance with the provisions of the Zoning Ordinance in effect on the date hereof, the Conditional Use Permit and Conditional Use Permit Conditions, the Final Site Plan, and this Agreement; provided, however, that Developer acknowledges and agrees that the construction and operation of the MODA Union Project is subject to all Applicable Laws (as defined in Section 3.3).

1.3.3 Reserved Legislative Powers and Zoning Authority of the City. Notwithstanding the provisions of Section 1.3.2, Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations, and exceptions set forth herein are intended to reserve to the City all of its police power that cannot, as a matter of law, be limited by contract. The City further agrees that notwithstanding the retained power of the City to enact legislation under its police powers, such legislation shall only be applied to modify the vested rights of Developer under the terms of this Agreement if such legislation is based upon policies, facts, and circumstances that are sufficient to satisfy the compelling countervailing public interest exception to the vested rights doctrine of the State of Utah. The City further agrees that any such proposed legislative changes that may affect the vested rights of the Project shall be of general application to all development activity within the City.
City further agrees that unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to any proposed legislative change that may modify vested rights under this Agreement under the compelling, countervailing public interest exception to the vested rights doctrine.

1.3.4 Amendments to Final Site Plan. In the event Developer desires in the future to amend the Final Site Plan in any respect, and if the City approves of such amendment in accordance with all Applicable Laws, including without limitation, the zoning ordinances in effect as of the date of such amendment, the Parties may enter into an agreement that approves the substitution of the new approved Final Site Plan to replace the original Final Site Plan. Notwithstanding anything contained herein, Developer shall have no vested right to such amendment as provided above, but rather the approval by the City of any such amendment to the Final Site Plan shall be subject to Developer’s compliance with the then Applicable Laws, including without limitation the then existing zoning ordinances.

Article 2
Conditions of Master Planned Development

2.1 Final Site Plan. Developer agrees that it will construct the MODA Union Project as shown on the Final Site Plan and in accordance with the Conditional Use Permit Conditions.

2.2 Agreement to Comply with Specific Conditions of Approval.

2.2.1 Property Consolidation and Right-of-way Dedication. Prior to the commencement of any development activity on the Property, the Property shall be consolidated into a single parcel and the right-of-way shown on the Final Site Plan shall be dedicated to Midvale City. Developer agrees to create the recordable documents for this to occur. These documents shall be reviewed and approved by Midvale City before they are recorded in the Salt Lake County Recorder’s Office.

2.2.2 Fencing and Screening. Developer agrees that:

2.2.2.1 Prior to the issuance of the first Certificate of Occupancy, all trash collection and recycling areas; service areas; mechanical equipment; and loading docks shall be screened on all sides so that no portion of such areas is visible from public streets and alleys and adjacent properties.

2.2.2.2 Prior to the issuance of the first Certificate of Occupancy, a sight-obscuring, visual barrier fence conforming to the fence requirements of the Zoning Ordinance shall be installed along the north and west property lines.

2.2.3 Landscaping and Recreational Amenities. Developer agrees that:

2.2.3.1 All landscaping and recreational amenities must be installed and in working order in accordance with the Final Site Plan prior to the
issuance of the first Certificate of Occupancy with respect to the MODA Union Project. Upon Developer’s completion of the required improvements, the City shall inspect the improvements for compliance with the approved plan and accept the improvements upon a finding of compliance. Developer shall warranty all improvements, including landscaping, for twelve months from the date of City acceptance. A final inspection of the landscaping and recreational amenities shall occur prior to the expiration of the warranty period. It shall be Developer’s responsibility to replace or repair any improvements that did not withstand the twelve month warranty period.

2.2.3.2 If seasonal conditions or site construction issues make such installation unfeasible at the time Developer requests such Certificate ofOccupancy, Developer shall guarantee the same through an irrevocable commitment of funds in the form of a check to be provided by Developer and deposited by the City in a reserve account established for such purpose. The fund amount shall be in the amount that the City estimates it will cost to purchase the materials and to complete the landscaping and recreational amenities work.

2.2.3.3 In the event Developer deposits funds with the City pursuant to 2.2.3.2, then the landscaping and recreational amenities shall be completed within six months of the first Certificate of Occupancy for the MODA Union Project, whereupon the irrevocable commitment of funds shall be released to Developer. If Developer fails to complete this requirement within the allotted time frame, the irrevocable commitment of funds shall be made available to the City to complete the landscaping and recreational amenities (with any excess of funds being released to Developer). The use of the above-described funds shall be the City’s sole remedy in the event of any such failure by Developer.

2.2.4 Public Sidewalk Improvements. All public sidewalk improvements must be constructed and installed in accordance with the Final Site Plan, including without limitation concrete, street trees, trees wells/grates, and benches, before the first Certificate of Occupancy may be issued with respect to the MODA Union Project.

**Article 3**

**General Terms and Conditions**

3.1 Rights of Access. For the purpose of assuring compliance with this Development Agreement, upon reasonable advanced notice to Developer, representatives of the City shall have the right of access to the Property and all buildings and structures thereon without charges or fees, during the period of construction for the purposes of this Agreement. Such representatives shall comply with all safety rules of Developer and its general contractor, including signing a
standard construction area release. In addition, upon reasonable advanced notice to Developer, the City shall have the right to enter the Property or any buildings or improvements thereon at all reasonable times for the purpose of exercising the City’s remedies, including cure rights contained in this Agreement and for the construction, reconstruction, maintenance, repair or service of any public improvements or public facilities located on the Property.

3.2 Construction of Agreement. This Development Agreement shall be constructed and interpreted to ensure that the Developer complies with the requirements and conditions of the Conditional Use Permit, Conditional Use Permit Conditions, Final Site Plan and the Zoning Ordinances.

3.3 Applicable Laws. Where this Development Agreement refers to laws of general applicability to the MODA Union Project, then, that language shall be deemed to refer to ordinances which apply generally to other similarly situated, subdivided properties within Midvale City and any other applicable laws, rules or regulations, which apply to Developer’s ownership, development and use of the Property, whether or not in existence on the date hereof, including without limitation any such ordinances, rules or regulations in existence on the date hereof that are subsequently amended or deleted (individually and collectively, the “Applicable Laws”). Except as otherwise provided in Section 1.3.3, the Applicable Laws adopted on or after the date hereof shall not apply to the MODA Union Project if such laws would have a materially adverse effect on the Developer’s vested rights described herein.

3.4 Agreements to Run with the Land. This Development Agreement shall be recorded against the Property. The agreements contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors and assigns of the Developer in the ownership or development of any portion of the MODA Union Project or the Property.

3.5 Release of Developer. In the event of a transfer of the Property, Developer shall obtain an assumption by the transferee of the Developer’s obligations under this Development Agreement and, in such an event, the transferee shall be fully substituted as Developer under this Development Agreement and the Developer executing this Development Agreement shall be released from any further obligations with respect to this Development Agreement.

3.6 Duration; Survival of Developer’s Obligations and Rights. The term of this Development Agreement shall commence on the date this Development Agreement is executed by both Parties and shall continue for a period of five (5) years pursuant to Section 17-7-17.9 of the Midvale Municipal Code unless either terminated as provided herein or by agreement by both parties. Notwithstanding the foregoing and subject to applicable laws, Developer’s rights, remedies, obligations and responsibilities under this Development Agreement shall survive and continue beyond termination of this Development Agreement as to site plans that have been given final approval and have been recorded and for all offsite or other improvements that Developer was obligated to construct or make in connection with or as a condition of such final approval.
3.7 **Notices.** Any notice, confirmation or other communication hereunder shall be given in writing by hand delivery (receipted), nationally-recognized, overnight courier service, United States mail, or facsimile (confirmed) to the following addresses or numbers:

**Midvale City:**

Midvale City Manager  
MIDVALE CITY CORPORATION  
7505 S. Holden Street  
Midvale City, UT 84047  
FAX: (801) 567-0518

Midvale City Community Development Director  
MIDVALE CITY CORPORATION  
7505 S. Holden Street  
Midvale City, UT 84047  
FAX: (801) 567-0518

Midvale City Attorney  
MIDVALE CITY CORPORATION  
7505 S. Holden Street  
Midvale City, UT 84047  
FAX: (801) 567-0518

**Developer:**

JF Capital, LLC  
1148 W. Legacy Crossing Blvd., Suite 400  
Centerville, UT 84014  
C/O Jake Wood

Any Party hereto may change its address by notice given to the other Parties in the manner required for other notices above.

3.8 **Savings Clause; Severability.** If any provision of this Development Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remaining provisions of this Development Agreement, or the application of such provision to the persons or circumstances other than those to which it is held invalid, shall not be affected thereby or considered invalid. If any part or provision of this Development Agreement shall be determined to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Development Agreement except that specific provision determined to be unconstitutional, invalid, or unenforceable. If any condition, covenant, or other provision of this Development Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
3.9 **No Third-Party Rights.** This Development Agreement does not create any third-party beneficiary rights. It is specifically understood by the Parties that: (a) the development of the Property under this Development Agreement is a private development, (b) the City has no interest in or responsibilities for or duty to third parties concerning any improvements on the Property, and (c) Developer shall have full power over and exclusive control of the Property subject to the obligations of Developer under this Development Agreement and all Applicable Laws.

3.10 **Integration.** Except as otherwise specified and agreed in writing, this Development Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind or nature, and may only be modified by a subsequent writing duly executed by the Parties hereto. By this reference, the foregoing recitals and the attached exhibits are incorporated in and made a part of this Development Agreement by this reference.

3.11 **Further Assurances.** The Parties to this Development Agreement agree to reasonably cooperate with each other in effectuating the terms and conditions of this Development Agreement and, further, agree to execute such further agreements, conveyances, and other instruments as may be required to carry out the intent and purpose of this Development Agreement.

3.12 **Waiver: Time of Essence.** No failure or delay in exercising any right, power, or privilege hereunder on the part of any Party shall operate as a waiver hereof. No waiver shall be binding unless executed in writing by the Party making the waiver. Time is of the essence of this Development Agreement.

3.13 **Obligations and Rights of Mortgage Lenders.** Developer may finance the Property and may execute one or more mortgages, deeds of trust, or other security arrangements with respect to the Property and may assign this Development Agreement to a holder of any such financial instrument without prior written notice to or consent of the City. The holder of any mortgage, deed of trust, or other security arrangement with respect to the Property, or any portion thereof, shall not be obligated under this Development Agreement by virtue of such assignment to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Development Agreement which pertain to the Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Property, or such portion thereof, subject to all requirements and obligations of this Development Agreement and any pro rata claims for payments or charges against the Property, or such portion thereof, deed restrictions, or other obligations which accrue prior to the time such holder comes into possession. Nothing in this Development Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Development Agreement, and, as would be the case in any assignment, the purchaser of the Property from the holder shall be subject to all of the terms and conditions of this Development Agreement, including the obligation to complete all required amenities and improvements. Additionally, nothing herein shall be so construed as to prohibit a mortgage or
deed of trust holder from providing security for the standard installation of development improvements pursuant to the Applicable Laws.

3.14 Disputes. In the event that a dispute arises in the interpretation or administration of this Development Agreement or if the default mechanism contained herein shall not resolve a default under this Development Agreement, then prior to taking any action to terminate this Development Agreement every continuing dispute, difference, and disagreement shall be referred to a single mediator agreed upon by the Parties. If no single mediator can be agreed upon, a mediator or mediators shall be selected from the mediation panel maintained by the United States District Court for the District of Utah in accordance with any designation process maintained by such court. The Parties shall mediate such dispute, difference, or disagreement in a good faith attempt to resolve such dispute, difference, or disagreement. The mediation shall be non-binding. Notwithstanding the foregoing, the Parties agree that the City retains the right to exercise enforcement of its police powers in the event Developer is in direct violation of a provision of this Development Agreement or of any Applicable Law.

3.15 Institution of Legal Action; Restriction on Remedies. In the event that the mediation does not resolve a dispute, either Party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in this Development Agreement or to enjoin any threatened or attempted violation of this Development Agreement, or to terminate this Development Agreement; provided, however, the Parties agree that in no event shall either Party seek or be entitled to money damages for any breach, default or violation of this Development Agreement. Legal actions shall be instituted in the Third Judicial District Court of the County of Salt Lake, State of Utah.

3.16 Counterparts. This Development Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

3.17 Costs and Expenses; Attorneys’ Fees. Except as otherwise specifically provided herein, each Party shall bear its own costs and expenses (including legal and consulting fees) in connection with this Development Agreement and the negotiation of all agreements and preparation of documents contemplated by this Development Agreement. In the event of a breach or dispute arising under this Development Agreement, the non-breaching Party or the Party prevailing in such dispute shall be entitled to recover from the breaching or non-prevailing Party its costs, including, without limitation, court costs, reasonable attorneys’ fees, expert witness fees, fax, copy, telephone, and other incidental charges.

3.18 Temporary Land Use Regulations. The Project shall be excluded from any moratorium or other temporary land use regulations adopted pursuant to Utah Code Ann. § 10-9a-504, unless such a temporary land use regulation is found on the record by the City Council to be necessary to avoid jeopardizing a compelling, countervailing public interest.

IN WITNESS WHEREOF, this Development Agreement has been executed by Midvale City Corporation, acting by and through the Midvale City Council, and by a duly authorized representative of Developer as of the above stated date.
CITY:

MIDVALE CITY CORPORATION

By: _________________________________
    Robert M. Hale, Mayor

ATTEST:

________________________________
Rori L. Andreason, MMC
City Recorder

APPROVED AS TO FORM:

________________________________
Lisa A. Garner
City Attorney

STATE OF UTAH )
    : ss
COUNTY OF SALT LAKE )

On the ___ day of ____________, 2018, personally appeared before me Robert M. Hale, who being by me duly sworn did say he is the Mayor of Midvale City Corporation, and that the within and foregoing instrument was signed on behalf of such Corporation.

________________________________
Notary Public
Residing at: _________________________________

My Commission Expires:

___________________________
DEVELOPER:

JF Capital, LLC
a Utah limited liability company

By: ________________________________
Its: ________________________________

STATE OF UTAH )
: ss
COUNTY OF SALT LAKE )

On the ___ day of _________________, 2018, personally appeared before me
__________________________, who being by me duly sworn did say he/she is the __________ of JF
Capital, LLC, a Utah limited liability company, and that he/she had signed the within and foregoing
instrument on behalf of such limited liability company.

______________________________
Notary Public
Residing at: ________________________________

My Commission Expires:

______________________________

NOTARY SIGNATURE AND SEAL
EXHIBIT A

Legal Description of the Property

That certain real property located in Salt Lake County, Utah, as more particularly described as follows:

Parcel 1: (21-25-251-003)
Commencing at a point which is South 1334.91 feet and South 88°33'52" East 22.33 feet, more or less, and South 87°28' East 5.54 feet and South 182.00 feet from the North Quarter Corner of Section 25, Township 2 South, Range 1 West, Salt Lake Base and Meridian; thence East 188.00 feet, more or less, to the West line of Cottonwood Street; thence South 00° 20' West 192.56 feet along said West line; thence West 175.00 feet, more or less, thence North 50.00 feet; thence West 13.0 feet; thence North 142.51 feet, more or less, to the point of beginning.

Parcel 2: (21-25-251-016)
Beginning at a point South 1710.37 feet and East 240.86 feet from the North quarter corner of Section 25, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running thence South 0°59'00" West 272.29 feet; thence North 89°43'00" West 25.0 feet; thence North 7.58 feet; thence North 89°43'00" West 363.00 feet; thence North 264.14 feet; thence East 367.69 feet, more or less; thence South 89°40'00" East 25.0 feet to the point of beginning.

Excepting therefrom the following described property:

A parcel of land in fee for the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in the Southwest quarter Northeast quarter of Section 25, Township 2 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the Southeast Corner of said entire tract at a point which is 521.321 meters South and 73.414 meters East and 82.994 meters South 00°59'00" West from the North Quarter Corner of said Section 25; and running thence North 89° 43'00" West 7.620 meters along the Southerly boundary line of said entire tract; thence North 2.310 meters along a West boundary line of said entire tract; thence North 89°43'00" West 8.576 meters along the Southerly boundary line of said entire tract; thence North 46°27'59" East 11.899 meters; thence South 89°39'00" East 7.750 meters to the Easterly boundary line of said entire tract; thence South 00°59'00" West 10.541 meters along said Easterly boundary line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Overall Combined Description
Beginning at a point which is South, 1517.71 feet and East, 27.86 feet from the North Quarter Corner of Section 25, Township 2 South, Range 1 West, Salt Lake Base and Meridian: said North Quarter Corner being North 00°18'38" East, along the Basis of Bearing, 2640.92 feet and South 89°41'48" East, 2617.36 feet from the West Quarter Corner of said Section 25; and running thence East, 188.00 feet to the West line of Cottonwood Street; thence South 00°20'00" West, along said West line, 192.51 feet; thence East, 1.12 feet; thence South 89°40'00" East,
25.00 feet; thence South 00°59'00" West, 237.71 feet; thence North 89°39'00" West, 25.43 feet; thence South 46°27'59" West, 39.04 feet; thence North 89°43'00" West, 337.16 feet; thence North, 262.89 feet along the easterly deed line of the G6 Hospitality Property LLC (Entry No. 11465272 in Book 10053 at Page 3535) and along an existing fence line to a point on the deed line of the LQ Properties LLC (Entry No. 9664413 in Book 9267 at Page 6701); thence along said LQ Properties deed line the following four (4) courses: East, 194.96 feet; thence North, 50.00 feet; thence West, 13.00 feet; thence North, 142.51 feet to the point of beginning.

Contains: 3.17 Acres
EXHIBIT B

Conditional Use Permit Conditions
March 15, 2018

Matt Scott
JF Capital
1148 Legacy Crossing Blvd #400
Centerville, UT 84014
matt@jfcapital.com

RE: Conditional Use Permit / Preliminary Site Plan: MODA Union
(7304 South Cottonwood Street)

Mr. Scott:

This letter is to confirm action taken by the Midvale City Planning Commission at their regularly scheduled meeting on Wednesday, March 14, 2018. It was the decision of the Planning Commission to approve the conditional use permit / preliminary site plan for the proposed multi-family residential project at 7304 South Cottonwood Street with the following conditions of approval:

1. The applicant shall prepare and submit a Final Site Plan application to be reviewed and approved by the City Engineer, Fire Marshal, and City Planner.
2. All requirements of the Building Official, Fire Marshal, and City Engineer shall be satisfied.
3. A sight obscuring, visual barrier fence conforming to the fence requirements of the TODO zone shall be installed along the north and west property boundaries.
4. A Snow Removal/Storage Plan shall be prepared and submitted with the Final Site Plan application.
5. A Lighting Plan, to include light locations, fixture details, and photometric information, shall be prepared and submitted with the Final Site Plan application.
6. Trash collection and recycling areas, service areas, mechanical equipment and loading docks shall be screened on all sides so that no portion of such areas is visible from public streets and alleys and adjacent properties.
7. All signage on the property shall comply with the requirements of the TODO zone and sign permits shall be obtained prior to installation of such signage.
8. The subject parcels shall be consolidated into a single lot and the right-of-way dedicated to Midvale City prior to issuance of any building permits.
9. A Development Agreement, as required by Section 17-7-17.9 of the Midvale City Municipal Code, shall be executed by the Midvale City Council prior to issuance of any Building Permit for the project.
A copy of the Final Site Plan application has been included. Should you have any additional questions, please contact our office. My direct contact information is available below.

Sincerely,

Alex Murphy

ALEX MURPHY
ASSOCIATE PLANNER | MIDVALE CITY, UT
A: 7505 S HOLDEN ST; MIDVALE, UT 84047
E: AMURPHY@MIDVALE.COM
P: 801.567.7231
EXHIBIT C

Final Site Plan
SETBACK REQUIREMENTS (17-7-17.3A)

1. FRONT SETBACK = 15' FROM BACK OF CURB.
2. REAR SETBACK = 0'
3. SIDE YARD SETBACK = 0'
4. SETBACK FROM ADJACENT SINGLE FAMILY ZONE = 15' MIN.
   A. 3 STORY STRUCTURES = 37'
   B. 4 STORY STRUCTURES = 66'
   C. 5 STORY STRUCTURES = 83'

NOTE THERE ARE SOME EXCEPTIONS ALLOWED FOR VARIOUS ELEMENTS SUCH AS PROJECTIONS, SILL, CORNERS, CHIMNEYS, FLUES, ORNAMENTAL FEATURES, STAIRS, LANDINGS, ETC. SEE CODE FOR SPECIFICS.

THE EXHIBIT AT THE LEFT SHOWING THE INTERPRETATION OF THE SETBACKS LISTED ABOVE FOR THIS PARTICULAR PROJECT HAS BEEN APPROVED BY PHILLIP HILL, ASSISTANT CITY MANAGER/DIRECTOR OF COMMERCIAL DEVELOPMENT.

BUILD TO AND TYPICAL FRONT SETBACK LINE (15' BEHIND BACK OF CURB)

3 STORY STRUCTURE ALLOWED THIS SIDE OF ORANGE LINE

4 STORY STRUCTURE ALLOWED THIS SIDE OF BLUE LINE

5 STORY STRUCTURE ALLOWED THIS SIDE OF PINK LINE

PROPERTY LINE (TYPICAL)

PROPERTY LINE (TYPICAL)
The designs shown and described herein including all technical drawings, graphic representation & models thereof, are the copyrighted work of Think Architecture, Inc. and cannot be copied, duplicated, or commercially exploited in whole or in part without the sole and express written permission from Think Architecture, Inc.
The designs shown and described herein including all technical drawings, graphic representation & models thereof, are the copyrighted work of Think Architecture, Inc. and cannot be copied, duplicated, or commercially exploited in whole or in part without the sole and express written permission from THINK Architecture, Inc.
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MODA UNION
CORNER OF MILLENNIUM WAY AND COTTONWOOD STREET, MIDVALE UT
AREA OF NON-DROUGHT TOLERANT PLANTS

1. CONTRACTOR SHALL BE RESPONSIBLE FOR BECOMING AWARE OF ALL RELATED EXISTING CONDITIONS, UTILITIES, PIPES, AND STRUCTURES, ETC. PRIOR TO BIDDING AND CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING ALL UTILITY COMPANIES FOR FIELD LOCATION OF ALL UNDERGROUND UTILITY LINES, INCLUDING DEPTHS, PRIOR TO ANY EXCAVATION. CONTRACTOR SHALL TAKE SOLE RESPONSIBILITY FOR PLANTING NOTES KNOWN TO THE OWNER'S REPRESENTATIVE WILL RESULT IN CONTRACTORS LIABILITY TO RELOCATE THE MATERIALS.

ROCK MULCH
ROCK MULCH TO BE 4" MIN. LAYER OF 2" MIN. ROCK PLACED OVER WEED BARRIER FABRIC. PROVIDE SAMPLE TO LANDSCAPE ARCHITECT FOR APPROVAL PRIOR TO INSTALLATION. ROCK MULCH TO BE AT LEAST LEVEL WITH AND NOT MORE THAN 1" ABOVE ADJACENT CURBS, WALKS OR CONCRETE PLANTING EDGES.

BRONZE 14 FINETEX.
(70 EACH) TO BE MODEL: CABANA CLUB ALUMINUM SLAT SIDE CHAIR. PRODUCT NUMBER: CHAIR AT DINING TABLE.
MANUFACTURED BY COYOTE OUTDOOR LIVING, CARROLLTON, TX. PHONE: 855.520.1559, WWW.COYOTEOUTDOOR.COM. STONE/SIDING COLOR AS DETERMINED BY OWNER.
MANUFACTURER'S STANDARD COLOR: SONORA.
10. TRASH RECEPTACLES
MANUFACTURED BY DOGIPOT, ORLANDO, FL. PHONE: 800.364.7681, WWW.DOGIPOT.COM. COLOR TO BE MANUFACTURER'S STANDARD COLOR: CANVAS TEAL, NO.: 5456.
11. TRASH RECEPTACLES
MANUFACTURED BY DOGIPOT, ORLANDO, FL. PHONE: 800.364.7681, WWW.DOGIPOT.COM. COLOR TO BE MANUFACTURER'S STANDARD COLOR: MOCA.
12. TRASH RECEPTACLES
MANUFACTURED BY DOGIPOT, ORLANDO, FL. PHONE: 800.364.7681, WWW.DOGIPOT.COM. COLOR TO BE MANUFACTURER'S STANDARD COLOR: BRONZE 14 FINETEX.
13. TRASH RECEPTACLES
MANUFACTURED BY DOGIPOT, ORLANDO, FL. PHONE: 800.364.7681, WWW.DOGIPOT.COM. COLOR TO BE MANUFACTURER'S STANDARD COLOR: CANVAS TEAL, NO.: 5456.
14. TRASH RECEPTACLES
MANUFACTURED BY DOGIPOT, ORLANDO, FL. PHONE: 800.364.7681, WWW.DOGIPOT.COM. COLOR TO BE MANUFACTURER'S STANDARD COLOR: BRONZE 14 FINETEX.
15. TRASH RECEPTACLES
MANUFACTURED BY DOGIPOT, ORLANDO, FL. PHONE: 800.364.7681, WWW.DOGIPOT.COM. COLOR TO BE MANUFACTURER'S STANDARD COLOR: BRONZE 14 FINETEX.
IRRIGATION LEGEND:

- **W:** Sprinkler Head
- **M:** Master Valve
- **S:** Isolation Valve
- **MV:** Rainbird WR2 Series Wireless Rain/Freeze Sensor (not shown)
- **SS:** Rainbird RWS (Root Watering System): RWS-B-1402 with 0.5 GPM bubbler, (2) RWS per each tree
- **R:** Rainbird Pressure-Compensating Emitter: PC-07 with Rainbird Universal 1/4" tubing stake: TS-025
- **F:** Flow sensor: Rainbird FS150P
- **V:** Quick Coupler: Rainbird 44-LRC, with matching key, downstream of filter
- **B:** Backflow Preventer: Zurn/Wilkens 375XL, reduced pressure principle assembly, sized at 1-1/4"
- **P:** Backflow Preventer Assembly, see detail
- **H:** Hunter MP2000-90 Rotator (Black) on Hunter Pros-04-PRS40 Spray Body
- **N:** Rainbird PEB Series Electric Control Valve size as indicated
- **D:** Dividing line between two separate drip irrigation zones
- **L:** Lateral line (Circuit Pipe), PVC Sch 40, size as indicated
- **M:** Main line (Pressure Pipe), PVC Sch 40, size 1.5" unless otherwise indicated
- **C:** Controller, Rainbird ESP-LXMSM8 controller, interior wall mounted
- **I:** Isolation Valve, brass ball valve, size to match main line
- **A:** Master Valve: Rainbird 150-PEB valve
- **O:** Rainbird PEB Series Wireless Rain/Freeze Sensor (not shown)
- **V:** Flow in GPM
- **S:** Valve Size
- **X:** Valve Number - Controller Station
- **X.:** Flow in GPM
- **X:** Valve Size
- **X:** Valve Number - Controller Station
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MODA UNION
CORNER OF MILLENNIUM WAY AND COTTONWOOD STREET, MIDVALE UT

D404
12 JAN. 2018
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MODA UNION
CORNER OF MILLENNIUM WAY AND COTTONWOOD STREET, MIDVALE UT

MATERIAL CHART

- **WINDOWS**
  - Material: Vinyl
  - Manufacturer: TBD
  - Color: White

- **GARAGE DOORS**
  - Material: Aluminum
  - Manufacturer: Rytec Spiral LH or equal
  - Color: Clear Anodized

- **ALUMINUM STOREFRONT**
  - Material: Aluminum/Glass
  - Manufacturer: TBD
  - Color: Clear Anodized

- **STUCCO**
  - Material: Synthetic Stucco
  - Manufacturer: TBD
  - Color: Pure White SW 7005

- **SHERWIN-WILLIAMS METAL PANEL SIDING**
  - Material: Steel Panels
  - Manufacturer: AEP Span, MBCI or Equal
  - Color: Light Stone and Terra Cotta
  - Size: Flex Series 1.2FX30-12c

- **FIBER CEMENT PANEL SIDING**
  - Material: Fiber Cement Reveal Panel 'Smooth' w/ Aluminum Trim
  - Manufacturer: TBD
  - Color: SW 7623 Cascades
  - SHERWIN-WILLIAMS

- **STONE VENEER**
  - Material: Manufactured Stone
  - Manufacturer: Creative Mines
  - Color: Karma Craft Inner Piece
  - Size: 5.625" H x 13"-22" W

- **PARAPET CAP**
  - Material: Painted Steel
  - Manufacturer: Firestone or Equal
  - Color: Charcoal Gray

- **RAILING**
  - Material: Powder Coated Steel Laser Cut Pattern
  - Manufacturer: TBD
  - Color: TBD

- **STONE CAP/WATER LINE**
  - Material: Manufactured Stone
  - Manufacturer: Creative Mines
  - Color: Twine
ITEM: Approve Ordinance No. 2018-O-06, amending Title 6 of the Midvale Municipal Code

SUMMARY:

After multiple discussions by the City Council, it was determined that it was necessary to codify the regulation of the commercial sale of certain animals within Midvale City as well as pet purchase protections for consumers. The City Council was presented with proposed ordinances with respect to the sale of certain animals and pet purchase protections in its regular meeting on June 19, 2018. It was determined that it is in the best interest of the public health, safety, and welfare of the City to prohibit the sale of any dog, cat, or rabbit in any pet shop, retail business, or other commercial establishment located in the City of Midvale, unless the dog, cat or rabbit was obtained from a city or county animal shelter or animal control agency, a humane society, or a non-profit rescue organization. The proposed ordinance prohibits such commercial sale of specified animals. It was further determined that it is in the best interest of the citizens of Midvale to provide certain protections for those individuals who purchase an animal that later becomes ill or is determined to have congenital or hereditary conditions. The proposed ordinance makes it unlawful for any person to sell any animal that is ill or suffers from a congenital or hereditary condition without disclosing such to purchaser. The proposed ordinance also provides the obligations and remedies under which the protections may be realized.

Fiscal Impact: None

STAFF’S RECOMMENDATION AND MOTION:

I move that we approve Ordinance No. 2018-O-06, amending Title 6 of the Midvale Municipal Code as provided in the attached proposed amendments.

Attachments: Proposed amendments to Title 6
MIDVALE CITY, UTAH
ORDINANCE NO. 2018-O-06

An Ordinance Amending Title 6 of the Midvale Municipal Code

WHEREAS, Midvale City Council has determined that it is in the best interest of the public health, safety, and welfare of the City to prohibit the sale of any dog, cat, or rabbit in any pet shop, retail business, or other commercial establishment located in the City of Midvale, unless the dog, cat or rabbit was obtained from a city or county animal shelter or animal control agency, a humane society, or a non-profit rescue organization;

WHEREAS, Midvale City Council as also determined that it is in the best interest of the citizens of Midvale to provide certain protections for those individuals who purchase an animal that later becomes ill or is determined to have congenital or hereditary conditions;

NOW THEREFORE BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The City Council desires to amend Midvale Municipal Code Title 6 as set forth in Exhibit A.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstance is held invalid or unconstitutional by a court of competent jurisdiction, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 4. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this 17th day of July, 2018.

________________________________________
Robert Hale, Mayor

ATTEST:

______________________________
Rori L. Andreason, MMC
City Recorder

Voting by the City Council

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EXHIBIT “A”

Title 6

ANIMALS

Chapters:
6.04  Definitions
6.08  Administration
6.12  Commercial Permits and Fancier’s Permits
6.14  Sale of Animals
6.15  Pet Purchase Protections
6.16  Animals Requiring a License
6.20  Rabies Control
6.24  Animal Bites and Nuisances
6.28  Impoundment
6.32  Cruelty to Animals
6.36  Wild, Dangerous and Exotic Animals
6.38  Dog Breeders
6.40  Enforcement and Penalties
6.44  Notice of Violation and Stipulation Procedures
Chapter 6.04

DEFINITIONS

Sections:
6.04.010   Abandonment.
6.04.020   Allow.
6.04.030   Animal.
6.04.040   Animal at large.
6.04.050   Animal boarding establishment.
6.04.060   Animal control officer.
6.04.070   Animal exhibition.
6.04.080   Animal grooming parlor.
6.04.090   Animal shelter.
6.04.100   Animal under physical restraint.
6.04.105   Attack.
6.04.110   Bite.
6.04.120   Cat.
6.04.130   Cattery.
6.04.140   Commercial animal establishment.
6.04.145   Coop.
6.04.150   Custody.
6.04.160   Dangerous animal.
6.04.170   Director.
6.04.180   Division.
6.04.190   Dog.
6.04.200   Domesticated animals.
6.04.210   Enclosure.
6.04.220   Euthanasia.
6.04.225   Exotic animal.
6.04.230   Feral cat.
6.04.240   Ferret.
6.04.245   Fowl.
6.04.250   Guard dog.
6.04.260   Handler.
6.04.270   Harbor.
6.04.280   Health department.
6.04.290   Holding facility.
6.04.310   Hybrid.
6.04.320   Identification.
6.04.330   Impound.
6.04.340   Kennel.
6.04.350   Leash or lead.
6.04.360   Livestock.
6.04.365   Nonprofit animal rescue organization.
6.04.370   Nuisance.
6.04.380   On-site impoundment.
6.04.390   On-site redemption.
6.04.400   Overwork.
6.04.410   Owner.
6.04.420   Performing animal exhibition.
6.04.425   Person.
6.04.430   Pet or companion animal.
6.04.440   Pet shop.
6.04.010 Abandonment.
“Abandonment” means placing an animal in an environment where the animal is separated from basic needs such as food, water, shelter or necessary medical attention, for a period longer than twenty-four hours, or to intentionally deposit, leave or drop off any live animal. “Abandonment” includes failure to reclaim an animal seventy-two hours beyond the time agreed upon with a kennel, grooming service, or similar facility. “Abandonment” includes failure to reclaim a pet from an animal shelter beyond seventy-two hours of notification or refusal to sign relinquishment authorization. (Ord. 2012-12 § 2 Exh. A (part))

6.04.020 Allow.
“Allow,” for the purposes of this title, shall include human conduct that is intentional, deliberate, careless, inadvertent or negligent in relation to the actions of an animal. (Ord. 2012-12 § 2 Exh. A (part))

6.04.030 Animal.
“Animal” means every nonhuman species, both domestic and wild. (Ord. 2012-12 § 2 Exh. A (part))

6.04.040 Animal at large.
“Animal at large” means any animal, whether licensed or unlicensed, which is not under physical restraint imposed by the owner or handler when off the premises of the owner. Cats are excluded from this definition. (Ord. 2012-12 § 2 Exh. A (part))

6.04.050 Animal boarding establishment.
“Animal boarding establishment” means any commercial establishment that takes in animals for the purpose of providing temporary shelter or care and charges a fee for such service. (Ord. 2012-12 § 2 Exh. A (part))

6.04.060 Animal control officer.
“Animal control officer” means the city’s animal control services contract provider, any person designated by the state of Utah as a “peace officer,” as defined in Section 53-13-101 et seq. of the Utah Code Annotated, as amended, or any other person designated by the city as an officer who is authorized to perform the duties specified by this title. (Ord. 2012-12 § 2 Exh. A (part))

6.04.070 Animal exhibition.
“Animal exhibition” means any display of, event or contest involving animals. (Ord. 2012-12 § 2 Exh. A (part))

6.04.080 Animal grooming parlor.
“Animal grooming parlor” means any commercial establishment maintained for the purpose of offering cosmetological services for animals for a fee. (Ord. 2012-12 § 2 Exh. A (part))

B. Definitions

6.04.090 Animal shelter.
“Animal shelter” means any facility owned, operated or maintained for the care and custody of seized, stray, homeless, quarantined, abandoned, or unwanted animals or animals held for the purpose of protective custody under the authority of this title or state law. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.100 Animal under physical restraint.
“Animal under physical restraint” means any animal under the physical control of its owner or person over the age of twelve years having charge, care, custody or control of the animal, by the means of a leash, tether, or other physical control device or enclosure. A leash or tether shall not exceed eight feet in length when in close proximity to other animals or people. Animals confined in or upon a motorized vehicle shall be considered physically restrained; providing, that the animal’s body parts cannot extend beyond two inches from the vehicle when the vehicle is not in motion and not more than the length of the distance from the animal’s shoulders to the tip of its muzzle when the vehicle is in motion. Animals upon the real property of their owner or upon the property of another (with prior written permission of the property owner) and under direct adult supervision shall be considered under physical restraint; provided, however, that an animal shall not be considered under physical restraint within the real property limits of the owner if an individual engaged in a normal and expected activity may come in conflict with such animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.105 Attack.
“Attack” means any attempted action by an animal which places a person or another animal in danger of imminent bodily harm. Actual physical contact shall not be required to constitute an attack. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.110 Bite.
“Bite” means an actual puncture, tear or abrasion of the skin, inflicted by the teeth of an animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.120 Cat.
“Cat” means any feline of the domesticated types more than four months of age. Any feline of the domesticated types less than four months of age is a kitten. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.130 Cattery.
“Cattery” means an establishment where cats are boarded, bred, bought, sold, or groomed for a fee. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.140 Commercial animal establishment.
“Commercial animal establishment” means any pet shop, animal grooming parlor, guard dog location or exhibition, riding school or stable, zoological park, circus, rodeo, animal exhibition, cattery, kennel or animal breeding or housing facility. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.145 Coop.
“Coop” means a freestanding building for the shelter of fowl. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.150 Custody.
“Custody” means ownership, possession of, harboring, or exercising control over any animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.160 Dangerous animal.
“Dangerous animal” means any animal that is a hazard to the public safety by virtue of training, treatment, physical condition, or has a known propensity, tendency, or disposition to attack, or any animal which, because of its size, predatory, or vicious nature or other characteristics, would constitute an unreasonable danger to human life, health or property if not kept, maintained or confined in a safe and secure manner. “Dangerous animal” includes those animals meeting the definition of “vicious animal” as set forth in this title. For the purpose of this title, constrictor snakes over ten feet in length will be considered a dangerous animal and any other constrictor snake to be found in violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))
6.04.170 Director.  
The term “director” means the director of the city’s designated animal control services contract or any other person designated by the city as an officer who is authorized to perform duties of the director specified by this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.180 Division.  
The term “division” means the city’s designated animal control services contract provider or any other person, agency or entity designated by the city to perform the duties of the division specified by this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.190 Dog.  
“Dog” means any Canis familiaris more than four months of age. Any Canis familiaris less than four months of age is a puppy. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.200 Domesticated animals.  
“Domesticated animals” means animals accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, ferrets and livestock. “Domesticated animal,” however, shall not include “exotic animals.” (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.210 Enclosure.  
“Enclosure” means any structure that prevents an animal from escaping its primary confines. For fowl, “enclosure” means a fenced or sturdy wire pen with a roof containing a coop for the purpose of allowing fowl access to the coop while remaining in an enclosed pen. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.220 Euthanasia.  
“Euthanasia” means the humane destruction of an animal accomplished by a method approved by the most recent report of the American Veterinary Medical Association panel on euthanasia that results in unconsciousness and immediate death, or by a method that causes painless loss of consciousness and death during such loss of consciousness. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.225 Exotic animal.  
“Exotic animal” means any animal whose native habitat is not indigenous to the continental United States, excluding Alaska, except tropical fish, fur-bearing animals commercially bred for the furrier trade, and birds. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.230 Feral cat.  
“Feral cat” means any free roaming, homeless, wild or untamed cat. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.240 Ferret.  
“Ferret” means any domestic Mustela putorius (except the black footed ferret) more than three months of age. Any Mustela putorius less than three months of age is a kit. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.245 Fowl.  
“Fowl” means birds of the order Galliformes, including chickens, turkeys, pheasant, partridges and quail. “Fowl” also means waterfowl of the order Anseriformes such as ducks, geese and swans. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.250 Guard dog.  
“Guard dog” means any dog that will detect and warn its handler that an intruder is present in or near an area that is being secured and will attack a human pursuant to training or its handler’s command. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.260 Handler.  
“Handler” is any person who has physical control, i.e., the charge, care, control, custody, or possession, or responsibility for the same, of an animal at any given time. An “owner” shall be presumed to have ultimate responsibility for the physical control of the animal and may divest him/herself of such responsibility only by the transferring of, or giving permission for, actual physical control of the animal to a legally responsible adult person of age eighteen or more. Whenever such other person of the requisite age has responsibility for physical control of the
animal, such person shall be the “handler.” At all other times, the “owner” shall be presumed to be the “handler.”

(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.270 Harbor.
“Harbor” means housing, feeding, or caring for someone else’s pet within a person’s house, yard, or premises for more than twenty-four hours without the permission of the owner. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.280 Health department.
“Health department” means the Salt Lake City-County health department. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.290 Holding facility.
“Holding facility” means any pet shop, kennel, cattery, animal grooming parlor, riding school, stable, animal shelter, veterinary hospital, or any other such facility used for holding animals. (Ord. 2012-12 § 2 (Exh. A) (part))

“Humane treatment” means ensuring the provision of appropriate food, human interaction and care; and protecting any animal from danger, mistreatment, neglect, or abuse. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.310 Hybrid.
“Hybrid” means any animal, however tame or docile, that is the offspring of a breeding between a domestic animal and a wild animal, a domestic animal and a hybrid or two hybrids. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.320 Identification.
“Identification” means a pet license or identification tag which is attached to the collar or harness of an animal; a microchip implanted as recommended by the manufacturer for the specific species; or a tattoo, or other livestock identification such as ear tags, brands, etc. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.330 Impound.
“Impound” means being taken into custody of an animal control officer, police agency, or an agent thereof. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.340 Kennel.
“Kennel” means a commercial establishment having three or more dogs for the purpose of boarding, breeding, buying, grooming, letting for hire, training for fee, or selling said dogs. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.350 Leash or lead.
“Leash” or “lead” means any chain, rope, or device of sufficient strength used to restrain an animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.360 Livestock.
“Livestock” means animals kept for husbandry or for family food production, including the following:

A. “Large livestock” means horses, mules, burros, donkeys, cattle, sheep, goats, llamas, swine, ratites and other similarly sized farm, hoofed domesticated animals, excluding dogs, cats and ferrets.

B. “Small livestock” means chickens, turkeys, ducks, geese, pigeons, pheasants, rabbits and other similarly sized fowl or animals, excluding dogs, cats and ferrets. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.365 Nonprofit animal rescue organization.
“Nonprofit animal rescue organization” means:

A. Any nonprofit corporation that is exempt from taxation under Internal Revenue Code section 501(c)(3), whose mission and practice, in whole or in significant part, is the rescue and placement of dogs, cats, or rabbits without providing payment or other compensation to a breeder or broker; or

B. Any nonprofit organization that is not exempt from taxation under Internal Revenue Code section 501(c)(3), but is currently an active rescue partner with Midvale City, the Division, Salt Lake County Shelter, or Humane
Society of Utah Shelter, and whose mission and practice, in whole or in significant part, is the rescue and placement of dogs, cats, or rabbits without providing payment or other compensation to a breeder or broker.

6.04.370 Nuisance.
“Nuisance” means any animal or animals that unreasonable annoy humans, endanger the life or health of other animals or humans, or substantially interfere with humans’, other than their owner’s enjoyment of life or property, or as defined in Chapter 6.24. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.380 On-site impoundment.
“On-site impoundment” means to place an animal under seizure by law enforcement personnel, animal services personnel or an agent thereof, on a property other than an animal services sheltering facility pending transportation or court seizure order. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.390 On-site redemption.
“On-site redemption” means to return an impounded animal to the owner or caretaker, prior to transportation to the sheltering facility upon collection of all applicable impound and/or license fees. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.400 Overwork.
“Overwork” means to work or exercise any animal to a point of physical harm. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.410 Owner.
“Owner” means any person, partnership, corporation, or any other type of entity or association having title to, or custody of, or keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed and sheltered for a period of twenty-four consecutive hours or more, or fed for a period of two or more days. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.420 Performing animal exhibition.
“Performing animal exhibition” means any spectacle, display, act, or event in which animals are used to provide a performance whether a fee is charged or not. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.425 Person.²
“Person” means a natural person or any legal entity, including, but not limited to, a corporation, limited liability corporation, firm, partnership, or trust. (Ord. 2012-12 § 2 (Exh. A (6.04.410)) (part))

6.04.430 Pet or companion animal.
“Pet” or “companion animal” means any animal of a species that has been domesticated to live in or about the habitation of humans, is dependent on humans for food and shelter and is kept by its owner for pleasure rather than utility and/or commercial purposes. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.440 Pet shop.
“Pet shop” means any commercial establishment containing cages or exhibition pens wherein dogs, cats, birds or other pets are kept, displayed and sold. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.445 Protective custody.³
“Protective custody” means seizing or receiving an animal into the care of the division, the animal services or an authorized agent or representative thereof, in order to hold the animal as evidence of a violation of the law or to protect the animal(s) from further threat or danger. (Ord. 2012-12 § 2 (Exh. A (6.04.420)) (part))

6.04.450 Provoked.
“Provoked” means any deliberate act by a person towards a dog or any other animal done with the intent to tease, torment, abuse, assault, or otherwise cause a reaction by the dog or other animal; provided, however, that any act by a person done with the intent to discourage or prevent a dog or other animal from attacking shall not be considered provocation. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.460 Public place.
“Public place” means any location which is accessible to members of the general public, where members of the general public gather, engage in business, or have free access. (Ord. 2012-12 § 2 (Exh. A) (part))
6.04.470 Quarantine.
“Quarantine” means the isolation of an animal in an enclosure so that the animal cannot have physical contact with other animals or persons without recognized authority to be near or about the quarantined animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.480 Riding school or stable.
“Riding school” or “stable” means an establishment which offers boarding and/or riding instruction for any horse, pony, donkey, mule or burro, or which offers the use of such animals for hire. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.490 Species subject to rabies.
“Species subject to rabies” means any species that has been reported to the health department or the Center for Disease Control and Prevention to have contracted the rabies virus and become a host for that virus. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.500 Set.
“Set” means to cock, open or put a trap in such a condition that it would close when an object, animal or person touched a triggering device. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.510 Shelter.
“Shelter” means a structure which is substantial in construction and provides protection from moisture, wind and other factors of weather, and is of a size appropriate to the particular animal to ensure retention of body heat within the enclosure. Any shelter will be maintained to ensure a clean, dry, healthy environment for the animal being housed. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.520 Stray.
“Stray” means any “animal at large,” as defined in this chapter. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.530 Tether.
“Tether” means any chain, rope, cable, or device attached to a fixed object and used for restraining a dog. The tether must be of sufficient strength to restrain the dog and be appropriate to the breed, age, size, and weight of the dog and be attached to the dog by a properly applied collar, halter or harness configured so as to protect the dog from injury or entanglement with objects or other animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.540 Trap.
“Trap” means an apparatus designed to come together with force so as to clamp or close upon an animal, person, or object when the spring or triggering device is activated. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.550 Veterinarian.
“Veterinarian” means any person properly licensed under the laws of the state of Utah to practice veterinary medicine. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.560 Veterinary hospital.
“Veterinary hospital” means any establishment operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.570 Vicious animal.
“Vicious animal” means:

A. Any animal which, in a threatening and terrorizing manner, approaches any person upon the streets, sidewalks, or any public grounds or places in an apparent attitude of attack;

B. Any animal with a known propensity, tendency or disposition to attack unprovoked, or to cause injury or otherwise threaten the safety of human beings or animals; or

C. Any animal, which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property.
Whether an animal has been properly licensed under the provisions of this title shall have no relevance to the
determination of whether an animal is a “vicious animal,” as defined herein. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.580 Wild animal.
“Wild animal” means any animal of a species that in its natural life is usually untamed and undomesticated,
including hybrids and animals which, as a result of their natural or wild condition, cannot be vaccinated effectively
for rabies. These animals, however domesticated or tamed, shall include, but are not limited to:

A. Alligators and crocodiles;
B. Bears (Ursidae). All bears, including grizzly bears, brown bears, black bears, etc.;
C. Cat family (Felidae). All except the commonly accepted domesticated cats, including cheetah, leopard, lion,
lynx, panther, mountain lion, tiger, wildcat, etc.;
D. Dog Family (Canidae). All except domesticated dogs, including wolf, part wolf, fox, part fox, coyote, part
coyote, dingo, etc.;
E. Porcupine (Erethizontidae);
F. Primate (Hominidae). All nonhuman primates;
G. Raccoon (Procyonidae). All raccoons, including eastern raccoon, desert raccoon, ringtailed cat, etc.;
H. Skunks;
I. Venomous fish and piranha;
J. Venomous snakes or lizards;
K. Weasels (Mustelidae). All including martens, wolverines, black footed ferrets, badgers, otters, ermine, mink,
mongoose, etc.

For the purpose of this title, animals that are kept commercially or ranched shall not be wild animals. (Ord. 2012-12
§ 2 (Exh. A) (part))

6.04.590 Zoological park.
“Zoological park” means any facility, properly and lawfully licensed by applicable federal, state, or local law,
operated by a person, partnership, corporation, or government agency, other than a pet shop, kennel, or cattery,
displaying or exhibiting one or more species of nondomesticated animals. (Ord. 2012-12 § 2 (Exh. A) (part))

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1 Code reviser’s note: Ordinance 2012-12 added this section as 6.04.235. It has been editorially renumbered to maintain
alphabetical order in the chapter.

2 Code reviser’s note: Ordinance 2012-12 added this section as 6.04.410. It has been editorially renumbered to avoid duplication.

3 Code reviser’s note: Ordinance 2012-12 added this section as 6.04.420. It has been editorially renumbered to alphabetical order
in the chapter.
Chapter 6.08
ADMINISTRATION

Sections:
6.08.010 Division powers and duties.
6.08.030 Director and officers—Enforcement authority.
6.08.040 Animal control officers powers and duties.
6.08.050 Right of entry for enforcement.
6.08.060 Interfering with animal control officers prohibited.

6.08.010 Division powers and duties.
The division, or other agent designated by the city, or any law enforcement officer, shall:

A. Enforce this title and perform other responsibilities inherent thereto;
B. Supervise the animal shelter(s) under his/her jurisdiction;
C. Keep records of all animals impounded in said shelter(s);
D. Keep accounts of all monies collected and received in accordance with governing law;
E. Establish, in cooperation with the health department and other interested governmental agencies, measures for the control of and immunization of animals against rabies;
F. Negotiate interlocal cooperation agreements with other interested governmental agencies for the purpose of establishing animal control services throughout Salt Lake Valley;
G. Establish rules and regulations for the training of all persons hired as animal control officers to assure professional conduct of said persons and compliance with division’s policies and with governing law;
H. Pursuant to duly adopted policies and procedures, waive or reduce impound-related fees if warranted, or waive fees and penalties otherwise authorized in this title; and
I. Pursuant to duly adopted policies and procedures, provide for deferred payments of impound-related fees if warranted. (Ord. 2012-12 § 2 (Exh. A) (part))

6.08.030 Director and officers—Enforcement authority.
The division, other agents designated by the city, or any law enforcement officer is hereby authorized and empowered to enforce this title and to apprehend, to transport and impound any animal found in violation of this title, including licensable animals for which no license has been procured in accordance with this title, or any licensed or unlicensed animals for any other violation thereof and to issue criminal citations and/or notice of violation and stipulation for violations of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.08.040 Animal control officers powers and duties.
The director shall employ and designate those employees and volunteers of his or her division who shall perform the duties of animal control officer. Animal control officers shall be authorized to enforce this title in all respects pertaining to animal control within the city, including, but not limited to, the apprehension, transport and impoundment of animals found to warrant such action; and issue of criminal citations and/or notice of violation and stipulation for violations of this title. Animal control officers shall further carry out all lawful duties prescribed or delegated by the director. For the purpose of this section, “volunteer” shall be defined as persons working without compensation who have met the minimum training standards to perform the duties as set forth by the director. (Ord. 2012-12 § 2 (Exh. A) (part))
6.08.050  Right of entry for enforcement.
In the enforcement of this title, any peace officer, animal control officer, or the director or his/her assistants are authorized to enter into the open premises of any person to secure or take possession of any animal which is reasonably deemed by said officer to then and there, in the presence of such officer or official, be in violation of this title and issue criminal citations and/or notice of violation and stipulations for violations of this title to the owner or handler of said animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.08.060  Interfering with animal control officers prohibited.
It is unlawful for any person to knowingly and intentionally interfere with the director or any animal control officer in the lawful discharge of his/her duties as prescribed in this title. For the purpose of this section, interfering with officers shall include, but not be limited to, failing to hand over to or release to an officer an identifiable animal which has been pursued but not captured by said officer, failing to make payment of agreed upon fees that have been deferred by the director, knowingly and intentionally failing to comply with an abatement order lawfully issued by the city or the division or failing to meet the conditions imposed by a notice of violation and stipulation. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.12

COMMERCIAL PERMITS AND FANCIER'S PERMITS

Sections:
6.12.010 Commercial permits requirements.
6.12.040 Requirements for catteries and kennels.
6.12.050 Requirements for pet shops.
6.12.060 Requirements for animal grooming parlor.
6.12.070 Requirements for stables.
6.12.080 Requirements for animal exhibitions.
6.12.090 Requirements for guard dogs.
6.12.100 Permit for foster animals.
6.12.120 Exotic animal permit.
6.12.125 Domestic fowl permit.
6.12.130 Dangerous animal permit.
6.12.140 Exemptions.
6.12.150 Permits—Display requirements.
6.12.180 Establishments—Inspections and reports.
6.12.190 Unlawful activities—Notice requirements.
6.12.200 Permits—Suspension or revocation—Grounds.

6.12.010 Commercial permits requirements.
It is unlawful for any person to operate or maintain a commercial holding facility or any similar establishment, except a licensed veterinary hospital or clinic, unless such person first obtains a regulatory permit from the division, in addition to all other required licenses. All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a printed form provided by the division. Before the permit is issued, approval must be granted by the health department, the appropriate zoning authority, and the division. (Ord. 2012-12 § 2 (Exh. A) (part))

The director shall have the authority to promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this title and other applicable laws. Such regulations may be amended from time to time as deemed desirable for public health and welfare and for the protection of animals. Regulations promulgated under this delegation of authority shall not extend the power of the director or the division beyond that reasonably necessary to carry out the requirements of this title. Regulations shall not become effective until approved and adopted by the city council. (Ord. 2012-12 § 2 (Exh. A) (part))

A. Form. All applications for permits to operate a commercial animal establishment or animal shelter shall be submitted to the division on a printed form provided by the division.

B. Verify Compliance. Upon submission of an application, the division will verify with the health department, appropriate zoning authority, and appropriate business licensing division that the applicant is in compliance with applicable rules, regulations, ordinances and laws.
C. Fee Accompany Application. Applications must be accompanied by the fee established by resolution and adopted by the city council. The fee schedule may be modified from time to time as deemed necessary by the division and upon approval of the city council.

D. Expiration of Permit. Each permit issued under this chapter shall expire as outlined in Section 6.12.160.

E. Nontransferable. Permits issued pursuant to this chapter are nontransferable.

F. Display of Permit. A permit issued under this chapter shall be prominently displayed in the business office of the commercial animal establishment or animal shelter.

G. Late Applications. Late applications for the permits required by this chapter shall be subject to the late fee set forth in the current fee schedule. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.040 Requirements for catteries and kennels.
In addition to obtaining the permit required by this chapter, all catteries and kennels within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for boarded animals which are sick or diseased;

C. Retain for a period of one year the name, address and telephone number of the owner and license number of each dog or cat boarded;

D. Retain for a period of three years the name and address of each person selling, trading or giving any animal to the kennel or cattery;

E. Keep all boarded animals caged or under control of the owner or operator of the kennel or cattery;

F. Care for all animals in the kennel or cattery, whether or not owned by the kennel or cattery, shall comply with all the requirements of this title for the general care of animals;

G. Comply with all applicable federal, state and local laws and all regulations respecting kennels and catteries which are adopted by the city and in effect from time to time; and

H. Supply the purchaser, residing in the licensing authority of this title, of any dog, cat or ferret with an application for animal license, the form of which is prescribed by the city. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.050 Requirements for pet shops.
In addition to obtaining the permit required by this chapter, all pet shops within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for animals which are sick or diseased, sufficiently removed so as not to endanger the health of other animals;

C. Keep all animals caged or under the control of the owner or operator of the pet store;

D. With respect to all animals in the pet shop, comply with all provisions of this title providing for the general care of animals;

E. Not sell animals which are unweaned or so young or weak that their sale poses a serious risk of death or inadequate development to them;

F. Comply with all applicable federal, state and local laws and all regulations respecting pet shops that are adopted by the city and in effect from time to time;
G. Supply any purchaser, residing within the city, of any dog, cat or ferret with an application for animal license, the form of which is prescribed by the division; and

H. Provide the purchaser of an animal with written instructions as to the proper care and control of that species. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.060 Requirements for animal grooming parlor.
In addition to obtaining the permit required by this chapter, all grooming parlors within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for animals, which are sick or diseased, sufficiently removed so as not to endanger the health of other animals;

C. Keep all animals caged or under the control of the owner or operator of the grooming parlor;

D. With respect to all animals in the grooming parlor, comply with all provisions of this title providing for the general care of animals;

E. Comply with all applicable federal, state and local laws and all regulations respecting grooming parlors that are adopted by the city and in effect from time to time; and

F. Supply applications for animal licenses, the form of which is prescribed by the division. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.070 Requirements for stables.
In addition to obtaining the permit required by this chapter, all stables within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for animals which are sick or diseased, sufficiently removed so as not to endanger the health of other animals;

C. Keep all animals confined or under the control of the owner or operator of the stable;

D. Care for all animals in the stable shall comply with all the requirements of this title for the general care of animals; and

E. Comply with all applicable federal, state and local laws, and all regulations respecting stables that are adopted by the city and in effect from time to time. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.080 Requirements for animal exhibitions.
A. Permit Required. It shall be unlawful for any person to own, operate, sponsor or conduct an animal exhibition within the city, without first obtaining an animal exhibition permit issued by city and/or division.

B. Prohibited Contests. No animal exhibition shall occur within city in which any animal is exhibited, paraded or allowed to participate in a contest:

1. Under conditions which cause physical injury to such animal;

2. Under conditions that place spectators at risk of being harmed; or

3. Unless all applicable federal, state and local laws and regulations, and standards adopted by reputable, nationally recognized associations organized for the operation of such exhibitions and acceptable to the city and/or division are complied with by the operator of the exhibition.
C. Penalty. A person owning, operating or sponsoring an animal exhibition within the city without first obtaining the permit therefor required by this chapter shall be guilty of a Class B misdemeanor. Each day of violation of this section shall be a separate offense. The division may also seek to obtain an injunction against an animal exhibition through a court with jurisdiction over the matter.

D. Information Required. The application for an animal exhibition permit required by this section shall:

1. Describe the type of exhibition or contest and the kind and number of animals to be on exhibition or involved in the contest and list the sites and dates of the event; and

2. Contain such other information as may be required under regulations established by the director; and include a sworn statement by the applicant that the provisions of this title pertaining to animal exhibitions will be complied with at all times.

E. Issuance Conditions. No permit required by this section shall be issued until the applicant completes the application form, pays the applicable fees as set forth in the current fee schedule, and receives the written approval of the division of the provisions made for the safety, well-being and comfort of the animals involved.

F. Term of Permit. Animal exhibition permits issued pursuant to this section shall be effective only for the period specified in the permit, not to exceed thirty days.

G. Nontransferable. A permit issued pursuant to this section shall not be transferable.

H. Display of Permit. A permit issued pursuant to this section shall be displayed prominently at the site of the animal exhibition.

I. Waiver of Fee. The director may waive the permit fee for an animal exhibition that is sponsored by a bona fide nonprofit organization, a governmental entity or a school if the purpose is a county or city public purpose or a charitable purpose.

J. Access Permitted. Animal exhibitions permitted under this section shall provide immediate access to peace officers, animal control officers, health department agents, and/or state officials, for the purpose of compliance inspections. (Ord. 2012-12 § 2 (Exh. A) (part))

### 6.12.090 Requirements for guard dogs.

A. Permit Required. It shall be unlawful for any person to own a guard dog without first obtaining a guard dog permit as provided hereafter. It shall be unlawful for any person to hire the use of a guard dog that has not been issued a guard dog permit.

B. Application. A permit required by this section shall be obtained from the division. The application shall set forth the type of dog, the site where such dog shall be used, the hours of use of such dog, and any other information the director deems appropriate.

C. Nontransferable. Permits are not transferable from one owner to another, nor from one site to another.

D. Warning Signs. On the premises where a guard dog is used, conspicuous warning signs shall be posted at each door or gate that give access to the guard dog, and shall contain the following wording:

Warning: A Guard Dog Is Guarding This Property. Entry Herein May Cause Said Dog To Attack Your Person And Cause Significant Injury, Even Death. To Reach The Handler For Said Dog, Call (enter telephone number).

The telephone number contained in the warning required by this subsection must provide a twenty-four-hour per day access to the guard dog’s owner or handler.

E. Nuisance. A guard dog shall not be allowed to become a nuisance.
F. Microchip, Collar Required. A guard dog shall, in addition to licensing, be microchipped and the microchip number shall be registered with the division. The license shall be attached to a one-inch wide red or orange collar with the word "danger" written or embroidered in black lettering three-fourths inch in height. The collar must be on the dog at all times.

G. Penalty. Any person violating any provision of this section shall be guilty of a Class B misdemeanor. Each day a guard dog is deployed for use by any person for the detection of intruders and/or protection of premises, in violation of any provision of this section, shall be deemed a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.100 Permit for foster animals.
Where permitted by the zoning ordinances, owners of dogs and cats may obtain a permit to keep more than two dogs or cats in a residential area, provided:

A. Such pets are the property of a local public city or county animal shelter or a Section 501(c)(3), United States Internal Revenue Code, animal welfare organization;

B. Such pets are awaiting adoption;

C. Approval is granted by the appropriate zoning authority, the health department and the division of animal services;

D. Adequate areas for confinement and shelter are provided; and

E. Other provisions of this title are complied with, and no pet or premises is deemed to be a nuisance. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.120 Exotic animal permit.
It is unlawful for any person to own or keep an exotic animal without a permit. Unless prohibited by zoning or other ordinances or laws, any person, over the age of eighteen years of age, may obtain an exotic animal permit upon:

A. Demonstrating sufficient knowledge of the species to provide adequate care;

B. Presenting proof of adequate caging appropriate for the species;

C. Presenting proof that the animal poses no threat to the health and safety of the community in the event that the animal should escape. The director may consult with a review board comprising federal, state and local public health authorities in considering a request for an exotic animal permit; and

D. Presenting proof of required, if any, state or federal permits.

For the purpose of this section, to demonstrate sufficient knowledge of a species, a person must show that he/she has adequate knowledge of a species to provide for its basic needs to maintain the animal’s health and welfare. The director may consider the person’s experience, education, apprenticeship or by examination administered by the director when determining that a person has sufficient knowledge of a species. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.125 Domestic fowl permit.
It is unlawful for any person to own or keep fowl without a permit. Unless a type of fowl is specifically permitted by the applicable zoning ordinances and this section, it is prohibited.

A. Where permitted by the zoning ordinance, hen chickens may be kept for domestic egg production or as pets.

1. Chickens shall not be kept on a residential lot or parcel unless the person keeping chickens first obtains a permit from the division.

a. The applicant shall acknowledge the rules set forth in this section and shall, as a condition of obtaining a permit, agree to comply with such rules.
Section 6.12.130  Dangerous animal permit.
It is unlawful for any person to own or keep a dangerous animal without a permit. Unless prohibited by zoning or other ordinances or laws, any person, over the age of eighteen years of age, may obtain a dangerous animal permit upon complying with applicable zoning requirements and:

A. Demonstrating sufficient knowledge of the species so as to be an expert in the care and control of the species;

B. Presenting proof of adequate primary caging appropriate for the species and a sufficient secondary system of confinement so as to prevent unauthorized access to the animal and to prevent the animal’s escape;

C. Presenting proof that adequate measures have been taken to prevent the animal from becoming a threat to the health and safety of the community;

D. Presenting a plan of action in the event of the animal’s escape. The director may consult with a review board comprising federal, state and local public health authorities in considering a request for a dangerous animal permit;

E. Presenting proof of required, if any, state or federal permits; and

F. Presenting proof of liability insurance in an amount of at least one hundred thousand dollars, which policy shall name the city as an additional insured and shall not be subject to cancellation or other material modifications without at least thirty days’ prior written notice to the city.

For the purpose of this section, to demonstrate sufficient knowledge of a species, a person must show that he/she has specialized knowledge of a species to provide for its basic needs to maintain the animal’s health, welfare and confinement. The director may consider the person’s experience, education, apprenticeship or by examination administered by the director when determining that a person has sufficient knowledge of a species. (Ord. 2012-12 § 2 (Exh. A) (part))

Section 6.12.140  Exemptions.
Research facilities where bona fide medical or related research is being conducted, 501(c)(3) animal welfare shelters, and other animal establishments operated by state or local government, or which are licensed by federal law, are excluded from the permit requirements of Sections 6.12.040 through 6.12.060. (Ord. 2012-12 § 2 (Exh. A) (part))

Section 6.12.150  Permits—Display requirements.
A valid permit shall be posted in a conspicuous place in any establishment for which such permit is required, and such permit shall be considered as appurtenant to the premises and not transferable to another location. The permittee shall notify the division within thirty days of any change in his/her establishment or operation, which may affect the status of his/her permit. In the event of a change in ownership of the establishment, the permittee shall notify the division immediately. Permits shall not be transferable from one owner to another. (Ord. 2012-12 § 2 (Exh. A) (part))

A permit issued pursuant to this chapter shall expire one year after it is issued by the division and shall be renewable upon acceptance by the division of a new application. Renewal applications shall not be available until thirty days prior to the expiration date of the current permit. A permit may only be issued after the appropriate fee has been paid. Application must be accompanied by the fee established in the permit and current fee schedule.

A. Modification. The permit and fee schedule may be modified from time to time as deemed appropriate by the director and upon resolution by the city council. The then current permit fee schedule shall apply to all permit applications. A copy of the then current fee schedule shall be available at the division.

B. Nontransferable. Permits are not transferable from one owner to another, from one site to another or from one animal to another. (Ord. 2012-12 § 2 (Exh. A) (part))
A. Authority. From time to time, the director may, upon resolution by the city council, adopt rules and regulations governing the operation of kennels, catteries, animal grooming parlors, pet shops, riding stables or other animal related establishments.

B. Provisions. Such rules and regulations may provide for:

1. The type of structures, buildings, pens, cages, runways or yards required for the animals sought to be kept, harbored or confined on such premises;

2. The manner in which food, water, and sanitation facilities will be provided to such animals;

3. Measures relating to the health of such animals, the control of odors and noise, and the protection of persons or property on adjacent premises; and

4. Such other matters as the city shall deem necessary.

C. Effect. Such rules and regulations shall, upon publication and following adoption by the city council, have the effect of law, and violation of such rules and regulations shall be deemed a violation of this title, subject to the penalties provided for in Section 1.01.070, and grounds for revocation of a permit issued by the division. Copies of the rules and regulations, when adopted, shall be filed for public inspection in the office of the city recorder and of the division. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.180 Establishments—Inspections and reports.
All establishments required to have permits under this title shall be subject to periodic inspections, and the inspector shall make a report of such inspection, which shall be given to the establishment and will be filed at the administration section of the division. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.190 Unlawful activities—Notice requirements.
If an inspection of kennels, catteries, animal grooming parlors, pet shops, riding stables, similar establishments, or the premises of the holder of a permit reveals a violation of this title, the inspector shall notify the permit holder or operator of such violation by means of issuance of a citation as provided in Chapter 6.40 or issuance of a notice of violation and stipulation as provided in Chapter 6.44. If the notice of violation and stipulation is used, the notice shall:

A. Set forth the specific violation(s) found;

B. Establish a specific and reasonable period of time for correction of the violation(s) found;

C. State that failure to comply in the specified period of time with any notice issued in accordance with the provisions of this section may result in immediate suspension of the permit and/or issuance of a citation; and

D. State that an opportunity for a hearing upon any grievance the owner or operator may have concerning the inspection findings and corrections ordered by the animal control officer may be processed according to the provisions of Chapter 6.44. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.200 Permits—Suspension or revocation—Grounds.
A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

A. Falsification of facts in a permit application;

B. Material change in the conditions upon which the permit was granted;

C. Violation of any provisions of this title or any other law or regulation governing the permittee’s establishment, including, but not limited to, noise and/or building and zoning ordinances; or

D. Conviction on a charge of cruelty to animals. (Ord. 2012-12 § 2 (Exh. A) (part))
A. Authority—Request for Review. Any permit granted under this title may be suspended or revoked by the division for violations of any of the requirements of this title. A permittee aggrieved by the suspension or revocation of his/her permit may petition the director for review of said grievance. Upon consideration of said grievance and upon good cause showing, the director may, at his or her sole discretion, uphold or modify the suspension or revocation, or reinstate the permit.

B. New Permits. A new permit shall not be issued to any person whose prior permit was suspended or revoked by the division until the applicant has satisfied the director that he/she has the means and the will to comply with the requirements of this title in the future. An application for another permit must comply with the requirements for an application for an initial permit, including application fee. (Ord. 2012-12 § 2 (Exh. A) (part))

Notwithstanding any other provisions of this title, when the inspecting officer finds unsanitary or other conditions in the operation of kennels, catteries, animal grooming parlors, riding stables, pet shops, or any similar establishments, or premises of the holder of a permit obtained under this title, which in his/her judgment constitute an immediate and substantial hazard to public health or the health and safety of any animal, he/she may order the immediate seizure of any animals whose health and safety are at risk and order the owner or operator of the establishment to immediately cease operations. It shall be unlawful for any person to whom such an order is given to fail to obey the same. Any animals seized under this section shall be impounded or otherwise cared for as the division deems necessary. Persons whose permit has been suspended by such action may petition the director for review of said suspension. Upon consideration of said petition and upon good cause showing, the director may, at his or her sole discretion, uphold or modify the emergency suspension or reinstate the permit. (Ord. 2012-12 § 2 (Exh. A) (part))

Notice shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by certified mail to the last known address of the permit holder. A copy of such notice shall be filed with the records section of the division of animal services. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.14
SALE OF ANIMALS

Sections:

It is unlawful for any person to display, offer for sale, deliver, barter, auction, give away, transfer, rent, lease, or sell any live dog, cat, or rabbit in any commercial animal establishment located in the City unless the dog, cat, or rabbit was obtained from the division, an animal shelter, or a nonprofit animal rescue organization.

All commercial animal establishments selling or boarding for the purpose of eventual sale must maintain a certificate of source for each dog, cat, or rabbit. A commercial animal establishment must make the certificate of source available upon request to the division, law enforcement, code compliance officials, or any other City employee designated by the city manager to enforce the provisions of this section.

This section does not apply to the display, offer for sale, delivery, bartering, auction, giving away, transfer, or sale of dogs, cats, or rabbits from the premises on which they were bred and reared.

This section does not prevent the owner, operator, or employees of a commercial animal establishment in the City from providing space and appropriate care for animals owned by the division, an animal shelter, or a nonprofit animal rescue organization and maintaining those animals at the commercial animal establishment for the purpose of public adoption.

A. It is unlawful for any person to sell, offer for sale, barter, or give away any fowl under two months of age and in any quantity less than six.
B. It is unlawful for any person to artificially dye or color a fowl.
C. A private individual may raise fowl for personal use and consumption, if allowed by applicable law, if the individual maintains proper brooders and other facilities for the care and containment of such fowl while in the individual’s possession.

It is unlawful for any person offer any live animal as a premium, prize, award, novelty, or incentive to purchasing merchandise or services.

It is unlawful for any person or commercial animal establishment to raise or sell any turtle, tortoise, or terrapin under four inches front to back carapace length.

A. A violation of this chapter is a class C misdemeanor.
B. Each dog, cat, or rabbit sold or offered for sale in violation of section 6.14.010 constitutes a separate offense.
Chapter 6.15

PET PURCHASE PROTECTIONS

Sections:
6.15.010 Sell of ill or defective animals prohibited.
6.15.020 Seller’s obligations.
6.15.030 Buyer’s obligations.
6.15.040 Remedies.
6.15.050 Limitations.
6.15.060 Animal shelters and nonprofit animal rescue organizations.

6.15.010 Sell of ill or defective animals prohibited.
It is unlawful for any person to sell, offer to sell, auction, or receive any compensation for any animal that is ill or suffers from a congenital or hereditary condition without disclosing such to a purchaser.

6.15.020 Seller’s obligations.
At the time of the sell, auction, or receipt of compensation for an animal, the seller must provide to the purchaser:

A. A written record for the animal that includes, to the extent known, the date of birth; breed; markings; dealer/breeder information; registration information; and all medical treatments including, but not limited to, inoculations and worming treatments, with the date, diagnosis, and provider of such treatment.

B. A signed statement from the seller disclosing any known health problems for the animal and any necessary treatment.

6.15.030 Buyer’s obligations.
The remedies under section 6.15.040 are available to a purchaser if:

A. The seller did not disclose the health problem in accordance with section 6.15.020; and

B. The purchaser provides a written statement from a licensed veterinarian to the seller within:

1. 14 days of the sale of the animal, that the animal suffers from a disease, illness, or other similar defect that adversely affects the animal’s health that existed on or before the sale of the animal to the purchaser; or

2. One year of the sale of the animal, that the animal possesses or has died from a congenital or hereditary condition that adversely affects or affected the animal’s health or requires a non-elective surgical procedure.

6.15.040 Remedies.
If a purchaser qualifies for remedies under section 6.15.030, the purchaser may:

A. Return the animal to the seller for a refund of the full purchase price of the animal;

B. Exchange the animal for an animal of the purchaser’s choice of equivalent value, providing a replacement is available; or

C. Retain the animal and receive reimbursement for reasonable veterinary fees not to exceed the purchase price of the animal.

6.15.050 Limitations.
A. The remedies available under this chapter are not available to a purchaser if:

1. The animal’s health problem was contracted or sustained while in possession of the purchaser;

2. The animal’s health problem was caused by the neglect or mistreatment of the purchaser;
3. The purchaser failed to carry out the recommended treatment included in a statement written and delivered in accordance with section 6.15.020; or

4. The seller prevails in contesting the purchaser’s claim in a court of competent jurisdiction.

B. A purchaser’s rights under this chapter may not be waived.

6.15.060 Animal shelters and nonprofit animal rescue organizations.
An animal shelter or nonprofit animal rescue organization is exempt from this chapter if it provides notice, at the time of adoption, to the purchaser that the purchaser assumes all risk that the animal may be ill or suffer from a congenital or hereditary condition.
Chapter 6.16

ANIMALS REQUIRING A LICENSE

Sections:
6.16.010 License required—Age and residence requirements for license holder.
6.16.020 License required—Age of animals.
6.16.030 License application.
6.16.040 Additional requirements for licensing and keeping ferrets.
6.16.050 Veterinary verification.
6.16.060 License term and renewal.
6.16.070 License revocation.
6.16.080 License tag requirements.
6.16.090 License exemption.
6.16.100 License vendor.

6.16.010 License required—Age and residence requirements for license holder.
All cats, dogs, and ferrets must be licensed each year, except as otherwise provided in this chapter, to a person of the age of eighteen years or older who has a residence, with street address, within the city. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.020 License required—Age of animals.
Any person owning, possessing or harboring any cat, dog, or ferret within the city shall obtain a license for such animal within thirty days after the animal reaches the age of four months, or, in the case of a cat, dog, or ferret over four months of age, within thirty days of the acquisition of ownership or possession of the animal by said person. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.030 License application.
License applications must be submitted to the division, utilizing a standard form which requests name, address and telephone number of the applicant; breed, sex, color and age of the animal; previous license information; rabies and sterilization information; and the number, location or other identification applicable to a tattoo or implanted microchip of the animal. The application shall be accompanied by the prescribed license fee and by a rabies vaccination certificate current for a minimum of six months beyond the date of application. A license shall not be issued for a period that exceeds the expiration date of the rabies vaccination. A licensed veterinarian shall give rabies vaccinations with a vaccine approved by the current compendium of animal rabies control. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.040 Additional requirements for licensing and keeping ferrets.
Without limiting any other requirements of this title, those wishing to keep ferrets must adhere to the following requirements.

A. Number Permitted. No more than two adult ferrets may be kept in a household at any time, and no more than two litters of kits may be kept in a household at any time.

B. Housing—Confinement. Ferrets shall be kept primarily as indoor pets, and shall be housed in a cage or kennel of sufficient size and construction to allow proper space and safekeeping of the ferret. When a ferret is outside, it shall be kept on a harness with a leash not over six feet in length specifically designed for ferrets.

C. Prohibited Persons. A ferret license shall not be granted to any person with an animal control violation within the three years preceding the license application.

D. Sterilization—De-Scenting. The city division encourages owners to sterilize and de-scent their ferrets. (Ord. 2012-12 § 2 (Exh. A) (part))
6.16.050 Veterinary verification.  
No dog, cat or ferret will be licensed as spayed or neutered without veterinary verification that such surgery has been performed. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.060 License term and renewal.  
The license shall be issued for one year, and be effective from the date of purchase through the end of the same month of the expiration year as the month in which the license is purchased, or at the end of the rabies vaccination period current for the animal at the time the license is obtained, whichever date occurs first. Renewals must be obtained prior to the expiration of the immediately preceding license. Applications for renewals made after the expiration of the immediately preceding license must be accompanied by a late fee as set forth in the fee schedule. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.070 License revocation.  
If the owner of any dog(s), cat(s) or ferret(s) is found to be in violation of this title on three or more different occasions within a twelve-month period, the director of animal services may seek a court order pursuant to Section 6.40.030, revoking for a period of one year any and all licenses such person may possess, and providing for the division to pick up and impound any animal kept by the person under such order. Any animal impounded pursuant to such an order shall be dealt with in accordance with the provisions of this title for impounded animals, except that the person under the order of revocation shall not be allowed to redeem such animal, unless successfully making reapplication of the license with the division. Persons seeking reapplication of said animals must comply with conditions as set forth by the director that may include, but are not limited to, sterilization of the animals, enclosure requirements and confinement conditions. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.080 License tag requirements.  
A. Tag Required. Upon payment of the license fee, the director shall issue to the owner a receipt and a tag for each pet licensed. The tag shall have stamped thereon the license number, corresponding with the tag number on the receipt. The owner shall attach the tag to the collar or harness of the animal and see that the animal constantly wears the collar and tag. Failure to attach the tag as provided shall be a violation of this title, except that dogs or cats which are kept for show purpose are exempt from wearing the collar and tag while participating in an animal exhibition.

B. Nontransferable—Refunds—Replacement. Tags are not transferable from one animal to another unless authorized by the director. No refunds shall be made on any dog, cat or ferret license fee for any reason whatsoever. Replacement for lost or destroyed tags shall be allowed upon payment to the division of the replacement tag fee set forth in the fee schedule.

C. Removal Violation. Any person who removes, or causes the removal, of the collar, harness or tag from any licensed dog, cat or ferret without the consent of the owner or keeper thereof, except a licensed veterinarian or animal control officer who removes such for medical or other reasons, shall violate this title.

D. Microchip. Owners may have an identifying microchip implanted in their animals. If owners take such action, they shall be exempt from the requirement that such animals wear identifying tags at all times while on the owners’ premises; provided, that the microchip information has been registered with the director. Owners shall assume the risk of the loss or destruction of an unrestrained animal whose microchip either cannot be located after a reasonable search thereof or owner information cannot be found after a reasonable records search.

E. Responsibility of Microchip Vendor. It is the responsibility of any vendor of microchips to provide information to the division as to the identification of the owner of an animal that has been microchipped by said vendor. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.090 License exemption.  
A. Conditions. The provisions of Sections 6.16.020 through 6.16.080 shall not apply in the following circumstances:

1. The dog, cat or ferret is properly licensed in another jurisdiction and the owner thereof is within the city temporarily, for a period not to exceed thirty consecutive days. If the owner shall be within the city temporarily, but for a period longer than thirty consecutive days, he/she may transfer the dog, cat or ferret to the local license

required by this chapter by payment of the fee set forth in fee schedule, and upon presentment of proof of a current rabies vaccination for the animal.

2. Individual dogs or ferrets housed within a properly permitted facility or other such establishment when such animals are held for resale.

B. Fee Exemption. The fee provisions of Sections 6.16.020 through 6.16.080 shall not apply to:

1. Seeing eye dogs trained and certified to assist blind persons, if such dogs are actually used by blind persons to assist them in moving from place to place;

2. Hearing dogs trained and certified to assist deaf persons to aid them in responding to sounds and in use for that purpose;

3. Assistance dogs trained and certified to assist persons with a physical disability and in use for that purpose; or

4. Dogs trained to assist officials of government agencies in the performance of their duties and which are owned by such agencies.

C. Vaccinations Not Exempted. Nothing in this section shall be construed so as to exempt any dog, cat or ferret located within the city from having a current rabies vaccination. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.100 License vendor.
The division may contract with veterinary hospitals, veterinarians, pet shops, animal grooming parlors, and similar institutions or individuals for the issuance of license application forms. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.20

RABIES CONTROL

Sections:
6.20.010 Dog, cat and ferret rabies vaccination requirements.
6.20.020 Rabies vaccination—When valid.
6.20.030 Rabies vaccination—Veterinarian duties—Certification and tags.
6.20.040 Impoundment of animals without valid vaccination tags.
6.20.050 Rabid animal reports.
6.20.060 Animals exposed to rabies.
6.20.070 Management of animals that bite humans.

6.20.010 Dog, cat and ferret rabies vaccination requirements.
A. Vaccination Required. The owner or person having charge, care, custody, and control of a cat, dog, or ferret four months of age or older shall have such animal vaccinated against rabies and shall thereafter ensure that said animal is revaccinated as often as is required to maintain the animal in a current rabies vaccination status. Any person permitting any animal to habitually be on or remain, or be lodged or fed, within such person’s house, yard or premises shall be responsible for the vaccinations of the animal. Unvaccinated cats, dogs or ferrets over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated within thirty days of acquisition or arrival. Every dog, cat and ferret shall have a current rabies vaccination with a rabies vaccine approved by the current compendium of animal rabies control.

B. Operators’ Responsibility. Veterinarians, cattery and kennel operators shall be responsible for determining that dogs, cats and ferrets are currently vaccinated for rabies prior to accepting the animal from their owners or caretakers for temporary housing on their premises.

C. Exception. The provisions of this section shall not apply to a veterinarian providing emergency medical care to a sick or injured animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.020 Rabies vaccination—When valid.
A. Specified. Animals that have had a valid vaccination for rabies will not be considered to have a current vaccine until thirty days following the first vaccination and will be considered unvaccinated the day following the expiration of the last documented valid vaccination.

B. Bite Cases. For the purpose of management of bite cases, an owner may, within six months of expiration of the last vaccine, submit proof of protection against rabies. Such proof shall be in the form of a written statement from a veterinarian based upon a blood titer paid for by the owner, drawn after the bite and prior to, or within ten days of, any revaccination. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.030 Rabies vaccination—Veterinarian duties—Certification and tags.
A. Certification Information. It shall be the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination, in duplicate, which includes the following information:

1. Owner’s name and address;
2. Description of the animal (breed, sex, markings, age, name);
3. Date of vaccination;
4. Rabies vaccination tag number;
5. Type of rabies vaccine administered; and
6. Manufacturer’s serial number of vaccine.
B. Distribution of Copies. A copy of the certificate shall be distributed to the owner and the original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this chapter.

C. Tag. Additionally, a metal or durable plastic rabies vaccination tag, serially numbered, may be securely attached to the collar or harness of the animal. An animal discovered in public view and not wearing a rabies tag, or current license tag, shall be deemed to be unvaccinated and may be impounded or seized in accordance with law and dealt with pursuant to this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.040 Impoundment of animals without valid vaccination tags.
A. Reclaim by Owner. Any vaccinated animal impounded because of a lack of a rabies vaccination tag may be reclaimed by its owner upon the owner furnishing proof of rabies vaccination and payment of all fees attributable to said animal’s apprehension and impoundment accrued up to the date of release.

B. Rabies Deposit. Any unvaccinated animal may be reclaimed by its owner prior to disposal of said animal under the procedures set forth in Section 6.28.040 of this title by payment of all fees attributable to said animal’s apprehension and impoundment and by the owner posting a rabies deposit as found in the current fee schedule. Said deposit may be recovered by owner upon showing proof of rabies vaccination within seventy-two hours of release.

C. Disposal of Unclaimed Animals. Any animal not reclaimed prior to the period specified in Section 6.28.050 shall be disposed of pursuant to that section. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.050 Rabid animal reports.
A. Reporting Required. Any person having knowledge of the presence or whereabouts of an animal known to have been exposed to or reasonably suspected of having rabies and any person having knowledge of an animal or person bitten by a wild or domestic carnivorous mammal or bat shall report such knowledge and all pertinent information available to the division and/or the health department. Any person having custody of such animal shall confine the animal pending direction from the division or health department.

B. Interference Prohibited. It is unlawful under this title for any person having knowledge of the presence or whereabouts of an animal known to have been exposed to, or reasonably suspected of having, rabies; or of an animal or person bitten by such an animal; to harbor, protect, or otherwise interfere with the apprehension or identification of said animal or persons by wilfully withholding such knowledge from an animal control officer, peace officer, or any other officer of the health department or the Utah State Department of Health.

C. Failure to Surrender. It is a violation of this title for an owner, or other person having the care, custody and control, of an animal known, suspected, or deemed to have been exposed to rabies as set forth above in this section to fail to surrender said animal immediately upon demand by any peace officer, animal control officer or officer of the city, the division, the health department or the Utah State Department of Health. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.060 Animals exposed to rabies.
Any animal potentially exposed to rabies virus by a wild or domestic carnivorous mammal or a bat that is not available for testing shall be regarded as having been exposed to rabies.

A. Unvaccinated. Unvaccinated dogs, cats, and ferrets exposed to a rabid animal shall be euthanized immediately. If the owner is unwilling to have this done, the animal shall be placed in strict isolation for six months under a veterinarian’s supervision, at the owner’s expense, and vaccinated one month before being released.

B. Vaccinated. Dogs, cats, and ferrets that are currently vaccinated shall be revaccinated immediately, kept under the owner’s control and observed for forty-five days.

C. Livestock. Livestock shall be handled as per the current compendium of animal rabies control. (Ord. 2012-12 § 2 (Exh. A) (part))
6.20.070 Management of animals that bite humans.

A. Quarantine. An apparently healthy dog, cat, or ferret that bites a person or another animal shall be quarantined and the following provisions shall apply:

1. The animal shall be observed for a period of not less than ten days by the division and/or the health department, and the owner of the animal shall be responsible for the cost of such quarantine.

2. The normal place for such quarantine shall be the division’s animal shelter; however, other arrangements suitable to the division’s director may be made for the period of observation specified herein upon the condition that the biting animal had a current rabies vaccination at the time the bite was inflicted.

3. A person having custody of an animal under quarantine at a place other than the division’s animal shelter shall immediately notify the division if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes from quarantine.

4. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow an officer of the division, the health department or a veterinarian designated by them to make an inspection or examination of the animal during and/or at the end of the period of quarantine.

5. If the quarantined animal dies within ten days from the date of the bite for which the animal was quarantined, the person having custody of said animal shall immediately notify the division of such fact and immediately deliver the animal to that person’s veterinarian or the division for the removal and delivery of the head of said animal to a laboratory specified by the State Department of Health for examination for rabies.

6. At the end of the quarantine period, the director or designee shall examine the quarantined animal and if no sign of rabies is present in the animal, the animal may be released to its owner. Stray animals shall be disposed of as provided in Section 6.28.050.

7. If, during the quarantine, the animal exhibits symptoms of rabies, it shall be immediately destroyed and tested.

8. Any stray or unwanted dog, cat or ferret that bites a person may be euthanized immediately and submitted for rabies examination, if an immediate examination is determined necessary by the director or the health department.

B. Other Animals. Animals other than dogs, cats, or ferrets that might have exposed a person to rabies shall be reported immediately to the division and the health department. Case management will be a collaborative effort between the health department and the division. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.24

ANIMAL BITES AND NUISANCES

Sections:
6.24.010  Nuisance—Penalties for allowing.
6.24.015  Public nuisance animal.
6.24.030  Animal bites—Reporting requirements.
6.24.040  Fierce, dangerous or vicious animals.
6.24.050  Control and fencing of livestock.
6.24.060  Harboring stray animals—Unlawful confinement or concealment of animals.
6.24.070  Dogs or ferrets running at large—Owner liability.
6.24.080  Animal trespass.
6.24.090  Staking dogs improperly.
6.24.100  Female dogs in heat.
6.24.110  Dogs prohibited in designated areas.
6.24.120  Attacks by animals—Owner liability—Destruction authorized when.

6.24.010  Nuisance—Penalties for allowing.
An owner or person having charge, care, custody or control of an animal or animals creating a nuisance, as defined in this title, shall be guilty of allowing a nuisance in violation of this title and subject to the penalties provided herein. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.015  Public nuisance animal.
“Nuisance” means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or humans, or substantially interfere with humans’, other than their owner’s, enjoyment of life or property.

The term “public nuisance animal” shall mean and include, but is not limited to, any animal that:
A.  Is repeatedly found at large;
B.  Damages the property of anyone other than its owner;
C.  Repeatedly molests or intimidates neighbors, pedestrians or passersby by lunging at fences, chasing, or acting aggressively towards such person, unless provoked by such person;
D.  Chases vehicles;
E.  Makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other noise which causes unreasonable annoyance, disturbance, or discomfort to neighbors or others;
F.  Causes fouling of the air by odors and thereby creates unreasonable annoyance or discomfort to neighbors or others;
G.  Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
H.  Defecates on any public or private property without the consent of the owner of such property, unless the handler of such animal shall have in his or her possession the instruments to clean up after his or her animal and shall remove the animal’s feces to a proper trash receptacle;
I.  Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals kept or harbored;
J.  Attacks people or other animals, whether such attack results in actual physical harm to the person or animal to whom or at which the attack is directed;
K. Has been found by a court or by any other commission or board lawfully established under Utah law to be a public nuisance under any other provision of Utah law;

L. Cannot be restrained by normal restraints, such as standard leashes, standard chains, or muzzles; or

M. Cannot be effectively controlled by its owner or handler.

The fact, or evidence of the fact, that the factors alleged to have caused the animal to be a nuisance are inherent and/or natural behavior for such animal, or the actions of the owner or animal are otherwise legal, shall not negate or excuse a charge of nuisance. (Ord. 2012-12 § 2 (Exh. A) (part))


A. Authority. If the director has reasonable grounds to believe that an animal constitutes a public nuisance animal, as defined herein, and that such nuisance necessitates immediate abatement, he/she may issue an abatement order, by mail or posting, giving the animal owner or keeper seven days to abate the animal nuisance. If the animal nuisance is not abated within seven days after delivery of the abatement notice, an animal control officer may seize the animal pending delivery of an order concerning the disposition of the animal by a court of competent jurisdiction. Each day that an owner or keeper allows an animal nuisance to persist beyond seven days following delivery of an abatement notice will constitute a separate violation of this title.

B. Costs. If the court determines that the animal in question is not a nuisance and/or need not be abated for the public health and safety, the division shall cause the animal to be returned to the owner or handler forthwith, and shall assume the responsibility for the costs incurred while the animal is under the care and keeping of the division. If the court determines that the animal in question constitutes a public nuisance, the owner or handler shall be liable to the division for the cost incurred by the division for the animal’s care and keeping while the matter is before the courts, and for the cost of destroying the animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.030 Animal bites—Reporting requirements.

A. Time Limit for Reporting. Persons who obtain knowledge that an animal has bitten another animal or a human shall report the facts to the division within twenty-four hours of the bite, regardless of whether the biting animal is of a species subject to rabies.

B. Medical Personnel. A physician, or other medical personnel, who renders professional treatment to a person bitten by an animal shall report that fact to the division and the health department within twenty-four hours of his/her first professional attendance. Such report shall include the name, sex and address of the person bitten as well as the type and location of the bite. If known, the person making the report shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the division in ascertaining the immunization status of the animal.

C. Veterinarians. A veterinarian or other person who treats an animal bitten, injured or mauled by another animal shall report that fact to the division. The report shall contain the name and address of the owner of the injured animal, the name and address of the owner, if known, of the animal which caused the injury, and a description of the animal, if known, which caused the injury, and the location of the incident.

D. Violation. Any person not conforming with the requirements of this section shall be in violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.040 Fierce, dangerous or vicious animals.

It is a violation of this title for an owner or handler of a dangerous or vicious animal to allow or permit said animal to go or be off his/her premises unless such animal is under secure restraint and muzzled and/or confined so as to prevent it from injuring any person, property, or other animal. The owner of any dangerous or vicious animal shall microchip the animal and register the microchip number with the division. Every animal so vicious and dangerous that it cannot be controlled by reasonable restraints, and every dangerous and vicious animal not effectively controlled by its owner or person having charge, care or control of such animal, so that it shall not injure any person or property, is a hazard to public safety, and the director may take the same action in regards to such animal as is permitted in Section 6.24.020, or may seek a court order for destruction of or muzzling of the animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.050 Control and fencing of livestock.
A. At Large. It is unlawful for an owner or handler of livestock to allow, either negligently or wilfully, the same to run at large in an area where such is not permitted by any law or regulation.

B. Trespassing. It is unlawful for an owner or handler of livestock to allow, either negligently or wilfully, the same to be herded, pastured, or to otherwise enter upon the land of another person without the consent of that person.

C. Fencing. In areas where livestock are not permitted to run at large, the owner or handler of livestock shall construct adequate fencing and shall maintain said fencing to prevent livestock animals’ escape from the owner’s or handler’s premises.

D. Adequate Fencing Defined. For the purposes of this section, “adequate fencing” means, at a minimum, mesh, barbed wire, chainlink, rail, or post fencing; or metal fence panels.

E. Stallions. Because of the unusual hazards presented by stallions, such animals shall be confined in a fenced enclosure with a minimum fence height of eight feet.

F. Failure to Comply. Failure by an owner or handler to erect and maintain the fencing required by this section, thus permitting the escape of an animal, or injury to persons, property or other domesticated animals, shall be a violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.060 Harboring stray animals—Unlawful confinement or concealment of animals.
A. Harboring Prohibited. It shall be unlawful for any person, except an animal welfare society incorporated or otherwise qualified to do business within Utah and licensed under this title, to harbor or keep any lost or stray pet, unless otherwise allowed by Utah law. A person who assumes and maintains control of a lost or stray pet longer than twenty-four hours, without notifying the division of the presence and location of said animal, shall be presumed to have violated this section.

B. Unlawful Confinement. It shall be unlawful for any person to take an animal, without the permission of the owner or handler thereof, and/or to confine an animal in a place unknown to the owner or handler; or to conceal an animal’s whereabouts from the owner or handler thereof. The offense described herein is committed irrespective of the period of time of such unlawful confinement or concealment. This section shall not apply to animal control officers legally taking an animal in an emergency or under protection from its owner or handler. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.070 Dogs or ferrets running at large—Owner liability.
It is unlawful for the owner or handler of any dog or ferret to allow such dog or ferret at any time to run at large. The owner or handler of a dog or ferret shall be liable in damages for injury committed by such dog or ferret and it shall not be necessary in any action brought thereof to allege or prove that such dog or ferret was of a vicious or mischievous disposition or that the owner or keeper thereof knew that it was vicious or mischievous. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.080 Animal trespass.
It is unlawful for the owner or handler of an animal to allow such animal to trespass on the property of another. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.090 Staking dogs improperly.
A. Unlawful. It is unlawful for any person to chain, stake out or tether any dog on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property.

B. Access to Necessities Required. It is unlawful for any person to chain, stake out or tether any dog on any premises in a manner that prevents the dog from having access to food, water or shelter. (Ord. 2012-12 § 2 (Exh. A) (part))
6.24.100 Female dogs in heat.
Any owner or person having charge, care, custody or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or other structure so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.110 Dogs prohibited in designated areas.
A. Restaurants and Similar Places. It is unlawful for any person to take or permit any animal, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, or served, including, but not limited to, restaurants, grocery stores, meat markets and fruit or vegetable stores.

B. Watershed Areas. It is unlawful for any person keeping, harboring or having charge or control of any dog to allow such dog to be within protected watershed areas as designated by either the health department or any public water district.

C. Staking in Public Place. It is unlawful for any person to chain, stake out or tether any animal in a public place unless the owner or handler of the animal is continually present and the animal is properly restrained so that the animal poses no threat of contact with a person engaged in a normal and expected activity.

D. Public Parks. It is unlawful for any person to take or permit any unrestrained animal in any public park located within the city. Any animal in a public park must be continually kept on a leash, not over eight feet in length, which is of sufficient strength to ensure that the animal’s owner or handler shall at all times have absolute control over the animal. The director may grant exceptions to this subsection for a licensed animal exhibition.

E. Exceptions. This section shall not apply to dogs provided for in Section 6.16.090(B), or when the director of the health department adopts rules and regulations, which are subsequently ratified by the city council, which set forth the times and places where the dog or dogs may be allowed without compromising the health and safety of humans, causing a nuisance, or damaging property. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.120 Attacks by animals—Owner liability—Destruction authorized when.
A. Attacking, Chasing or Worrying. It is unlawful for the owner or person having charge, care, custody or control of any animal to allow such animal to attack, chase or worry any human, domesticated animal, any species of hoofed wildlife protected by any law or ordinance, or any pet or companion animal. “Worry,” as used in this section, means to harass or intimidate by barking or baring of teeth, growling, biting, shaking or tearing with the teeth; or approaching any person in an apparent attitude of attack or any aggressive behavior which would cause a reasonable person to feel they were in danger of immediate physical attack.

B. Penalty Additional. Any penalty imposed as a result of prosecution of a person under subsection (A) of this section shall be in addition to any penalties or liabilities imposed upon such person by any other law or ordinance.

C. Owner Liability. The owner in violation of subsection (A) of this section shall be strictly liable for violation of this section. In addition to being subject to prosecution under subsection (A) of this section, the owner of such dog shall also be liable in damages to any person injured or to the owner of any animal(s) injured or destroyed thereby.

D. Mitigating Circumstances. The following shall be considered in mitigating the penalties or damages, or in dismissing a charge brought under subsection (A) of this section:

1. That the animal was properly confined on the premises; or

2. That the animal was deliberately or maliciously provoked.

E. Authorized Action for Protection. Any person may kill (or take other protective action against) an animal while it is committing any of the acts specified in subsection (A) of this section, or while such animal is being pursued after committing any of such acts, or to protect him/herself, or members of the public, from any threat of death or personal injury then being posed by the animal. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.28

IMPOUNDMENT

Sections:
6.28.010 Animal shelter and facilities.
6.28.020 Impoundment authorized—When.
6.28.030 Impoundment—Recordkeeping requirements.
6.28.040 Redemption of animals—Restrictions.
6.28.050 Term of impoundment—Destruction or other disposition of animals.
6.28.060 Sterilization of adopted and impounded animals.

6.28.010 Animal shelter and facilities.
A. Shelter. The city shall be responsible, within its legislative discretion, to provide (by contract with the division or otherwise) suitable premises and facilities to be used as an animal shelter where impounded animals can be kept.

B. Destruction. The division shall provide for the destruction of dogs, cats, ferrets and other animals for which destruction is authorized by this title or by Utah law. Destruction shall be accomplished in accordance with standards established by the American Veterinary Medical Association, or in accordance with any other nationally recognized standards established for the proper destruction of animals; or by any method which, in the discretion of the director or the division, is proper under the then existing circumstances.

C. Medical Treatment. The division may furnish, when deemed necessary at the discretion of the director or division personnel, medical treatment to animals impounded pursuant to this title. Prior consent for such treatment from the owners of such animals shall not be required.

D. Cost Recovery. The division shall be entitled to recover from the owner of any affected animal the cost of the care and keeping, medical treatment, and euthanasia provided or performed under the authority of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.020 Impoundment authorized—When.
A. Impoundment. An animal control officer may impound, or leave an animal in the custody of its owner or handler, according to such officer’s discretion, whenever such animal is found to be in circumstances which violate the requirements of this title. If left in the custody of the owner or handler, said owner or handler shall nevertheless be required to respond to a notice of violation issued by the animal control officer.

B. Impounding without Criminal Complaint. An animal found in the following circumstances may be impounded by an animal control officer without the filing of a criminal complaint or obtaining a prior order from a court of competent jurisdiction:

1. The animal is running at large outside its owner’s or handler’s premises;

2. The animal is outside its owner’s or handler’s premises and is not licensed as required by this title. An animal not wearing a license tag shall be presumed to be unlicensed for the purpose of this section;

3. The animal is sick or injured and its owner cannot be immediately located;

4. The animal’s owner or handler requests the division to impound the animal and pays, in advance, a fee reasonably calculated to pay for the cost the division will reasonably incur during impoundment and possible destruction of the animal;

5. The animal is abandoned;

6. The animal is outside its owner’s or handler’s premises and is known by the animal control officer to be without the rabies vaccination required by this title. For the purpose of this section, an animal not wearing a rabies tag shall be presumed to be unvaccinated;
7. The animal is known by the animal control officer to have been exposed to rabies or bitten by a rabid animal;
8. The animal is to be otherwise held for quarantine;
9. The animal is a vicious animal and not properly confined or restrained as required by Section 6.24.040; or
10. The animal is not being kept or maintained as required by any other provision of this title, and as a result thereof, the animal poses an imminent threat to the health and safety of persons, other animals, or itself.

C. List Not Exhaustive. The circumstances set forth above in this section are not intended to be a complete list of those in which the city, the division, and/or an animal control officer may impound an animal without a prior order from a court of competent jurisdiction; and said officers are authorized to act as necessary to maintain the peace and safety of the city under the requirements of this title and all other applicable law. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.030 Impoundment—Recordkeeping requirements.
The impounding facility shall keep record of each animal impounded, which shall include the following information:

A. Complete description of the animal, including tag numbers;
B. The manner and date of impound;
C. The location of the pick up and name of the officer picking up the animal;
D. The manner and date of disposal;
E. The name and address of the person who redeems, purchases or adopts the animal;
F. The name and address of any person relinquishing an animal to the impound facility;
G. All fees received on behalf of the animal; and
H. All costs of impoundment allocable to the animal which accrue during its impoundment. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.040 Redemption of animals—Restrictions.
A. Payment of Fees. The owner of any impounded animal or his/her authorized representative (a legally responsible adult of age eighteen or more) may redeem such animal before disposition, provided he/she pays:

1. The impound fee;
2. The daily board charge;
3. Veterinary costs incurred during the impound period, including rabies vaccination or rabies vaccination deposit;
4. License fee, if required;
5. A transportation fee if transportation of an impounded animal by specialized equipment is required. “Specialized equipment” is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers. The director of animal services shall determine this fee at a level that approximates the cost of utilizing the specialized equipment in the particular situation;
6. Any other expenses incurred to impound an animal in accordance with state or local laws;
7. Any unpaid (past due) fees and fines incurred by the owner;
8. If any dog or cat is fertile, the owner shall also pay a sterilization deposit and comply with any other requirements established by Section 17-42-101 et seq. of the Utah Code Annotated, as amended, or other applicable
state law and implemented by the division. For the purposes of this subsection, the term “recipient” contained in the referenced state statute shall include an owner or his/her authorized representative who is redeeming his/her animal after impound;

9. If an animal is impounded on two or more occasions without wearing identification or license tags, the owner may be required to purchase microchip identification in addition to impound fees.

B. Establishment of Fees. The director, with the city council’s approval by resolution, shall set, and periodically revise when necessary, maximum impound fees and daily board charges for the impounding of animals. Such fees shall be published in the fee schedule. Such fees may take into account the type of animal impounded, the owner’s compliance with animal licensure requirements, the number of confinements in the preceding year, and the duration of the confinement. No impound fees will be charged the reporting owners of suspected rabid animals if they comply with Chapter 6.20. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.050 Term of impoundment—Destruction or other disposition of animals.
A. Term. Animals shall be impounded for a minimum of three business days before further disposition unless the animal is wearing a license tag or other identification, in which case it shall be held a minimum of five calendar days. Reasonable efforts shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition.

B. Destruction, Disposal, or Adoption. All animals, except those quarantined or confined by court order, or those subject to Section 4-25-4 of the Utah Code Annotated, as amended, which are held longer than the minimum impound period, and all animals voluntarily relinquished to the division’s animal facility, may be destroyed or disposed of as the director or the division shall direct. Any healthy pet may be adopted to any qualifying person desiring to adopt such animal, for a price as published in the current fee schedule. The division shall require the sterilization of any healthy dog, cat, ferret or rabbit sold or released under this chapter and shall also comply with any applicable requirements established by Section 17-42-101 et seq. of the Utah Code Annotated, as amended, or other applicable state law.

C. Injured Animal Released to Veterinarian. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, in the division’s discretion, be released to the care of a veterinarian with the consent of the owner.

D. Destruction Without Time Limitations. When, in the division’s judgment, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established in this title, and without court order.

E. Destruction upon Request of Owner. The division may destroy an animal upon the request of an owner without transporting the animal to the division’s animal facility. An appropriate fee shall be charged the owner for the destruction and any subsequent disposal of the carcass performed by the division. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.060 Sterilization of adopted and impounded animals.
A. Sterilization Required. A dog, cat, ferret or rabbit adopted from the division’s animal facility shall be sterilized.

B. Conditional Adoption. The division may allow the conditional adoption of an unsterilized dog, cat, ferret or rabbit, because of the age of the animal or as otherwise deemed necessary by the division. Such conditional adoption shall become final upon proof to the division that the animal has been sterilized. Failure to sterilize results in forfeiture of the animal to the division.

C. Owner Reclaiming. A dog or cat owner reclaiming an impounded pet shall comply with any applicable requirements established by Section 17-42-101 et seq. of the Utah Code Annotated, as amended, or other applicable state law and implemented by the division to conform with said law. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.32

CRUELTY TO ANIMALS

Sections:
6.32.010 Care and maintenance responsibility.
6.32.020 Keeping of diseased or painfully crippled animals.
6.32.030 Abandonment of animals.
6.32.040 Hobbling animals.
6.32.050 Animals in vehicles.
6.32.060 Physical abuse of animals.
6.32.070 Injury to animals by motorists—Duty to stop and assist.
6.32.080 Poisoning animals.
6.32.090 Steel jaw traps.
6.32.100 Mistreatment of animals.
6.32.110 Baby rabbits and fowl—Restrictions.
6.32.120 Selling certain turtles prohibited.
6.32.130 Killing birds.
6.32.140 Tethering of dogs—Restricted.
6.32.150 Tethering of dogs—Exemptions.

6.32.010 Care and maintenance responsibility.
It shall be unlawful for an owner or handler of an animal to withhold food, drink, care, adequate space and shelter from such animal, which is reasonably necessary to maintain such animal in good health, comfort and safe from potential hazards. To ensure the availability of adequate space for large animals, notwithstanding anything in this code to the contrary, it shall be unlawful to keep any horse, mule, burro, ass or cattle on a lot or other parcel of ground that is not over one-half acre in size. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.020 Keeping of diseased or painfully crippled animals.
A. Abandonment. It is unlawful for any person to abandon or turn out at large any sick, diseased or disabled animal.

B. Disease or Disability. It is unlawful for the owner or handler of an animal rendered worthless to said owner or handler by reason of disease or disability to allow such animal to continue to live in a diseased or disabled state. Said owner or handler shall dispose of such animal by killing the same in a humane manner, or by contacting the director or the division. Upon such contact, the division shall assume responsibility for disposition of the animal; provided, that the owner or handler shall pay a fee, in advance, to the division to pay for division’s cost in disposing of the animal. If the owner or handler fails to pay such fee, and fails to dispose of the diseased or disabled animal as required above, such person shall be in violation of this title.

C. Veterinary Care or Disposal Required. It is unlawful for an owner or handler of an animal which is infected with a disease, or is in a painfully crippled condition, to have, keep or harbor such animal without placing the animal under veterinary care and/or disposing of such animal as required in subsection (B) of this section. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.030 Abandonment of animals.
It is unlawful for any person to abandon any animal within the geographical boundaries of the city. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.040 Hobbling animals.
It is unlawful for any person to hobble livestock or other animals by any means that may cause injury or damage to any animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.050 Animals in vehicles.
It is unlawful for any person to carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation or for an unusual length
of time. Persons transporting an animal in the open bed of a vehicle must physically restrain the animal in such a manner as to prevent the animal from jumping or falling out of the vehicle. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.060 Physical abuse of animals.
It is unlawful for any person to kill without legal justification, maim, disfigure, torture, beat, whip, mutilate, burn or scald, over drive or in any manner treat any animal in a cruel or malicious manner. Each instance of such treatment shall constitute a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.070 Injury to animals by motorists—Duty to stop and assist.
A. Required. The operator of a motor vehicle or other self propelled vehicle being operated upon the streets of the city (within the area of authority of this title) shall, in the event such vehicle should strike and injure or kill any domesticated animal, give reasonable aid and assistance and/or protection to such animal, without placing him or herself at unreasonable risk, and in the absence of the owner call and report the facts pertaining to the incident to either of the following authorities:

1. The Salt Lake County sheriff or other police agency having jurisdiction in the city;
2. The director; or
3. The division.

B. Compliance with Instructions Given. After making the report required above, the operator shall comply with the instructions given by the agency contacted and shall, if instructed, remain at the scene until appropriate police or animal control authority arrives. After arrival of appropriate authority, the operator shall cooperate with said authority in the investigation and reporting of the incident.

C. Transportation Alternative. As an alternative to complying with the requirements set forth above, and in the absence of the owner, the motor vehicle operator may transport the animal which has been struck to the division’s animal facility, or, in the case of an animal which is injured and not dead, to a veterinarian for treatment of the animal’s injuries. If the operator chooses the latter course of action, he/she shall be responsible for the cost of treatment if required by the veterinarian. The division shall not be responsible for the cost of treatment unless it has accepted responsibility after the operator’s compliance with any of the requirements of this section.

D. Exception for Emergency Vehicles. This section shall not apply to operators of emergency vehicles if such vehicles are being operated in response to a bona fide emergency situation at the time the animal is struck. Emergency vehicle operators who strike an animal during a response to a bona fide emergency situation shall notify the director of the division of the incident as soon as is practicable thereafter. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.080 Poisoning animals.
Except as provided in this section, it is unlawful for any person by any means to knowingly and recklessly make accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of the public health, when applied in such a manner as to reasonably prohibit access to other animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.090 Steel jaw traps.
It is unlawful for any person to use steel jaw traps to trap animals, unless authorized by the director. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.100 Mistreatment of animals.
It is unlawful for any person to provoke any animal which is being kept, housed or confined in compliance with this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.110 Baby rabbits and fowl—Restrictions.
A. Age Restrictions. It is unlawful for any person to sell, offer for sale, offer to give as a prize, premium or advertising device, or display in any store, shop, carnival or other public place any baby rabbits or fowl under eight weeks of age in any quantity less than six.
B. Dates Prohibited. It is unlawful for any person to sell, offer for sale, barter or give away any baby rabbits or fowl under eight weeks of age during the two-week period preceding Easter in any quantity less than twenty-five.

C. Dye or Color. It is unlawful to artificially dye or color any animal under six months of age.

D. Personal Use and Consumption. Nothing in this section shall be construed to prohibit the purchase and raising of such rabbits and fowl by a private individual for his/her personal use and consumption; provided, that he/she shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his/her possession.

E. Adequate Care. It is unlawful to offer as an advertising device, or to display, any animal without at all times keeping adequate food and water available for the animal’s use.

F. Offering Live Animal Prohibited. It is unlawful for any person to offer as a premium, prize, award, novelty or incentive to purchase merchandise any live animal. Nothing herein shall be construed to prohibit the offering or sale of animals in conjunction with the sale of food or equipment designed for the care or keeping of such animals.

G. Separate Offense. Each day an offense of this section occurs or continues shall be a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.120 Selling certain turtles prohibited.
It is unlawful to own or sell, barter or trade any Chrysemys scripta-elegans, Red-Eared Sliders, that are four inches in length or smaller, or P. troostii, family Testudinidae, “pet turtles.” (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.130 Killing birds.
It is unlawful to kill any bird, or to rob or destroy any nest, egg or young of any bird, in violation of state law. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.140 Tethering of dogs—Restricted.
A. It is unlawful for an owner or handler of a dog to tether a dog in any manner that would cause injury or damage to the dog, or when freedom of movement would endanger a dog. A tether must be of sufficient length to provide the dog with adequate space. Each dog tethered in violation of this section shall constitute a separate offense.

B. It is unlawful for an owner or handler of a dog to tether a dog for longer than ten hours within a twenty-four-hour period. Each dog tethered in violation of this section shall constitute a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.150 Tethering of dogs—Exemptions.
The provisions of Section 6.32.140 will not apply in the following circumstances:

A. The owner or handler has been mandated by animal services to keep the dog properly restrained at all times by the use of a tether or other means of containment.

B. The owner or handler has a dog that is registered as a dangerous animal under Section 6.12.130. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.36

WILD, DANGEROUS AND EXOTIC ANIMALS

Sections:
6.36.010    Prohibitions relating to wild, dangerous and exotic animals—Exceptions.

6.36.010    Prohibitions relating to wild, dangerous and exotic animals—Exceptions.
A.    Specified. It is unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor or purchase any wild, dangerous or exotic animal (as defined in Title 50 C.F.R., in state law or regulation, or in Sections 6.04.160, 6.04.225 and 6.04.580), or which is otherwise a “vicious animal” or a “nuisance,” as defined in this title.

B.    Exceptions. The prohibitions of subsection (A) of this section shall not apply to a person, animal shelter, zoological park, veterinary hospital, Internal Revenue Code Section 501(c)(3) animal welfare shelter, public laboratory, circus, sideshow, amusement show, or facility for education or scientific research if such organizations are otherwise licensed or permitted as provided in this title; provided, that said animals are restrained or confined in such a manner as to prevent their escape and/or injury to the public. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.38

DOG BREEDERS

Sections:
6.38.010 License.
6.38.020 License—Responsible breeder—Five-year license.
6.38.030 Inspections.
6.38.040 Standards.
6.38.050 Records.
6.38.060 Enforcement and penalties.

6.38.010 License.
A. Dog breeders shall obtain a license issued by the division, in addition to any current general kennel or fancier’s permit required by ordinances.

B. An applicant for a license shall submit an application on a form prescribed by the division, together with an annual, nonrefundable license fee in an amount determined by the council.

C. The division, through its inspector, may conduct an inspection for the license requested by the applicant to determine whether the applicant qualifies to hold a license pursuant to this section. The division shall issue the license upon receipt of the application and annual license fee and upon satisfactory completion of any required or qualifying inspection and compliance with all requirements of this chapter.

D. A license will not be issued to an applicant who has pled no contest or has been found to have violated any federal, state or local laws or regulations pertaining to any animal laws within five years of the date of application.

E. An applicant who does not receive a license shall be afforded the opportunity for a hearing before a hearing officer of the division to present evidence that the applicant is qualified to hold a license.

F. This section shall not apply to:

1. Any person licensed or subject to inspection by the United States Department of Agriculture pursuant to the federal Animal Welfare Act (7 U.S.C. 2131 et seq.) and its regulations (Title 9 C.F.R.).

2. Any evacuation or management activity associated with any emergency or disaster declared by local, state or federal government.

G. A license to operate as a dog breeder shall be renewed by filing with the division annually a renewal application and license fee.

H. License registration should be made prior to any litter being delivered. Failure to timely register under this chapter may result in additional penalties, including a late fee as established by the council.

I. A license is not transferable to another person or location.

J. A licensee may be put on probation requiring him or her to comply with the conditions set out in an order of probation issued by the division, may be ordered to pay a civil penalty or may have his or her license suspended after:

1. The division determines the licensee has not complied with the provisions of this section or with division regulations;

2. The licensee is given written notice to comply and written notice of the right to a hearing to show cause why the license should not be revoked; and
The division finds that issuing an order revoking the license is appropriate based on the hearing record or on available information if the hearing is waived in writing by the licensee or the licensee does not appear at a scheduled hearing after the licensee has received notice of the hearing.

K. The facility or operation of any licensee whose license has been suspended shall close and remain closed and all operations cease until the license has been reinstated and a new license is issued. Any facility or operation for which the license is revoked shall not be eligible to apply for a new license until one year after the date of the order revoking the license or, if the revocation is appealed, one year from the date of the order sustaining the revocation.

L. The division may terminate proceedings undertaken pursuant to this section at any time if the reasons for instituting the proceedings no longer exist. A license which has been suspended may be reinstated, a person with a revoked license may be issued a new license, or a licensee may no longer be subject to an order of probation if the division determines the conditions which prompted the suspension, revocation, or probation have been remedied or no longer exist.

M. A licensee shall have the right to appeal adverse decisions to the division director or designee. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.020 License—Responsible breeder—Five-year license.

A. Licensees belonging to recognized organizations which require and enforce adherence to a code of ethics and standards specific to their breed may obtain a five-year license, at no charge.

B. Recognized Organizations.

1. Local, regional or national dog club or organization recognized by the American Kennel Club which have a written code of ethics that members are held accountable in order to remain member-in-good-status standing; or

2. If the breed is not recognized by the American Kennel Club, then a local, regional or national dog club or an organization recognized by the United Kennel Club which has a written code of ethics that members are held accountable to in order to remain member-in-good-status standing; or

3. If the breed is not recognized by the American Kennel Club or the United Kennel Club the organization may be recognized by providing the following information to the division:
   a. Articles of organization and bylaws (or equivalent);
   b. Copy of the organization’s code of ethics; and
   c. Statement regarding member’s requirement to abide by code of ethics to maintain membership.

C. Application for five-year license must include the following:

1. Proof that the applicant is a member in good standing with a recognized organization; and

2. A copy of the recognized organization’s code of ethics (or equivalent) that members are held accountable to in order to maintain member-in-good-standing status. The code of ethics must include at a minimum:
   a. Expectations for following guidelines and recommendations for breed specific health and medical testing;
   b. Prohibits selling, trading or bartering of a puppy/adult that is sick, or shipping or delivering to the buyer a puppy less than eight weeks of age; and
   c. Requirements to take back or make rescue or placement arrangements for any dog produced that has been displaced or abandoned at any time during its life.

D. A five-year license may be revoked if the licensee is found to have lost member-in-good-standing status or if the licensee is found to be in violation of any section of this chapter.
E. Organizations found to not be enforcing their member’s adherence to the organization’s standards and code of ethics may be suspended from participating in the five-year license program for two years. During the two-year period of the organization’s suspension, no five-year licenses will be issued or renewed to members of the suspended organization. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.030 Inspections.
A. The division may inspect any dog breeders licensed under this chapter to determine compliance. The division may conduct additional inspections upon receipt of a complaint or on its own motion to ensure compliance with this chapter. When an inspection produces evidence of a violation of this chapter, a copy of an inspector’s written report of the inspection, including alleged violations, shall be provided to the applicant or licensee, together with written notice to comply within the time limit established by the division.

B. The inspector, for purposes of inspection, may with an appointment enter the premises of any applicant or licensee during normal business hours and in a reasonable manner, including all premises in or upon which dogs are housed, sold, exchanged, or leased or are reasonably suspected of being housed, sold, exchanged or leased. An applicant or licensee shall, upon request of the inspector, provide assistance in making any inspection authorized under this section and its regulations.

C. The private residence of any applicant or licensee shall be available for purposes of inspection only if dogs are housed within the residence, including a room in such residence, and only the portion of the residence used as an enclosure shall be open to an inspection pursuant to this section.

D. The division shall have authority to investigate reported violations of this chapter and division regulations, including failure to obtain a license as a dog breeder, as required under this chapter. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.040 Standards.
A. Licensees shall ensure that appropriate preventative and therapeutic veterinary care is provided. A dog shall not be bred if a veterinarian determines the dog is unfit for breeding purposes.

B. Each licensee must have a plan for disaster response and recovery, including but not limited to structural damage, electrical outages and other critical system failures.

C. All dogs over four months old must be properly licensed.

D. All dogs must be provided necessary and appropriate veterinary care, including, at a minimum, an examination at least annually by a licensed veterinarian, prompt treatment of any illness or injury by a licensed veterinarian, and, where justified, humane euthanasia by an appropriate agency using lawful techniques determined acceptable by the division.

E. All dogs shall be provided sufficient housing, including protection from the elements, constant and unfettered access to an indoor enclosure that has a solid floor (a wire-mesh or similar floor is not permitted), no stacking of one animal’s enclosure above or below another animal’s enclosure, and waste removal at least once a day while the dog is outside the enclosure.

F. To prevent an extremely large number of dogs on a property, licensees can have multiple bitches, but are only allowed one litter, from one bitch, at a time. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.050 Records.
A. A licensee shall maintain accurate records for each dog within the licensee’s care for at least five years including:

1. The date the dog enters the kennel facility;

2. The person from whom each dog was purchased or obtained, including the name, address and phone number of the person, and license or registration number if applicable;
3. A description of each dog, including the color, breed, sex, date of birth (if not known, the approximate age) and weight;

4. A description of any tattoo, microchip, or other identification number carried by or appearing on the dog;

5. For breeding females:
   a. Breeding dates;
   b. Whelping dates;
   c. Number of puppies per litter; and
   d. Sire for each litter;

6. All preventative and therapeutic veterinary care provided for each dog; and

7. The disposition of each dog and the date.

B. A copy of the dog’s record, as required by this section, shall be provided at the time of transfer of ownership. Registration of any tattoo, microchip, or other identification number shall also be transferred.

C. Licensees shall provide copies of records listed in this section to the inspector, as requested, to enforce the provisions of this section or its regulations. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.060 Enforcement and penalties.
A. In enforcing this section, the division may:

1. Issue an order of probation;

2. Issue a cease and desist order;

3. Suspend or revoke a license; or

4. Seek other injunctive relief as may be necessary to enforce this section and its regulations, including impounding and seizing dogs where the division determines there is significant threat to the health or safety of the dogs harbored or owned by the licensee. Costs incurred for the care of animals impounded or seized under this section shall be recoverable from the owner of the animal who is found to have violated provisions of this section.

B. Each act committed against an individual animal in violation of this chapter or division regulations, and each day during which a violation continues, shall constitute a separate offense for purposes of this section.

C. A failure to comply with this chapter shall constitute a Class B misdemeanor. The attorney’s office may bring an action to collect unpaid license fees and/or unpaid civil penalties.

D. It shall be a violation of this section for any person to:

1. Deny access to any inspector or offer any resistance to, thwart, or hinder an inspector by misrepresentation or concealment;

2. Interfere with, threaten, verbally or physically abuse, or harass any inspector in the course of carrying out inspection duties;

3. Fail to disclose all dog housing locations owned or controlled by a licensee; or

4. Violate an injunction order or order of compliance issued pursuant to this section.

E. Proceedings undertaken under this section shall not preclude the division from seeking other civil or criminal actions. This section does not prohibit the division from assisting a law enforcement agency in a criminal
investigation. Nothing in this section shall be construed to prohibit prosecution under state statute or county ordinance. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.40
ENFORCEMENT AND PENALTIES

Sections:
6.40.010 Violation of title—Penalties.
6.40.020 Issuance of citations—Notice of violation and stipulation.
6.40.030 Violation—Procedure for court orders.
6.40.040 Pick up orders.

6.40.010 Violation of title—Penalties.
A. Penalty. Any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of Section 1.01.070.

B. Notice of Violation Processing Fee. Any notice of violation issued pursuant to this title shall subject the person to a processing fee as set forth in the current fee schedule. (Ord. 2012-12 § 2 (Exh. A) (part))

6.40.020 Issuance of citations—Notice of violation and stipulation.
A. Criminal Citation. A peace officer and/or animal control officer is authorized to issue a criminal citation to any person upon a charge of violating any provisions of this title. The form of the citation, and proceedings to be handled upon the basis of the citation, shall conform to the provisions of the Utah Code of Criminal Procedure, including, without limitation, Sections 77-7-16 through 77-7-22 of the Utah Code Annotated, as amended.

B. Notice of Violation in Lieu of Criminal Citation. Where violations of this title are observed, an animal control officer may, in lieu of issuance of the criminal citation and, with the consent of the person charged with a violation, issue a notice of violation to any person. The notice of violation shall state, with reference to the pertinent sections of this title, the violation which must be remedied by the person charged and shall set forth a compliance date by which the violator must comply with the remedial requirements. It shall also set forth a waiver provision providing that the person to whom the notice of violation is issued waives all rights to contest the charge made against him/her in the notice of violation and further waives the rights to a trial or hearing upon the charges. The notice of violation shall also include the amount of an administrative and processing fee to be paid to the division by the person charged in the notice of violation. Refusal to execute the waivers defined herein, refusal and/or nonpayment of the administrative and processing fee, or failure to comply with the notice of violation and stipulation by the deadline set as the compliance date may result in the issuance of a criminal citation to the person charged. (Ord. 2012-12 § 2 (Exh. A) (part))

6.40.030 Violation—Procedure for court orders.
Unless modified by the court, court orders pursuant to this title shall be obtained according to the following minimum notice and procedure:

A. Petition for Action. The director or his/her authorized representative shall petition the court for the desired action;

B. Service Prior to Hearing. The petition for the action, together with supporting affidavits, shall be served on the party against whom the action is taken at least five days prior to the hearing. (Ord. 2012-12 § 2 (Exh. A) (part))

6.40.040 Pick up orders.
The director or his authorized representative may petition the court for a “pick up order” for an animal within the premises of and/or under the control of a person who is in violation of this title. This section may be used for, but is not limited to, picking up of animals pursued but not captured by an animal control officer, nuisance animals or for any other violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.44

NOTICE OF VIOLATION AND STIPULATION PROCEDURES

Sections:
6.44.010 Purpose and authority.
6.44.020 Definition.
6.44.030 Administrative procedure.
6.44.040 Division conference.

6.44.010 Purpose and authority.
The use by the division of a notice of violation and stipulation in lieu of issuance of a criminal citation is intended to provide an equitable and uniform method for administering and resolving disputes between the division of animal services and parties alleged to have violated one or more of the sections of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.44.020 Definition.
“Notice of violation and stipulation” means a division determination, with the consent of the person charged, to forego the criminal citation and enter into a contractual stipulation to resolve the issue. (Ord. 2012-12 § 2 (Exh. A) (part))

6.44.030 Administrative procedure.
A. Conference. In lieu of issuing a criminal citation, and in an attempt to resolve disputes at the lowest level, the division may convene a conference with the person charged and attempt to enter into a contractual settlement to resolve the issue.

B. Deviation from Procedures. When good cause appears, the division may permit a deviation from these procedures if it finds compliance to be impractical or unnecessary or that such deviation furthers justice or purpose of the division.

C. Construction of Procedures. These procedures will be liberally construed to secure a just, speedy, and economical determination of all issues presented to the division, as applicable.

D. No Review. Actions commenced in court, whether criminal or civil, are not subject to review under these procedures.

E. Appeal Not Authorized. There is no appeal from the notice of violation and stipulation procedure. Failure by the person charged to comply with the provisions of the notice of violation and stipulation settlement agreement will result in negation of the stipulation and issuance of the criminal citation, or, at the director’s option, the settlement agreement may be enforced in court as provided in Section 6.40.030. (Ord. 2012-12 § 2 (Exh. A) (part))

6.44.040 Division conference.
A. Proceeding. In a director conference, the party shall be permitted to testify and present evidence, and comment on the issues. Discovery shall be limited. Intervention by a third party is prohibited. No recording will be made of the conference. The conference will be private and not open to the public.

B. Settlement Agreement. Upon reaching agreement as to the issues, requirements and penalties (if any), the division representative shall prepare a binding settlement agreement and shall submit the agreement to the parties for approvals and signature. The director or his or her designee may sign for the city. After signing a settlement agreement, the parties waive all rights to further hearings or appeals unless the terms are not honored, in which case the director or designee may issue a criminal citation, or seek enforcement in court as provided in Section 6.40.030. (Ord. 2012-12 § 2 (Exh. A) (part))
Title 6

ANIMALS

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6.08 Administration
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6.15 Pet Purchase Protections
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Chapter 6.04

DEFINITIONS

Sections:
6.04.010 Abandonment.
6.04.020 Allow.
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6.04.550 Veterinarian.
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6.04.570 Vicious animal.
6.04.580 Wild animal.
6.04.590 Zoological park.

6.04.010 Abandonment.
“Abandonment” means placing an animal in an environment where the animal is separated from basic needs such as food, water, shelter or necessary medical attention, for a period longer than twenty-four hours, or to intentionally deposit, leave or drop off any live animal. “Abandonment” includes failure to reclaim an animal seventy-two hours beyond the time agreed upon with a kennel, grooming service, or similar facility. “Abandonment” includes failure to reclaim a pet from an animal shelter beyond seventy-two hours of notification or refusal to sign relinquishment authorization. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.020 Allow.
“Allow,” for the purposes of this title, shall include human conduct that is intentional, deliberate, careless, inadvertent or negligent in relation to the actions of an animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.030 Animal.
“Animal” means every nonhuman species, both domestic and wild. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.040 Animal at large.
“Animal at large” means any animal, whether licensed or unlicensed, which is not under physical restraint imposed by the owner or handler when off the premises of the owner. Cats are excluded from this definition. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.050 Animal boarding establishment.
“Animal boarding establishment” means any commercial establishment that takes in animals for the purpose of providing temporary shelter or care and charges a fee for such service. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.060 Animal control officer.
“Animal control officer” means the city’s animal control services contract provider, any person designated by the state of Utah as a “peace officer,” as defined in Section 53-13-101 et seq. of the Utah Code Annotated, as amended, or any other person designated by the city as an officer who is authorized to perform the duties specified by this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.070 Animal exhibition.
“Animal exhibition” means any display of, event or contest involving animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.080 Animal grooming parlor.
“Animal grooming parlor” means any commercial establishment maintained for the purpose of offering cosmetological services for animals for a fee. (Ord. 2012-12 § 2 (Exh. A) (part))
6.04.090 Animal shelter.
“Animal shelter” means any facility owned, operated or maintained for the care and custody of seized, stray, homeless, quarantined, abandoned, or unwanted animals or animals held for the purpose of protective custody under the authority of this title or state law. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.100 Animal under physical restraint.
“Animal under physical restraint” means any animal under the physical control of its owner or person over the age of twelve years having charge, care, custody or control of the animal, by the means of a leash, tether, or other physical control device or enclosure. A leash or tether shall not exceed eight feet in length when in close proximity to other animals or people. Animals confined in or upon a motorized vehicle shall be considered physically restrained; providing, that the animal’s body parts cannot extend beyond two inches from the vehicle when the vehicle is not in motion and not more than the length of the distance from the animal’s shoulders to the tip of its muzzle when the vehicle is in motion. Animals upon the real property of their owner or upon the property of another (with prior written permission of the property owner) and under direct adult supervision shall be considered under physical restraint; provided, however, that an animal shall not be considered under physical restraint within the real property limits of the owner if an individual engaged in a normal and expected activity may come in conflict with such animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.105 Attack.
“Attack” means any attempted action by an animal which places a person or another animal in danger of imminent bodily harm. Actual physical contact shall not be required to constitute an attack. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.110 Bite.
“Bite” means an actual puncture, tear or abrasion of the skin, inflicted by the teeth of an animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.120 Cat.
“Cat” means any feline of the domesticated types more than four months of age. Any feline of the domesticated types less than four months of age is a kitten. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.130 Cattery.
“Cattery” means an establishment where cats are boarded, bred, bought, sold, or groomed for a fee. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.140 Commercial animal establishment.
“Commercial animal establishment” means any pet shop, animal grooming parlor, guard dog location or exhibition, riding school or stable, zoological park, circus, rodeo, animal exhibition, cattery, kennel or animal breeding or housing facility. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.145 Coop.
“Coop” means a freestanding building for the shelter of fowl. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.150 Custody.
“Custody” means ownership, possession of, harboring, or exercising control over any animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.160 Dangerous animal.
“Dangerous animal” means any animal that is a hazard to the public safety by virtue of training, treatment, physical condition, or has a known propensity, tendency, or disposition to attack, or any animal which, because of its size, predatory, or vicious nature or other characteristics, would constitute an unreasonable danger to human life, health or property if not kept, maintained or confined in a safe and secure manner. “Dangerous animal” includes those animals meeting the definition of “vicious animal” as set forth in this title. For the purpose of this title, constrictor snakes over ten feet in length will be considered a dangerous animal and any other constrictor snake to be found in violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))
6.04.170 Director.  
The term “director” means the director of the city’s designated animal control services contract or any other person designated by the city as an officer who is authorized to perform duties of the director specified by this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.180 Division.  
The term “division” means the city’s designated animal control services contract provider or any other person, agency or entity designated by the city to perform the duties of the division specified by this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.190 Dog.  
“Dog” means any Canis familiaris more than four months of age. Any Canis familiaris less than four months of age is a puppy. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.200 Domesticated animals.  
“Domesticated animals” means animals accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, ferrets and livestock. “Domesticated animal,” however, shall not include “exotic animals.” (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.210 Enclosure.  
“Enclosure” means any structure that prevents an animal from escaping its primary confines. For fowl, “enclosure” means a fenced or sturdy wire pen with a roof containing a coop for the purpose of allowing fowl access to the coop while remaining in an enclosed pen. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.220 Euthanasia.  
“Euthanasia” means the humane destruction of an animal accomplished by a method approved by the most recent report of the American Veterinary Medical Association panel on euthanasia that results in unconsciousness and immediate death, or by a method that causes painless loss of consciousness and death during such loss of consciousness. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.225 Exotic animal.  
“Exotic animal” means any animal whose native habitat is not indigenous to the continental United States, excluding Alaska, except tropical fish, fur-bearing animals commercially bred for the furrier trade, and birds. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.230 Feral cat.  
“Feral cat” means any free roaming, homeless, wild or untamed cat. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.240 Ferret.  
“Ferret” means any domestic Mustela putorius (except the black footed ferret) more than three months of age. Any Mustela putorius less than three months of age is a kit. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.245 Fowl.  
“Fowl” means birds of the order Galliformes, including chickens, turkeys, pheasant, partridges and quail. “Fowl” also means waterfowl of the order Anseriformes such as ducks, geese and swans. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.250 Guard dog.  
“Guard dog” means any dog that will detect and warn its handler that an intruder is present in or near an area that is being secured and will attack a human pursuant to training or its handler’s command. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.260 Handler.  
“Handler” is any person who has physical control, i.e., the charge, care, control, custody, or possession, or responsibility for the same, of an animal at any given time. An “owner” shall be presumed to have ultimate responsibility for the physical control of the animal and may divest him/herself of such responsibility only by the transferring of, or giving permission for, actual physical control of the animal to a legally responsible adult person of age eighteen or more. Whenever such other person of the requisite age has responsibility for physical control of the
animal, such person shall be the “handler.” At all other times, the “owner” shall be presumed to be the “handler.”  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.270 Harbor.  
“Harbor” means housing, feeding, or caring for someone else’s pet within a person’s house, yard, or premises for more than twenty-four hours without the permission of the owner.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.280 Health department.  
“Health department” means the Salt Lake City-County health department.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.290 Holding facility.  
“Holding facility” means any pet shop, kennel, cattery, animal grooming parlor, riding school, stable, animal shelter, veterinary hospital, or any other such facility used for holding animals.  
(Ord. 2012-12 § 2 (Exh. A) (part))

“Humane treatment” means ensuring the provision of appropriate food, human interaction and care; and protecting any animal from danger, mistreatment, neglect, or abuse.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.310 Hybrid.  
“Hybrid” means any animal, however tame or docile, that is the offspring of a breeding between a domestic animal and a wild animal, a domestic animal and a hybrid or two hybrids.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.320 Identification.  
“Identification” means a pet license or identification tag which is attached to the collar or harness of an animal; a microchip implanted as recommended by the manufacturer for the specific species; or a tattoo, or other livestock identification such as ear tags, brands, etc.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.330 Impound.  
“Impound” means being taken into custody of an animal control officer, police agency, or an agent thereof.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.340 Kennel.  
“Kennel” means a commercial establishment having three or more dogs for the purpose of boarding, breeding, buying, grooming, letting for hire, training for fee, or selling said dogs.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.350 Leash or lead.  
“Leash” or “lead” means any chain, rope, or device of sufficient strength used to restrain an animal.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.360 Livestock.  
“Livestock” means animals kept for husbandry or for family food production, including the following:

A. “Large livestock” means horses, mules, burros, donkeys, cattle, sheep, goats, llamas, swine, ratites and other similarly sized farm, hoofed domesticated animals, excluding dogs, cats and ferrets.

B. “Small livestock” means chickens, turkeys, ducks, geese, pigeons, pheasants, rabbits and other similarly sized fowl or animals, excluding dogs, cats and ferrets.  
(Ord. 2012-12 § 2 (Exh. A) (part))

6.04.365 Nonprofit animal rescue organization.  
“Nonprofit animal rescue organization” means:

A. Any nonprofit corporation that is exempt from taxation under Internal Revenue Code section 501(c)(3), whose mission and practice, in whole or in significant part, is the rescue and placement of dogs, cats, or rabbits without providing payment or other compensation to a breeder or broker; or

B. Any nonprofit organization that is not exempt from taxation under Internal Revenue Code section 501(c)(3), but is currently an active rescue partner with Midvale City, the Division, Salt Lake County Shelter, or Humane
Society of Utah Shelter, and whose mission and practice, in whole or in significant part, is the rescue and placement of dogs, cats, or rabbits without providing payment or other compensation to a breeder or broker.

6.04.370 Nuisance.  
“Nuisance” means any animal or animals that unreasonable annoy humans, endanger the life or health of other animals or humans, or substantially interfere with humans’, other than their owner’s enjoyment of life or property, or as defined in Chapter 6.24. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.380 On-site impoundment.  
“On-site impoundment” means to place an animal under seizure by law enforcement personnel, animal services personnel or an agent thereof, on a property other than an animal services sheltering facility pending transportation or court seizure order. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.390 On-site redemption.  
“On-site redemption” means to return an impounded animal to the owner or caretaker, prior to transportation to the sheltering facility upon collection of all applicable impound and/or license fees. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.400 Overwork.  
“Overwork” means to work or exercise any animal to a point of physical harm. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.410 Owner.  
“Owner” means any person, partnership, corporation, or any other type of entity or association having title to, or custody of, or keeping or harbing one or more animals. An animal shall be deemed to be harbored if it is fed and sheltered for a period of twenty-four consecutive hours or more, or fed for a period of two or more days. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.420 Performing animal exhibition.  
“Performing animal exhibition” means any spectacle, display, act, or event in which animals are used to provide a performance whether a fee is charged or not. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.425 Person. 2  
“Person” means a natural person or any legal entity, including, but not limited to, a corporation, limited liability corporation, firm, partnership, or trust. (Ord. 2012-12 § 2 (Exh. A (6.04.410)) (part))

6.04.430 Pet or companion animal.  
“Pet” or “companion animal” means any animal of a species that has been domesticated to live in or about the habitation of humans, is dependent on humans for food and shelter and is kept by its owner for pleasure rather than utility and/or commercial purposes. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.440 Pet shop.  
“Pet shop” means any commercial establishment containing cages or exhibition pens wherein dogs, cats, birds or other pets are kept, displayed and sold. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.445 Protective custody. 3  
“Protective custody” means seizing or receiving an animal into the care of the division, the animal services or an authorized agent or representative thereof, in order to hold the animal as evidence of a violation of the law or to protect the animal(s) from further threat or danger. (Ord. 2012-12 § 2 (Exh. A (6.04.420)) (part))

6.04.450 Provoked.  
“Provoked” means any deliberate act by a person towards a dog or any other animal done with the intent to tease, torment, abuse, assault, or otherwise cause a reaction by the dog or other animal; provided, however, that any act by a person done with the intent to discourage or prevent a dog or other animal from attacking shall not be considered provocation. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.460 Public place.  
“Public place” means any location which is accessible to members of the general public, where members of the general public gather, engage in business, or have free access. (Ord. 2012-12 § 2 (Exh. A) (part))
6.04.470 Quarantine.
“Quarantine” means the isolation of an animal in an enclosure so that the animal cannot have physical contact with other animals or persons without recognized authority to be near or about the quarantined animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.480 Riding school or stable.
“Riding school” or “stable” means an establishment which offers boarding and/or riding instruction for any horse, pony, donkey, mule or burro, or which offers the use of such animals for hire. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.490 Species subject to rabies.
“Species subject to rabies” means any species that has been reported to the health department or the Center for Disease Control and Prevention to have contracted the rabies virus and become a host for that virus. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.500 Set.
“Set” means to cock, open or put a trap in such a condition that it would close when an object, animal or person touched a triggering device. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.510 Shelter.
“Shelter” means a structure which is substantial in construction and provides protection from moisture, wind and other factors of weather, and is of a size appropriate to the particular animal to ensure retention of body heat within the enclosure. Any shelter will be maintained to ensure a clean, dry, healthy environment for the animal being housed. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.520 Stray.
“Stray” means any “animal at large,” as defined in this chapter. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.530 Tether.
“Tether” means any chain, rope, cable, or device attached to a fixed object and used for restraining a dog. The tether must be of sufficient strength to restrain the dog and be appropriate to the breed, age, size, and weight of the dog and be attached to the dog by a properly applied collar, halter or harness configured so as to protect the dog from injury or entanglement with objects or other animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.540 Trap.
“Trap” means an apparatus designed to come together with force so as to clamp or close upon an animal, person, or object when the spring or triggering device is activated. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.550 Veterinarian.
“Veterinarian” means any person properly licensed under the laws of the state of Utah to practice veterinary medicine. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.560 Veterinary hospital.
“Veterinary hospital” means any establishment operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.570 Vicious animal.
“Vicious animal” means:
A. Any animal which, in a threatening and terrorizing manner, approaches any person upon the streets, sidewalks, or any public grounds or places in an apparent attitude of attack;
B. Any animal with a known propensity, tendency or disposition to attack unprovoked, or to cause injury or otherwise threaten the safety of human beings or animals; or
C. Any animal, which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property.
Whether an animal has been properly licensed under the provisions of this title shall have no relevance to the determination of whether an animal is a “vicious animal,” as defined herein. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.580  Wild animal.
“Wild animal” means any animal of a species that in its natural life is usually untamed and undomesticated, including hybrids and animals which, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies. These animals, however domesticated or tamed, shall include, but are not limited to:

A.  Alligators and crocodiles;
B.  Bears (Ursidae). All bears, including grizzly bears, brown bears, black bears, etc.;
C.  Cat family (Felidae). All except the commonly accepted domesticated cats, including cheetah, leopard, lion, lynx, panther, mountain lion, tiger, wildcat, etc.;
D.  Dog Family (Canidae). All except domesticated dogs, including wolf, part wolf, fox, part fox, coyote, part coyote, dingo, etc.;
E.  Porcupine (Erethizontidae);
F.  Primate (Hominidae). All nonhuman primates;
G.  Raccoon (Procyonidae). All raccoons, including eastern raccoon, desert raccoon, ringtailed cat, etc.;
H.  Skunks;
I.  Venomous fish and piranha;
J.  Venomous snakes or lizards;
K.  Weasels (Mustelidae). All including martens, wolverines, black footed ferrets, badgers, otters, ermine, mink, mongoose, etc.

For the purpose of this title, animals that are kept commercially or ranched shall not be wild animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.04.590  Zoological park.
“Zoological park” means any facility, properly and lawfully licensed by applicable federal, state, or local law, operated by a person, partnership, corporation, or government agency, other than a pet shop, kennel, or cattery, displaying or exhibiting one or more species of nondomesticated animals. (Ord. 2012-12 § 2 (Exh. A) (part))

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1 Code reviser’s note: Ordinance 2012-12 added this section as 6.04.235. It has been editorially renumbered to maintain alphabetical order in the chapter.

2 Code reviser’s note: Ordinance 2012-12 added this section as 6.04.410. It has been editorially renumbered to avoid duplication.

3 Code reviser’s note: Ordinance 2012-12 added this section as 6.04.420. It has been editorially renumbered to alphabetical order in the chapter.
Chapter 6.08
ADMINISTRATION

Sections:
6.08.010 Division powers and duties.
6.08.030 Director and officers—Enforcement authority.
6.08.040 Animal control officers powers and duties.
6.08.050 Right of entry for enforcement.
6.08.060 Interfering with animal control officers prohibited.

6.08.010 Division powers and duties.
The division, or other agent designated by the city, or any law enforcement officer, shall:

A. Enforce this title and perform other responsibilities inherent thereto;
B. Supervise the animal shelter(s) under his/her jurisdiction;
C. Keep records of all animals impounded in said shelter(s);
D. Keep accounts of all monies collected and received in accordance with governing law;
E. Establish, in cooperation with the health department and other interested governmental agencies, measures for the control of and immunization of animals against rabies;
F. Negotiate interlocal cooperation agreements with other interested governmental agencies for the purpose of establishing animal control services throughout Salt Lake Valley;
G. Establish rules and regulations for the training of all persons hired as animal control officers to assure professional conduct of said persons and compliance with division’s policies and with governing law;
H. Pursuant to duly adopted policies and procedures, waive or reduce impound-related fees if warranted, or waive fees and penalties otherwise authorized in this title;
I. Pursuant to duly adopted policies and procedures, provide for deferred payments of impound-related fees if warranted. (Ord. 2012-12 § 2 (Exh. A) (part))

6.08.030 Director and officers—Enforcement authority.
The division, other agents designated by the city, or any law enforcement officer is hereby authorized and empowered to enforce this title and to apprehend, to transport and impound any animal found in violation of this title, including licensable animals for which no license has been procured in accordance with this title, or any licensed or unlicensed animals for any other violation thereof and to issue criminal citations and/or notice of violation and stipulation for violations of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.08.040 Animal control officers powers and duties.
The director shall employ and designate those employees and volunteers of his or her division who shall perform the duties of animal control officer. Animal control officers shall be authorized to enforce this title in all respects pertaining to animal control within the city, including, but not limited to, the apprehension, transport and impoundment of animals found to warrant such action; and issue of criminal citations and/or notice of violation and stipulation for violations of this title. Animal control officers shall further carry out all lawful duties prescribed or delegated by the director. For the purpose of this section, “volunteer” shall be defined as persons working without compensation who have met the minimum training standards to perform the duties as set forth by the director. (Ord. 2012-12 § 2 (Exh. A) (part))
6.08.050  **Right of entry for enforcement.**
In the enforcement of this title, any peace officer, animal control officer, or the director or his/her assistants are authorized to enter into the open premises of any person to secure or take possession of any animal which is reasonably deemed by said officer to then and there, in the presence of such officer or official, be in violation of this title and issue criminal citations and/or notice of violation and stipulations for violations of this title to the owner or handler of said animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.08.060  **Interfering with animal control officers prohibited.**
It is unlawful for any person to knowingly and intentionally interfere with the director or any animal control officer in the lawful discharge of his/her duties as prescribed in this title. For the purpose of this section, interfering with officers shall include, but not be limited to, failing to hand over to or release to an officer an identifiable animal which has been pursued but not captured by said officer, failing to make payment of agreed upon fees that have been deferred by the director, knowingly and intentionally failing to comply with an abatement order lawfully issued by the city or the division or failing to meet the conditions imposed by a notice of violation and stipulation. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.12
COMMERCIAL PERMITS AND FANCIER’S PERMITS

Sections:
6.12.010 Commercial permits requirements.
6.12.040 Requirements for catteries and kennels.
6.12.050 Requirements for pet shops.
6.12.060 Requirements for animal grooming parlor.
6.12.070 Requirements for stables.
6.12.080 Requirements for animal exhibitions.
6.12.090 Requirements for guard dogs.
6.12.100 Permit for foster animals.
6.12.120 Exotic animal permit.
6.12.125 Domestic fowl permit.
6.12.130 Dangerous animal permit.
6.12.140 Exemptions.
6.12.150 Permits—Display requirements.
6.12.180 Establishments—Inspections and reports.
6.12.190 Unlawful activities—Notice requirements.
6.12.200 Permits—Suspension or revocation—Grounds.

6.12.010 Commercial permits requirements.
It is unlawful for any person to operate or maintain a commercial holding facility or any similar establishment, except a licensed veterinary hospital or clinic, unless such person first obtains a regulatory permit from the division, in addition to all other required licenses. All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a printed form provided by the division. Before the permit is issued, approval must be granted by the health department, the appropriate zoning authority, and the division. (Ord. 2012-12 § 2 (Exh. A) (part))

The director shall have the authority to promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this title and other applicable laws. Such regulations may be amended from time to time as deemed desirable for public health and welfare and for the protection of animals. Regulations promulgated under this delegation of authority shall not extend the power of the director or the division beyond that reasonably necessary to carry out the requirements of this title. Regulations shall not become effective until approved and adopted by the city council. (Ord. 2012-12 § 2 (Exh. A) (part))

A. Form. All applications for permits to operate a commercial animal establishment or animal shelter shall be submitted to the division on a printed form provided by the division.

B. Verify Compliance. Upon submission of an application, the division will verify with the health department, appropriate zoning authority, and appropriate business licensing division that the applicant is in compliance with applicable rules, regulations, ordinances and laws.
C. Fee Accompany Application. Applications must be accompanied by the fee established by resolution and adopted by the city council. The fee schedule may be modified from time to time as deemed necessary by the division and upon approval of the city council.

D. Expiration of Permit. Each permit issued under this chapter shall expire as outlined in Section 6.12.160.

E. Nontransferable. Permits issued pursuant to this chapter are nontransferable.

F. Display of Permit. A permit issued under this chapter shall be prominently displayed in the business office of the commercial animal establishment or animal shelter.

G. Late Applications. Late applications for the permits required by this chapter shall be subject to the late fee set forth in the current fee schedule. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.040 Requirements for catteries and kennels.
In addition to obtaining the permit required by this chapter, all catteries and kennels within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for boarded animals which are sick or diseased;

C. Retain for a period of one year the name, address and telephone number of the owner and license number of each dog or cat boarded;

D. Retain for a period of three years the name and address of each person selling, trading or giving any animal to the kennel or cattery;

E. Keep all boarded animals caged or under control of the owner or operator of the kennel or cattery;

F. Care for all animals in the kennel or cattery, whether or not owned by the kennel or cattery, shall comply with all the requirements of this title for the general care of animals;

G. Comply with all applicable federal, state and local laws and all regulations respecting kennels and catteries which are adopted by the city and in effect from time to time; and

H. Supply the purchaser, residing in the licensing authority of this title, of any dog, cat or ferret with an application for animal license, the form of which is prescribed by the city. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.050 Requirements for pet shops.
In addition to obtaining the permit required by this chapter, all pet shops within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for animals which are sick or diseased, sufficiently removed so as not to endanger the health of other animals;

C. Keep all animals caged or under the control of the owner or operator of the pet store;

D. With respect to all animals in the pet shop, comply with all provisions of this title providing for the general care of animals;

E. Not sell animals which are unweaned or so young or weak that their sale poses a serious risk of death or inadequate development to them;

F. Comply with all applicable federal, state and local laws and all regulations respecting pet shops that are adopted by the city and in effect from time to time;
G. Supply any purchaser, residing within the city, of any dog, cat or ferret with an application for animal license, the form of which is prescribed by the division; and

H. Provide the purchaser of an animal with written instructions as to the proper care and control of that species. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.060 Requirements for animal grooming parlor.
In addition to obtaining the permit required by this chapter, all grooming parlors within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for animals, which are sick or diseased, sufficiently removed so as not to endanger the health of other animals;

C. Keep all animals caged or under the control of the owner or operator of the grooming parlor;

D. With respect to all animals in the grooming parlor, comply with all provisions of this title providing for the general care of animals;

E. Comply with all applicable federal, state and local laws and all regulations respecting grooming parlors that are adopted by the city and in effect from time to time; and

F. Supply applications for animal licenses, the form of which is prescribed by the division. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.070 Requirements for stables.
In addition to obtaining the permit required by this chapter, all stables within the city shall comply with all zoning requirements and shall:

A. Be operated in such a manner as not to constitute a nuisance;

B. Provide an isolation area for animals which are sick or diseased, sufficiently removed so as not to endanger the health of other animals;

C. Keep all animals confined or under the control of the owner or operator of the stable;

D. Care for all animals in the stable shall comply with all the requirements of this title for the general care of animals; and

E. Comply with all applicable federal, state and local laws, and all regulations respecting stables that are adopted by the city and in effect from time to time. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.080 Requirements for animal exhibitions.
A. Permit Required. It shall be unlawful for any person to own, operate, sponsor or conduct an animal exhibition within the city, without first obtaining an animal exhibition permit issued by city and/or division.

B. Prohibited Contests. No animal exhibition shall occur within city in which any animal is exhibited, paraded or allowed to participate in a contest:

1. Under conditions which cause physical injury to such animal;

2. Under conditions that place spectators at risk of being harmed; or

3. Unless all applicable federal, state and local laws and regulations, and standards adopted by reputable, nationally recognized associations organized for the operation of such exhibitions and acceptable to the city and/or division are complied with by the operator of the exhibition.
C. Penalty. A person owning, operating or sponsoring an animal exhibition within the city without first obtaining the permit therefor required by this chapter shall be guilty of a Class B misdemeanor. Each day of violation of this section shall be a separate offense. The division may also seek to obtain an injunction against an animal exhibition through a court with jurisdiction over the matter.

D. Information Required. The application for an animal exhibition permit required by this section shall:
   1. Describe the type of exhibition or contest and the kind and number of animals to be on exhibition or involved in the contest and list the sites and dates of the event; and
   2. Contain such other information as may be required under regulations established by the director; and include a sworn statement by the applicant that the provisions of this title pertaining to animal exhibitions will be complied with at all times.

E. Issuance Conditions. No permit required by this section shall be issued until the applicant completes the application form, pays the applicable fees as set forth in the current fee schedule, and receives the written approval of the division of the provisions made for the safety, well-being and comfort of the animals involved.

F. Term of Permit. Animal exhibition permits issued pursuant to this section shall be effective only for the period specified in the permit, not to exceed thirty days.

G. Nontransferable. A permit issued pursuant to this section shall not be transferable.

H. Display of Permit. A permit issued pursuant to this section shall be displayed prominently at the site of the animal exhibition.

I. Waiver of Fee. The director may waive the permit fee for an animal exhibition that is sponsored by a bona fide nonprofit organization, a governmental entity or a school if the purpose is a county or city public purpose or a charitable purpose.

J. Access Permitted. Animal exhibitions permitted under this section shall provide immediate access to peace officers, animal control officers, health department agents, and/or state officials, for the purpose of compliance inspections. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.090 Requirements for guard dogs.
A. Permit Required. It shall be unlawful for any person to own a guard dog without first obtaining a guard dog permit as provided hereafter. It shall be unlawful for any person to hire the use of a guard dog that has not been issued a guard dog permit.

B. Application. A permit required by this section shall be obtained from the division. The application shall set forth the type of dog, the site where such dog shall be used, the hours of use of such dog, and any other information the director deems appropriate.

C. Nontransferable. Permits are not transferable from one owner to another, nor from one site to another.

D. Warning Signs. On the premises where a guard dog is used, conspicuous warning signs shall be posted at each door or gate that give access to the guard dog, and shall contain the following wording:

   Warning: A Guard Dog Is Guarding This Property. Entry Herein May Cause Said Dog To Attack Your Person And Cause Significant Injury, Even Death. To Reach The Handler For Said Dog, Call (enter telephone number).

The telephone number contained in the warning required by this subsection must provide a twenty-four-hour per day access to the guard dog’s owner or handler.

E. Nuisance. A guard dog shall not be allowed to become a nuisance.
F. Microchip, Collar Required. A guard dog shall, in addition to licensing, be microchipped and the microchip number shall be registered with the division. The license shall be attached to a one-inch wide red or orange collar with the word “danger” written or embroidered in black lettering three-fourths inch in height. The collar must be on the dog at all times.

G. Penalty. Any person violating any provision of this section shall be guilty of a Class B misdemeanor. Each day a guard dog is deployed for use by any person for the detection of intruders and/or protection of premises, in violation of any provision of this section, shall be deemed a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.100 Permit for foster animals.
Where permitted by the zoning ordinances, owners of dogs and cats may obtain a permit to keep more than two dogs or cats in a residential area, provided:

A. Such pets are the property of a local public city or county animal shelter or a Section 501(c)(3), United States Internal Revenue Code, animal welfare organization;

B. Such pets are awaiting adoption;

C. Approval is granted by the appropriate zoning authority, the health department and the division of animal services;

D. Adequate areas for confinement and shelter are provided; and

E. Other provisions of this title are complied with, and no pet or premises is deemed to be a nuisance. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.120 Exotic animal permit.
It is unlawful for any person to own or keep an exotic animal without a permit. Unless prohibited by zoning or other ordinances or laws, any person, over the age of eighteen years of age, may obtain an exotic animal permit upon:

A. Demonstrating sufficient knowledge of the species to provide adequate care;

B. Presenting proof of adequate caging appropriate for the species;

C. Presenting proof that the animal poses no threat to the health and safety of the community in the event that the animal should escape. The director may consult with a review board comprising federal, state and local public health authorities in considering a request for an exotic animal permit; and

D. Presenting proof of required, if any, state or federal permits.

For the purpose of this section, to demonstrate sufficient knowledge of a species, a person must show that he/she has adequate knowledge of a species to provide for its basic needs to maintain the animal’s health and welfare. The director may consider the person’s experience, education, apprenticeship or by examination administered by the director when determining that a person has sufficient knowledge of a species. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.125 Domestic fowl permit.
It is unlawful for any person to own or keep fowl without a permit. Unless a type of fowl is specifically permitted by the applicable zoning ordinances and this section, it is prohibited.

A. Where permitted by the zoning ordinance, hen chickens may be kept for domestic egg production or as pets.

1. Chickens shall not be kept on a residential lot or parcel unless the person keeping chickens first obtains a permit from the division.

   a. The applicant shall acknowledge the rules set forth in this section and shall, as a condition of obtaining a permit, agree to comply with such rules.
b. It shall be unlawful for any person to keep any chicken in a manner contrary to the provisions of this section. Any such violation shall be a Class C misdemeanor. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.130 Dangerous animal permit.

It is unlawful for any person to own or keep a dangerous animal without a permit. Unless prohibited by zoning or other ordinances or laws, any person, over the age of eighteen years of age, may obtain a dangerous animal permit upon complying with applicable zoning requirements and:

A. Demonstrating sufficient knowledge of the species so as to be an expert in the care and control of the species;

B. Presenting proof of adequate primary caging appropriate for the species and a sufficient secondary system of confinement so as to prevent unauthorized access to the animal and to prevent the animal’s escape;

C. Presenting proof that adequate measures have been taken to prevent the animal from becoming a threat to the health and safety of the community;

D. Presenting a plan of action in the event of the animal’s escape. The director may consult with a review board comprising federal, state and local public health authorities in considering a request for a dangerous animal permit;

E. Presenting proof of required, if any, state or federal permits; and

F. Presenting proof of liability insurance in an amount of at least one hundred thousand dollars, which policy shall name the city as an additional insured and shall not be subject to cancellation or other material modifications without at least thirty days’ prior written notice to the city.

For the purpose of this section, to demonstrate sufficient knowledge of a species, a person must show that he/she has specialized knowledge of a species to provide for its basic needs to maintain the animal’s health, welfare and confinement. The director may consider the person’s experience, education, apprenticeship or by examination administered by the director when determining that a person has sufficient knowledge of a species. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.140 Exemptions.

Research facilities where bona fide medical or related research is being conducted, 501(c)(3) animal welfare shelters, and other animal establishments operated by state or local government, or which are licensed by federal law, are excluded from the permit requirements of Sections 6.12.040 through 6.12.060. (Ord. 2012-12 § 2 (Exh. A) (part))

6.12.150 Permits—Display requirements.

A valid permit shall be posted in a conspicuous place in any establishment for which such permit is required, and such permit shall be considered as appurtenant to the premises and not transferable to another location. The permittee shall notify the division within thirty days of any change in his/her establishment or operation, which may affect the status of his/her permit. In the event of a change in ownership of the establishment, the permittee shall notify the division immediately. Permits shall not be transferable from one owner to another. (Ord. 2012-12 § 2 (Exh. A) (part))


A permit issued pursuant to this chapter shall expire one year after it is issued by the division and shall be renewable upon acceptance by the division of a new application. Renewal applications shall not be available until thirty days prior to the expiration date of the current permit. A permit may only be issued after the appropriate fee has been paid. Application must be accompanied by the fee established in the permit and current fee schedule.

A. Modification. The permit and fee schedule may be modified from time to time as deemed appropriate by the director and upon resolution by the city council. The then current permit fee schedule shall apply to all permit applications. A copy of the then current fee schedule shall be available at the division.

B. Nontransferable. Permits are not transferable from one owner to another, from one site to another or from one animal to another. (Ord. 2012-12 § 2 (Exh. A) (part))
Establishments—Rules and regulations.

A. Authority. From time to time, the director may, upon resolution by the city council, adopt rules and regulations governing the operation of kennels, catteries, animal grooming parlors, pet shops, riding stables or other animal related establishments.

B. Provisions. Such rules and regulations may provide for:

1. The type of structures, buildings, pens, cages, runways or yards required for the animals sought to be kept, harbored or confined on such premises;

2. The manner in which food, water, and sanitation facilities will be provided to such animals;

3. Measures relating to the health of such animals, the control of odors and noise, and the protection of persons or property on adjacent premises; and

4. Such other matters as the city shall deem necessary.

C. Effect. Such rules and regulations shall, upon publication and following adoption by the city council, have the effect of law, and violation of such rules and regulations shall be deemed a violation of this title, subject to the penalties provided for in Section 1.01.070, and grounds for revocation of a permit issued by the division. Copies of the rules and regulations, when adopted, shall be filed for public inspection in the office of the city recorder and of the division. (Ord. 2012-12 § 2 (Exh. A) (part))

Establishments—Inspections and reports.

All establishments required to have permits under this title shall be subject to periodic inspections, and the inspector shall make a report of such inspection, which shall be given to the establishment and will be filed at the administration section of the division. (Ord. 2012-12 § 2 (Exh. A) (part))

Unlawful activities—Notice requirements.

If an inspection of kennels, catteries, animal grooming parlors, pet shops, riding stables, similar establishments, or the premises of the holder of a permit reveals a violation of this title, the inspector shall notify the permit holder or operator of such violation by means of issuance of a citation as provided in Chapter 6.40 or issuance of a notice of violation and stipulation as provided in Chapter 6.44. If the notice of violation and stipulation is used, the notice shall:

A. Set forth the specific violation(s) found;

B. Establish a specific and reasonable period of time for correction of the violation(s) found;

C. State that failure to comply in the specified period of time with any notice issued in accordance with the provisions of this section may result in immediate suspension of the permit and/or issuance of a citation; and

D. State that an opportunity for a hearing upon any grievance the owner or operator may have concerning the inspection findings and corrections ordered by the animal control officer may be processed according to the provisions of Chapter 6.44. (Ord. 2012-12 § 2 (Exh. A) (part))

Permits—Suspension or revocation—Grounds.

A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

A. Falsification of facts in a permit application;

B. Material change in the conditions upon which the permit was granted;

C. Violation of any provisions of this title or any other law or regulation governing the permittee’s establishment, including, but not limited to, noise and/or building and zoning ordinances; or

D. Conviction on a charge of cruelty to animals. (Ord. 2012-12 § 2 (Exh. A) (part))
**6.12.210** Permits—Suspension or revocation—Procedure.
A. Authority—Request for Review. Any permit granted under this title may be suspended or revoked by the division for violations of any of the requirements of this title. A permittee aggrieved by the suspension or revocation of his/her permit may petition the director for review of said grievance. Upon consideration of said grievance and upon good cause showing, the director may, at his or her sole discretion, uphold or modify the suspension or revocation, or reinstate the permit.

B. New Permits. A new permit shall not be issued to any person whose prior permit was suspended or revoked by the division until the applicant has satisfied the director that he/she has the means and the will to comply with the requirements of this title in the future. An application for another permit must comply with the requirements for an application for an initial permit, including application fee. (Ord. 2012-12 § 2 (Exh. A) (part))

Notwithstanding any other provisions of this title, when the inspecting officer finds unsanitary or other conditions in the operation of kennels, catteries, animal grooming parlors, riding stables, pet shops, or any similar establishments, or premises of the holder of a permit obtained under this title, which in his/her judgment constitute an immediate and substantial hazard to public health or the health and safety of any animal, he/she may order the immediate seizure of any animals whose health and safety are at risk and order the owner or operator of the establishment to immediately cease operations. It shall be unlawful for any person to whom such an order is given to fail to obey the same. Any animals seized under this section shall be impounded or otherwise cared for as the division deems necessary. Persons whose permit has been suspended by such action may petition the director for review of said suspension. Upon consideration of said petition and upon good cause showing, the director may, at his or her sole discretion, uphold or modify the emergency suspension or reinstate the permit. (Ord. 2012-12 § 2 (Exh. A) (part))

**6.12.230** Notice of suspension of permits—Service procedures.
Notice shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by certified mail to the last known address of the permit holder. A copy of such notice shall be filed with the records section of the division of animal services. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.14  
SALE OF ANIMALS

Sections:

It is unlawful for any person to display, offer for sale, deliver, barter, auction, give away, transfer, rent, lease, or sell any live dog, cat, or rabbit in any commercial animal establishment located in the City unless the dog, cat, or rabbit was obtained from the division, an animal shelter, or a nonprofit animal rescue organization.

All commercial animal establishments selling or boarding for the purpose of eventual sale must maintain a certificate of source for each dog, cat, or rabbit. A commercial animal establishment must make the certificate of source available upon request to the division, law enforcement, code compliance officials, or any other City employee designated by the city manager to enforce the provisions of this section.

This section does not apply to the display, offer for sale, delivery, bartering, auction, giving away, transfer, or sale of dogs, cats, or rabbits from the premises on which they were bred and reared.

This section does not prevent the owner, operator, or employees of a commercial animal establishment in the City from providing space and appropriate care for animals owned by the division, an animal shelter, or a nonprofit animal rescue organization and maintaining those animals at the commercial animal establishment for the purpose of public adoption.

A. It is unlawful for any person to sell, offer for sale, barter, or give away any fowl under two months of age and in any quantity less than six.
B. It is unlawful for any person to artificially dye or color a fowl.
C. A private individual may raise fowl for personal use and consumption, if allowed by applicable law, if the individual maintains proper brooders and other facilities for the care and containment of such fowl while in the individual’s possession.

It is unlawful for any person offer any live animal as a premium, prize, award, novelty, or incentive to purchasing merchandise or services.

It is unlawful for any person or commercial animal establishment to raise or sell any turtle, tortoise, or terrapin under four inches front to back carapace length.

A. A violation of this chapter is a class C misdemeanor.
B. Each dog, cat, or rabbit sold or offered for sale in violation of section 6.14.010 constitutes a separate offense.
Chapter 6.15

PET PURCHASE PROTECTIONS

Sections:
6.15.010 Sell of ill or defective animals prohibited.
6.15.020 Seller’s obligations.
6.15.030 Buyer’s obligations.
6.15.040 Remedies.
6.15.050 Limitations.
6.15.060 Animal shelters and nonprofit animal rescue organizations.

6.15.010 Sell of ill or defective animals prohibited.
It is unlawful for any person to sell, offer to sell, auction, or receive any compensation for any animal that is ill or suffers from a congenital or hereditary condition without disclosing such to a purchaser.

6.15.020 Seller’s obligations.
At the time of the sell, auction, or receipt of compensation for an animal, the seller must provide to the purchaser:

A. A written record for the animal that includes, to the extent known, the date of birth; breed; markings; dealer/breeder information; registration information; and all medical treatments including, but not limited to, inoculations and worming treatments, with the date, diagnosis, and provider of such treatment.

B. A signed statement from the seller disclosing any known health problems for the animal and any necessary treatment.

6.15.030 Buyer’s obligations.
The remedies under section 6.15.040 are available to a purchaser if:

A. The seller did not disclose the health problem in accordance with section 6.15.020; and

B. The purchaser provides a written statement from a licensed veterinarian to the seller within:

1. 14 days of the sale of the animal, that the animal suffers from a disease, illness, or other similar defect that adversely affects the animal’s health that existed on or before the sale of the animal to the purchaser; or

2. One year of the sale of the animal, that the animal possesses or has died from a congenital or hereditary condition that adversely affects or affected the animal’s health or requires a non-elective surgical procedure.

6.15.040 Remedies.
If a purchaser qualifies for remedies under section 6.15.030, the purchaser may:

A. Return the animal to the seller for a refund of the full purchase price of the animal;

B. Exchange the animal for an animal of the purchaser’s choice of equivalent value, providing a replacement is available; or

C. Retain the animal and receive reimbursement for reasonable veterinary fees not to exceed the purchase price of the animal.

6.15.050 Limitations.
A. The remedies available under this chapter are not available to a purchaser if:

1. The animal’s health problem was contracted or sustained while in possession of the purchaser;

2. The animal’s health problem was caused by the neglect or mistreatment of the purchaser;
3. The purchaser failed to carry out the recommended treatment included in a statement written and delivered in accordance with section 6.15.020; or

4. The seller prevails in contesting the purchaser’s claim in a court of competent jurisdiction.

B. A purchaser’s rights under this chapter may not be waived.

6.15.060 Animal shelters and nonprofit animal rescue organizations.
An animal shelter or nonprofit animal rescue organization is exempt from this chapter if it provides notice, at the time of adoption, to the purchaser that the purchaser assumes all risk that the animal may be ill or suffer from a congenital or hereditary condition.
Chapter 6.16

ANIMALS REQUIRING A LICENSE

Sections:
6.16.010 License required—Age and residence requirements for license holder.
6.16.020 License required—Age of animals.
6.16.030 License application.
6.16.040 Additional requirements for licensing and keeping ferrets.
6.16.050 Veterinary verification.
6.16.060 License term and renewal.
6.16.070 License revocation.
6.16.080 License tag requirements.
6.16.090 License exemption.
6.16.100 License vendor.

6.16.010 License required—Age and residence requirements for license holder.
All cats, dogs, and ferrets must be licensed each year, except as otherwise provided in this chapter, to a person of the age of eighteen years or older who has a residence, with street address, within the city. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.020 License required—Age of animals.
Any person owning, possessing or harboring any cat, dog, or ferret within the city shall obtain a license for such animal within thirty days after the animal reaches the age of four months, or, in the case of a cat, dog, or ferret over four months of age, within thirty days of the acquisition of ownership or possession of the animal by said person. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.030 License application.
License applications must be submitted to the division, utilizing a standard form which requests name, address and telephone number of the applicant; breed, sex, color and age of the animal; previous license information; rabies and sterilization information; and the number, location or other identification applicable to a tattoo or implanted microchip of the animal. The application shall be accompanied by the prescribed license fee and by a rabies vaccination certificate current for a minimum of six months beyond the date of application. A license shall not be issued for a period that exceeds the expiration date of the rabies vaccination. A licensed veterinarian shall give rabies vaccinations with a vaccine approved by the current compendium of animal rabies control. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.040 Additional requirements for licensing and keeping ferrets.
Without limiting any other requirements of this title, those wishing to keep ferrets must adhere to the following requirements.

A. Number Permitted. No more than two adult ferrets may be kept in a household at any time, and no more than two litters of kits may be kept in a household at any time.

B. Housing—Confinement. Ferrets shall be kept primarily as indoor pets, and shall be housed in a cage or kennel of sufficient size and construction to allow proper space and safekeeping of the ferret. When a ferret is outside, it shall be kept on a harness with a leash not over six feet in length specifically designed for ferrets.

C. Prohibited Persons. A ferret license shall not be granted to any person with an animal control violation within the three years preceding the license application.

D. Sterilization—De-Scenting. The city division encourages owners to sterilize and de-scent their ferrets. (Ord. 2012-12 § 2 (Exh. A) (part))
6.16.050 Veterinary verification.
No dog, cat or ferret will be licensed as spayed or neutered without veterinary verification that such surgery has been performed. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.060 License term and renewal.
The license shall be issued for one year, and be effective from the date of purchase through the end of the same month of the expiration year as the month in which the license is purchased, or at the end of the rabies vaccination period current for the animal at the time the license is obtained, whichever date occurs first. Renewals must be obtained prior to the expiration of the immediately preceding license. Applications for renewals made after the expiration of the immediately preceding license must be accompanied by a late fee as set forth in the fee schedule. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.070 License revocation.
If the owner of any dog(s), cat(s) or ferret(s) is found to be in violation of this title on three or more different occasions within a twelve-month period, the director of animal services may seek a court order pursuant to Section 6.40.030, revoking for a period of one year any and all licenses such person may possess, and providing for the division to pick up and impound any animal kept by the person under such order. Any animal impounded pursuant to such an order shall be dealt with in accordance with the provisions of this title for impounded animals, except that the person under the order of revocation shall not be allowed to redeem such animal, unless successfully making reapplication of the license with the division. Persons seeking reapplication of said animals must comply with conditions as set forth by the director that may include, but are not limited to, sterilization of the animals, enclosure requirements and confinement conditions. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.080 License tag requirements.
A. Tag Required. Upon payment of the license fee, the director shall issue to the owner a receipt and a tag for each pet licensed. The tag shall have stamped thereon the license number, corresponding with the tag number on the receipt. The owner shall attach the tag to the collar or harness of the animal and see that the animal constantly wears the collar and tag. Failure to attach the tag as provided shall be a violation of this title, except that dogs or cats which are kept for show purpose are exempt from wearing the collar and tag while participating in an animal exhibition.

B. Nontransferable—Refunds—Replacement. Tags are not transferable from one animal to another unless authorized by the director. No refunds shall be made on any dog, cat or ferret license fee for any reason whatsoever. Replacement for lost or destroyed tags shall be allowed upon payment to the division of the replacement tag fee set forth in the fee schedule.

C. Removal Violation. Any person who removes, or causes the removal, of the collar, harness or tag from any licensed dog, cat or ferret without the consent of the owner or keeper thereof, except a licensed veterinarian or animal control officer who removes such for medical or other reasons, shall violate this title.

D. Microchip. Owners may have an identifying microchip implanted in their animals. If owners take such action, they shall be exempt from the requirement that such animals wear identifying tags at all times while on the owners’ premises; provided, that the microchip information has been registered with the director. Owners shall assume the risk of the loss or destruction of an unrestrained animal whose microchip either cannot be located after a reasonable search thereof or owner information cannot be found after a reasonable records search.

E. Responsibility of Microchip Vendor. It is the responsibility of any vendor of microchips to provide information to the division as to the identification of the owner of an animal that has been microchipped by said vendor. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.090 License exemption.
A. Conditions. The provisions of Sections 6.16.020 through 6.16.080 shall not apply in the following circumstances:

   1. The dog, cat or ferret is properly licensed in another jurisdiction and the owner thereof is within the city temporarily, for a period not to exceed thirty consecutive days. If the owner shall be within the city temporarily, but for a period longer than thirty consecutive days, he/she may transfer the dog, cat or ferret to the local
license required by this chapter by payment of the fee set forth in fee schedule, and upon presentment of proof of a current rabies vaccination for the animal.

2. Individual dogs or ferrets housed within a properly permitted facility or other such establishment when such animals are held for resale.

B. Fee Exemption. The fee provisions of Sections 6.16.020 through 6.16.080 shall not apply to:

1. Seeing eye dogs trained and certified to assist blind persons, if such dogs are actually used by blind persons to assist them in moving from place to place;

2. Hearing dogs trained and certified to assist deaf persons to aid them in responding to sounds and in use for that purpose;

3. Assistance dogs trained and certified to assist persons with a physical disability and in use for that purpose; or

4. Dogs trained to assist officials of government agencies in the performance of their duties and which are owned by such agencies.

C. Vaccinations Not Exempted. Nothing in this section shall be construed so as to exempt any dog, cat or ferret located within the city from having a current rabies vaccination. (Ord. 2012-12 § 2 (Exh. A) (part))

6.16.100 License vendor.
The division may contract with veterinary hospitals, veterinarians, pet shops, animal grooming parlors, and similar institutions or individuals for the issuance of license application forms. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.20

RABIES CONTROL

Sections:
6.20.010 Dog, cat and ferret rabies vaccination requirements.
6.20.020 Rabies vaccination—When valid.
6.20.030 Rabies vaccination—Veterinarian duties—Certification and tags.
6.20.040 Impoundment of animals without valid vaccination tags.
6.20.050 Rabid animal reports.
6.20.060 Animals exposed to rabies.
6.20.070 Management of animals that bite humans.

6.20.010 Dog, cat and ferret rabies vaccination requirements.
A. Vaccination Required. The owner or person having charge, care, custody, and control of a cat, dog, or ferret four months of age or older shall have such animal vaccinated against rabies and shall thereafter ensure that said animal is revaccinated as often as is required to maintain the animal in a current rabies vaccination status. Any person permitting any animal to habitually be on or remain, or be lodged or fed, within such person’s house, yard or premises shall be responsible for the vaccinations of the animal. Unvaccinated cats, dogs or ferrets over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated within thirty days of acquisition or arrival. Every dog, cat and ferret shall have a current rabies vaccination with a rabies vaccine approved by the current compendium of animal rabies control.

B. Operators’ Responsibility. Veterinarians, cattery and kennel operators shall be responsible for determining that dogs, cats and ferrets are currently vaccinated for rabies prior to accepting the animal from their owners or caretakers for temporary housing on their premises.

C. Exception. The provisions of this section shall not apply to a veterinarian providing emergency medical care to a sick or injured animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.020 Rabies vaccination—When valid.
A. Specified. Animals that have had a valid vaccination for rabies will not be considered to have a current vaccine until thirty days following the first vaccination and will be considered unvaccinated the day following the expiration of the last documented valid vaccination.

B. Bite Cases. For the purpose of management of bite cases, an owner may, within six months of expiration of the last vaccine, submit proof of protection against rabies. Such proof shall be in the form of a written statement from a veterinarian based upon a blood titer paid for by the owner, drawn after the bite and prior to, or within ten days of, any revaccination. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.030 Rabies vaccination—Veterinarian duties—Certification and tags.
A. Certification Information. It shall be the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination, in duplicate, which includes the following information:

1. Owner’s name and address;
2. Description of the animal (breed, sex, markings, age, name);
3. Date of vaccination;
4. Rabies vaccination tag number;
5. Type of rabies vaccine administered; and
6. Manufacturer’s serial number of vaccine.
B. Distribution of Copies. A copy of the certificate shall be distributed to the owner and the original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this chapter.

C. Tag. Additionally, a metal or durable plastic rabies vaccination tag, serially numbered, may be securely attached to the collar or harness of the animal. An animal discovered in public view and not wearing a rabies tag, or current license tag, shall be deemed to be unvaccinated and may be impounded or seized in accordance with law and dealt with pursuant to this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.040 Impoundment of animals without valid vaccination tags.

A. Reclaim by Owner. Any vaccinated animal impounded because of a lack of a rabies vaccination tag may be reclaimed by its owner upon the owner furnishing proof of rabies vaccination and payment of all fees attributable to said animal’s apprehension and impoundment accrued up to the date of release.

B. Rabies Deposit. Any unvaccinated animal may be reclaimed by its owner prior to disposal of said animal under the procedures set forth in Section 6.28.040 of this title by payment of all fees attributable to said animal’s apprehension and impoundment and by the owner posting a rabies deposit as found in the current fee schedule. Said deposit may be recovered by owner upon showing proof of rabies vaccination within seventy-two hours of release.

C. Disposal of Unclaimed Animals. Any animal not reclaimed prior to the period specified in Section 6.28.050 shall be disposed of pursuant to that section. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.050 Rabid animal reports.

A. Reporting Required. Any person having knowledge of the presence or whereabouts of an animal known to have been exposed to or reasonably suspected of having rabies and any person having knowledge of an animal or person bitten by a wild or domestic carnivorous mammal or bat shall report such knowledge and all pertinent information available to the division and/or the health department. Any person having custody of such animal shall confine the animal pending direction from the division or health department.

B. Interference Prohibited. It is unlawful under this title for any person having knowledge of the presence or whereabouts of an animal known to have been exposed to, or reasonably suspected of having, rabies; or of an animal or person bitten by such an animal; to harbor, protect, or otherwise interfere with the apprehension or identification of said animal or persons by wilfully withholding such knowledge from an animal control officer, peace officer, or any other officer of the health department or the Utah State Department of Health.

C. Failure to Surrender. It is a violation of this title for an owner, or other person having the care, custody and control, of an animal known, suspected, or deemed to have been exposed to rabies as set forth above in this section to fail to surrender said animal immediately upon demand by any peace officer, animal control officer or officer of the city, the division, the health department or the Utah State Department of Health. (Ord. 2012-12 § 2 (Exh. A) (part))

6.20.060 Animals exposed to rabies.

Any animal potentially exposed to rabies virus by a wild or domestic carnivorous mammal or a bat that is not available for testing shall be regarded as having been exposed to rabies.

A. Unvaccinated. Unvaccinated dogs, cats, and ferrets exposed to a rabid animal shall be euthanized immediately. If the owner is unwilling to have this done, the animal shall be placed in strict isolation for six months under a veterinarian’s supervision, at the owner’s expense, and vaccinated one month before being released.

B. Vaccinated. Dogs, cats, and ferrets that are currently vaccinated shall be revaccinated immediately, kept under the owner’s control and observed for forty-five days.

C. Livestock. Livestock shall be handled as per the current compendium of animal rabies control. (Ord. 2012-12 § 2 (Exh. A) (part))
6.20.070 Management of animals that bite humans.
A. Quarantine. An apparently healthy dog, cat, or ferret that bites a person or another animal shall be quarantined and the following provisions shall apply:

1. The animal shall be observed for a period of not less than ten days by the division and/or the health department, and the owner of the animal shall be responsible for the cost of such quarantine.
2. The normal place for such quarantine shall be the division’s animal shelter; however, other arrangements suitable to the division’s director may be made for the period of observation specified herein upon the condition that the biting animal had a current rabies vaccination at the time the bite was inflicted.
3. A person having custody of an animal under quarantine at a place other than the division’s animal shelter shall immediately notify the division if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes from quarantine.
4. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow an officer of the division, the health department or a veterinarian designated by them to make an inspection or examination of the animal during and/or at the end of the period of quarantine.
5. If the quarantined animal dies within ten days from the date of the bite for which the animal was quarantined, the person having custody of said animal shall immediately notify the division of such fact and immediately deliver the animal to that person’s veterinarian or the division for the removal and delivery of the head of said animal to a laboratory specified by the State Department of Health for examination for rabies.
6. At the end of the quarantine period, the director or designee shall examine the quarantined animal and if no sign of rabies is present in the animal, the animal may be released to its owner. Stray animals shall be disposed of as provided in Section 6.28.050.
7. If, during the quarantine, the animal exhibits symptoms of rabies, it shall be immediately destroyed and tested.
8. Any stray or unwanted dog, cat or ferret that bites a person may be euthanized immediately and submitted for rabies examination, if an immediate examination is determined necessary by the director or the health department.

B. Other Animals. Animals other than dogs, cats, or ferrets that might have exposed a person to rabies shall be reported immediately to the division and the health department. Case management will be a collaborative effort between the health department and the division. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.24

ANIMAL BITES AND NUISANCES

Sections:
6.24.010 Nuisance—Penalties for allowing.
6.24.015 Public nuisance animal.
6.24.030 Animal bites—Reporting requirements.
6.24.040 Fierce, dangerous or vicious animals.
6.24.050 Control and fencing of livestock.
6.24.060 Harboring stray animals—Unlawful confinement or concealment of animals.
6.24.070 Dogs or ferrets running at large—Owner liability.
6.24.080 Animal trespass.
6.24.090 Staking dogs improperly.
6.24.100 Female dogs in heat.
6.24.110 Dogs prohibited in designated areas.
6.24.120 Attacks by animals—Owner liability—Destruction authorized when.

6.24.010 Nuisance—Penalties for allowing.
An owner or person having charge, care, custody or control of an animal or animals creating a nuisance, as defined in this title, shall be guilty of allowing a nuisance in violation of this title and subject to the penalties provided herein. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.015 Public nuisance animal.
“Nuisance” means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or humans, or substantially interfere with humans’, other than their owner’s, enjoyment of life or property.

The term “public nuisance animal” shall mean and include, but is not limited to, any animal that:
A. Is repeatedly found at large;
B. Damages the property of anyone other than its owner;
C. Repeatedly molests or intimidates neighbors, pedestrians or passersby by lunging at fences, chasing, or acting aggressively towards such person, unless provoked by such person;
D. Chases vehicles;
E. Makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other noise which causes unreasonable annoyance, disturbance, or discomfort to neighbors or others;
F. Causes fouling of the air by odors and thereby creates unreasonable annoyance or discomfort to neighbors or others;
G. Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
H. Defecates on any public or private property without the consent of the owner of such property, unless the handler of such animal shall have in his or her possession the instruments to clean up after his or her animal and shall remove the animal’s feces to a proper trash receptacle;
I. Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals kept or harbored;
J. Attacks people or other animals, whether such attack results in actual physical harm to the person or animal to whom or at which the attack is directed;
K. Has been found by a court or by any other commission or board lawfully established under Utah law to be a public nuisance under any other provision of Utah law;

L. Cannot be restrained by normal restraints, such as standard leashes, standard chains, or muzzles; or

M. Cannot be effectively controlled by its owner or handler.

The fact, or evidence of the fact, that the factors alleged to have caused the animal to be a nuisance are inherent and/or natural behavior for such animal, or the actions of the owner or animal are otherwise legal, shall not negate or excuse a charge of nuisance. (Ord. 2012-12 § 2 (Exh. A) (part))


A. Authority. If the director has reasonable grounds to believe that an animal constitutes a public nuisance animal, as defined herein, and that such nuisance necessitates immediate abatement, he/she may issue an abatement order, by mail or posting, giving the animal owner or keeper seven days to abate the animal nuisance. If the animal nuisance is not abated within seven days after delivery of the abatement notice, an animal control officer may seize the animal pending delivery of an order concerning the disposition of the animal by a court of competent jurisdiction. Each day that an owner or keeper allows an animal nuisance to persist beyond seven days following delivery of an abatement notice will constitute a separate violation of this title.

B. Costs. If the court determines that the animal in question is not a nuisance and/or need not be abated for the public health and safety, the division shall cause the animal to be returned to the owner or handler forthwith, and shall assume the responsibility for the costs incurred while the animal is under the care and keeping of the division. If the court determines that the animal in question constitutes a public nuisance, the owner or handler shall be liable to the division for the cost incurred by the division for the animal’s care and keeping while the matter is before the courts, and for the cost of destroying the animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.030 Animal bites—Reporting requirements.

A. Time Limit for Reporting. Persons who obtain knowledge that an animal has bitten another animal or a human shall report the facts to the division within twenty-four hours of the bite, regardless of whether the biting animal is of a species subject to rabies.

B. Medical Personnel. A physician, or other medical personnel, who renders professional treatment to a person bitten by an animal shall report that fact to the division and the health department within twenty-four hours of his/her first professional attendance. Such report shall include the name, sex and address of the person bitten as well as the type and location of the bite. If known, the person making the report shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the division in ascertaining the immunization status of the animal.

C. Veterinarians. A veterinarian or other person who treats an animal bitten, injured or mauled by another animal shall report that fact to the division. The report shall contain the name and address of the owner of the injured animal, the name and address of the owner, if known, of the animal which caused the injury, and a description of the animal, if known, which caused the injury, and the location of the incident.

D. Violation. Any person not conforming with the requirements of this section shall be in violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.040 Fierce, dangerous or vicious animals.

It is a violation of this title for an owner or handler of a dangerous or vicious animal to allow or permit said animal to go or be off his/her premises unless such animal is under secure restraint and muzzled and/or confined so as to prevent it from injuring any person, property, or other animal. The owner of any dangerous or vicious animal shall microchip the animal and register the microchip number with the division. Every animal so vicious and dangerous that it cannot be controlled by reasonable restraints, and every dangerous and vicious animal not effectively controlled by its owner or person having charge, care or control of such animal, so that it shall not injure any person or property, is a hazard to public safety, and the director may take the same action in regards to such animal as is permitted in Section 6.24.020, or may seek a court order for destruction of or muzzling of the animal. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.24 ANIMAL BITES AND NUISANCES

6.24.050 Control and fencing of livestock.
A. At Large. It is unlawful for an owner or handler of livestock to allow, either negligently or wilfully, the same to run at large in an area where such is not permitted by any law or regulation.

B. Trespassing. It is unlawful for an owner or handler of livestock to allow, either negligently or wilfully, the same to be herded, pastured, or to otherwise enter upon the land of another person without the consent of that person.

C. Fencing. In areas where livestock are not permitted to run at large, the owner or handler of livestock shall construct adequate fencing and shall maintain said fencing to prevent livestock animals’ escape from the owner’s or handler’s premises.

D. Adequate Fencing Defined. For the purposes of this section, “adequate fencing” means, at a minimum, mesh, barbed wire, chainlink, rail, or post fencing; or metal fence panels.

E. Stallions. Because of the unusual hazards presented by stallions, such animals shall be confined in a fenced enclosure with a minimum fence height of eight feet.

F. Failure to Comply. Failure by an owner or handler to erect and maintain the fencing required by this section, thus permitting the escape of an animal, or injury to persons, property or other domesticated animals, shall be a violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.060 Harboring stray animals—Unlawful confinement or concealment of animals.
A. Harboring Prohibited. It shall be unlawful for any person, except an animal welfare society incorporated or otherwise qualified to do business within Utah and licensed under this title, to harbor or keep any lost or stray pet, unless otherwise allowed by Utah law. A person who assumes and maintains control of a lost or stray pet longer than twenty-four hours, without notifying the division of the presence and location of said animal, shall be presumed to have violated this section.

B. Unlawful Confinement. It shall be unlawful for any person to take an animal, without the permission of the owner or handler thereof, and/or to confine an animal in a place unknown to the owner or handler; or to conceal an animal’s whereabouts from the owner or handler thereof. The offense described herein is committed irrespective of the period of time of such unlawful confinement or concealment. This section shall not apply to animal control officers legally taking an animal in an emergency or under protection from its owner or handler. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.070 Dogs or ferrets running at large—Owner liability.
It is unlawful for the owner or handler of any dog or ferret to allow such dog or ferret at any time to run at large. The owner or handler of a dog or ferret shall be liable in damages for injury committed by such dog or ferret and it shall not be necessary in any action brought thereof to allege or prove that such dog or ferret was of a vicious or mischievous disposition or that the owner or keeper thereof knew that it was vicious or mischievous. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.080 Animal trespass.
It is unlawful for the owner or handler of an animal to allow such animal to trespass on the property of another. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.090 Staking dogs improperly.
A. Unlawful. It is unlawful for any person to chain, stake out or tether any dog on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property.

B. Access to Necessities Required. It is unlawful for any person to chain, stake out or tether any dog on any premises in a manner that prevents the dog from having access to food, water or shelter. (Ord. 2012-12 § 2 (Exh. A) (part))
6.24.100 Female dogs in heat.
Any owner or person having charge, care, custody or control of any female dog in heat shall, in addition to
restraining such dog from running at large, cause such dog to be constantly confined in a building or other structure
so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance. (Ord.
2012-12 § 2 (Exh. A) (part))

6.24.110 Dogs prohibited in designated areas.
A. Restaurants and Similar Places. It is unlawful for any person to take or permit any animal, whether loose or on
a leash or in arms, in or about any establishment or place of business where food or food products are sold or
displayed, or served, including, but not limited to, restaurants, grocery stores, meat markets and fruit or vegetable
stores.

B. Watershed Areas. It is unlawful for any person keeping, harboring or having charge or control of any dog to
allow such dog to be within protected watershed areas as designated by either the health department or any public
water district.

C. Staking in Public Place. It is unlawful for any person to chain, stake out or tether any animal in a public place
unless the owner or handler of the animal is continually present and the animal is properly restrained so that the
animal poses no threat of contact with a person engaged in a normal and expected activity.

D. Public Parks. It is unlawful for any person to take or permit any unrestrained animal in any public park
located within the city. Any animal in a public park must be continually kept on a leash, not over eight feet in length,
which is of sufficient strength to ensure that the animal’s owner or handler shall at all times have absolute control
over the animal. The director may grant exceptions to this subsection for a licensed animal exhibition.

E. Exceptions. This section shall not apply to dogs provided for in Section 6.16.090(B), or when the director of
the health department adopts rules and regulations, which are subsequently ratified by the city council, which set
forth the times and places where the dog or dogs may be allowed without compromising the health and safety of
humans, causing a nuisance, or damaging property. (Ord. 2012-12 § 2 (Exh. A) (part))

6.24.120 Attacks by animals—Owner liability—Destruction authorized when.
A. Attacking, Chasing or Worrying. It is unlawful for the owner or person having charge, care, custody or
control of any animal to allow such animal to attack, chase or worry any human, domesticated animal, any species
of hoofed wildlife protected by any law or ordinance, or any pet or companion animal. “Worry,” as used in this
section, means to harass or intimidate by barking or baring of teeth, growling, biting, shaking or tearing with the
teeth; or approaching any person in an apparent attitude of attack or any aggressive behavior which would cause a
reasonable person to feel they were in danger of immediate physical attack.

B. Penalty Additional. Any penalty imposed as a result of prosecution of a person under subsection (A) of this
section shall be in addition to any penalties or liabilities imposed upon such person by any other law or ordinance.

C. Owner Liability. The owner in violation of subsection (A) of this section shall be strictly liable for violation of
this section. In addition to being subject to prosecution under subsection (A) of this section, the owner of such dog
shall also be liable in damages to any person injured or to the owner of any animal(s) injured or destroyed thereby.

D. Mitigating Circumstances. The following shall be considered in mitigating the penalties or damages, or in
dismissing a charge brought under subsection (A) of this section:

1. That the animal was properly confined on the premises; or

2. That the animal was deliberately or maliciously provoked.

E. Authorized Action for Protection. Any person may kill (or take other protective action against) an animal
while it is committing any of the acts specified in subsection (A) of this section, or while such animal is being
pursued after committing any of such acts, or to protect him/herself, or members of the public, from any threat of
death or personal injury then being posed by the animal. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.28

IMPOUNDMENT

Sections:
6.28.010 Animal shelter and facilities.
6.28.020 Impoundment authorized—When.
6.28.030 Impoundment—Recordkeeping requirements.
6.28.040 Redemption of animals—Restrictions.
6.28.050 Term of impoundment—Destruction or other disposition of animals.
6.28.060 Sterilization of adopted and impounded animals.

6.28.010 Animal shelter and facilities.
A. Shelter. The city shall be responsible, within its legislative discretion, to provide (by contract with the division or otherwise) suitable premises and facilities to be used as an animal shelter where impounded animals can be kept.
B. Destruction. The division shall provide for the destruction of dogs, cats, ferrets and other animals for which destruction is authorized by this title or by Utah law. Destruction shall be accomplished in accordance with standards established by the American Veterinary Medical Association, or in accordance with any other nationally recognized standards established for the proper destruction of animals; or by any method which, in the discretion of the director or the division, is proper under the then existing circumstances.
C. Medical Treatment. The division may furnish, when deemed necessary at the discretion of the director or division personnel, medical treatment to animals impounded pursuant to this title. Prior consent for such treatment from the owners of such animals shall not be required.
D. Cost Recovery. The division shall be entitled to recover from the owner of any affected animal the cost of the care and keeping, medical treatment, and euthanasia provided or performed under the authority of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.020 Impoundment authorized—When.
A. Impoundment. An animal control officer may impound, or leave an animal in the custody of its owner or handler, according to such officer’s discretion, whenever such animal is found to be in circumstances which violate the requirements of this title. If left in the custody of the owner or handler, said owner or handler shall nevertheless be required to respond to a notice of violation issued by the animal control officer.
B. Impounding without Criminal Complaint. An animal found in the following circumstances may be impounded by an animal control officer without the filing of a criminal complaint or obtaining a prior order from a court of competent jurisdiction:
   1. The animal is running at large outside its owner’s or handler’s premises;
   2. The animal is outside its owner’s or handler’s premises and is not licensed as required by this title. An animal not wearing a license tag shall be presumed to be unlicensed for the purpose of this section;
   3. The animal is sick or injured and its owner cannot be immediately located;
   4. The animal’s owner or handler requests the division to impound the animal and pays, in advance, a fee reasonably calculated to pay for the cost the division will reasonably incur during impoundment and possible destruction of the animal;
   5. The animal is abandoned;
   6. The animal is outside its owner’s or handler’s premises and is known by the animal control officer to be without the rabies vaccination required by this title. For the purpose of this section, an animal not wearing a rabies tag shall be presumed to be unvaccinated;
7. The animal is known by the animal control officer to have been exposed to rabies or bitten by a rabid animal;

8. The animal is to be otherwise held for quarantine;

9. The animal is a vicious animal and not properly confined or restrained as required by Section 6.24.040; or

10. The animal is not being kept or maintained as required by any other provision of this title, and as a result thereof, the animal poses an imminent threat to the health and safety of persons, other animals, or itself.

C. List Not Exhaustive. The circumstances set forth above in this section are not intended to be a complete list of those in which the city, the division, and/or an animal control officer may impound an animal without a prior order from a court of competent jurisdiction; and said officers are authorized to act as necessary to maintain the peace and safety of the city under the requirements of this title and all other applicable law. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.030 Impoundment—Recordkeeping requirements.
The impounding facility shall keep record of each animal impounded, which shall include the following information:

A. Complete description of the animal, including tag numbers;

B. The manner and date of impound;

C. The location of the pick up and name of the officer picking up the animal;

D. The manner and date of disposal;

E. The name and address of the person who redeems, purchases or adopts the animal;

F. The name and address of any person relinquishing an animal to the impound facility;

G. All fees received on behalf of the animal; and

H. All costs of impoundment allocable to the animal which accrue during its impoundment. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.040 Redemption of animals—Restrictions.
A. Payment of Fees. The owner of any impounded animal or his/her authorized representative (a legally responsible adult of age eighteen or more) may redeem such animal before disposition, provided he/she pays:

1. The impound fee;

2. The daily board charge;

3. Veterinary costs incurred during the impound period, including rabies vaccination or rabies vaccination deposit;

4. License fee, if required;

5. A transportation fee if transportation of an impounded animal by specialized equipment is required. “Specialized equipment” is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers. The director of animal services shall determine this fee at a level that approximates the cost of utilizing the specialized equipment in the particular situation;

6. Any other expenses incurred to impound an animal in accordance with state or local laws;

7. Any unpaid (past due) fees and fines incurred by the owner;
8. If any dog or cat is fertile, the owner shall also pay a sterilization deposit and comply with any other requirements established by Section 17-42-101 et seq. of the Utah Code Annotated, as amended, or other applicable state law and implemented by the division. For the purposes of this subsection, the term “recipient” contained in the referenced state statute shall include an owner or his/her authorized representative who is redeeming his/her animal after impound;

9. If an animal is impounded on two or more occasions without wearing identification or license tags, the owner may be required to purchase microchip identification in addition to impound fees.

B. Establishment of Fees. The director, with the city council’s approval by resolution, shall set, and periodically revise when necessary, maximum impound fees and daily board charges for the impounding of animals. Such fees shall be published in the fee schedule. Such fees may take into account the type of animal impounded, the owner’s compliance with animal licensure requirements, the number of confinements in the preceding year, and the duration of the confinement. No impound fees will be charged the reporting owners of suspected rabid animals if they comply with Chapter 6.20. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.050 Term of impoundment—Destruction or other disposition of animals.
A. Term. Animals shall be impounded for a minimum of three business days before further disposition unless the animal is wearing a license tag or other identification, in which case it shall be held a minimum of five calendar days. Reasonable efforts shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition.

B. Destruction, Disposal, or Adoption. All animals, except those quarantined or confined by court order, or those subject to Section 4-25-4 of the Utah Code Annotated, as amended, which are held longer than the minimum impound period, and all animals voluntarily relinquished to the division’s animal facility, may be destroyed or disposed of as the director or the division shall direct. Any healthy pet may be adopted to any qualifying person desiring to adopt such animal, for a price as published in the current fee schedule. The division shall require the sterilization of any healthy dog, cat, ferret or rabbit sold or released under this chapter and shall also comply with any applicable requirements established by Section 17-42-101 et seq. of the Utah Code Annotated, as amended, or other applicable state law.

C. Injured Animal Released to Veterinarian. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, in the division’s discretion, be released to the care of a veterinarian with the consent of the owner.

D. Destruction Without Time Limitations. When, in the division’s judgment, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established in this title, and without court order.

E. Destruction upon Request of Owner. The division may destroy an animal upon the request of an owner without transporting the animal to the division’s animal facility. An appropriate fee shall be charged the owner for the destruction and any subsequent disposal of the carcass performed by the division. (Ord. 2012-12 § 2 (Exh. A) (part))

6.28.060 Sterilization of adopted and impounded animals.
A. Sterilization Required. A dog, cat, ferret or rabbit adopted from the division’s animal facility shall be sterilized.

B. Conditional Adoption. The division may allow the conditional adoption of an unsterilized dog, cat, ferret or rabbit, because of the age of the animal or as otherwise deemed necessary by the division. Such conditional adoption shall become final upon proof to the division that the animal has been sterilized. Failure to sterilize results in forfeiture of the animal to the division.
C. Owner Reclaiming. A dog or cat owner reclaiming an impounded pet shall comply with any applicable requirements established by Section 17-42-101 et seq. of the Utah Code Annotated, as amended, or other applicable state law and implemented by the division to conform with said law. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.32

CRUELTY TO ANIMALS

Sections:
6.32.010 Care and maintenance responsibility.
6.32.020 Keeping of diseased or painfully crippled animals.
6.32.030 Abandonment of animals.
6.32.040 Hobbling animals.
6.32.050 Animals in vehicles.
6.32.060 Physical abuse of animals.
6.32.070 Injury to animals by motorists—Duty to stop and assist.
6.32.080 Poisoning animals.
6.32.090 Steel jaw traps.
6.32.100 Mistreatment of animals.
6.32.110 Baby rabbits and fowl—Restrictions.
6.32.120 Selling certain turtles prohibited.
6.32.130 Killing birds.
6.32.140 Tethering of dogs—Restricted.
6.32.150 Tethering of dogs—Exemptions.

6.32.010 Care and maintenance responsibility.
It shall be unlawful for an owner or handler of an animal to withhold food, drink, care, adequate space and shelter from such animal, which is reasonably necessary to maintain such animal in good health, comfort and safe from potential hazards. To ensure the availability of adequate space for large animals, notwithstanding anything in this code to the contrary, it shall be unlawful to keep any horse, mule, burro, ass or cattle on a lot or other parcel of ground that is not over one-half acre in size. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.020 Keeping of diseased or painfully crippled animals.
A. Abandonment. It is unlawful for any person to abandon or turn out at large any sick, diseased or disabled animal.

B. Disease or Disability. It is unlawful for the owner or handler of an animal rendered worthless to said owner or handler by reason of disease or disability to allow such animal to continue to live in a diseased or disabled state. Said owner or handler shall dispose of such animal by killing the same in a humane manner, or by contacting the director or the division. Upon such contact, the division shall assume responsibility for disposition of the animal; provided, that the owner or handler shall pay a fee, in advance, to the division to pay for division’s cost in disposing of the animal. If the owner or handler fails to pay such fee, and fails to dispose of the diseased or disabled animal as required above, such person shall be in violation of this title.

C. Veterinary Care or Disposal Required. It is unlawful for an owner or handler of an animal which is infected with a disease, or is in a painfully crippled condition, to have, keep or harbor such animal without placing the animal under veterinary care and/or disposing of such animal as required in subsection (B) of this section. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.030 Abandonment of animals.
It is unlawful for any person to abandon any animal within the geographical boundaries of the city. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.040 Hobbling animals.
It is unlawful for any person to hobble livestock or other animals by any means that may cause injury or damage to any animal. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.050 Animals in vehicles.
It is unlawful for any person to carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation or for an unusual length
of time. Persons transporting an animal in the open bed of a vehicle must physically restrain the animal in such a manner as to prevent the animal from jumping or falling out of the vehicle. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.060 Physical abuse of animals.
It is unlawful for any person to kill without legal justification, maim, disfigure, torture, beat, whip, mutilate, burn or scald, over drive or in any manner treat any animal in a cruel or malicious manner. Each instance of such treatment shall constitute a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.070 Injury to animals by motorists—Duty to stop and assist.
A. Required. The operator of a motor vehicle or other self propelled vehicle being operated upon the streets of the city (within the area of authority of this title) shall, in the event such vehicle should strike and injure or kill any domesticated animal, give reasonable aid and assistance and/or protection to such animal, without placing him or herself at unreasonable risk, and in the absence of the owner call and report the facts pertaining to the incident to either of the following authorities:

1. The Salt Lake County sheriff or other police agency having jurisdiction in the city;
2. The director; or
3. The division.

B. Compliance with Instructions Given. After making the report required above, the operator shall comply with the instructions given by the agency contacted and shall, if instructed, remain at the scene until appropriate police or animal control authority arrives. After arrival of appropriate authority, the operator shall cooperate with said authority in the investigation and reporting of the incident.

C. Transportation Alternative. As an alternative to complying with the requirements set forth above, and in the absence of the owner, the motor vehicle operator may transport the animal which has been struck to the division’s animal facility, or, in the case of an animal which is injured and not dead, to a veterinarian for treatment of the animal’s injuries. If the operator chooses the latter course of action, he/she shall be responsible for the cost of treatment if required by the veterinarian. The division shall not be responsible for the cost of treatment unless it has accepted responsibility after the operator’s compliance with any of the requirements of this section.

D. Exception for Emergency Vehicles. This section shall not apply to operators of emergency vehicles if such vehicles are being operated in response to a bona fide emergency situation at the time the animal is struck. Emergency vehicle operators who strike an animal during a response to a bona fide emergency situation shall notify the director of the division of the incident as soon as is practicable thereafter. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.080 Poisoning animals.
Except as provided in this section, it is unlawful for any person by any means to knowingly and recklessly make accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of the public health, when applied in such a manner as to reasonably prohibit access to other animals. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.090 Steel jaw traps.
It is unlawful for any person to use steel jaw traps to trap animals, unless authorized by the director. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.100 Mistreatment of animals.
It is unlawful for any person to provoke any animal which is being kept, housed or confined in compliance with this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.110 Baby rabbits and fowl—Restrictions.
A. Age Restrictions. It is unlawful for any person to sell, offer for sale, offer to give as a prize, premium or advertising device, or display in any store, shop, carnival or other public place any baby rabbits or fowl under eight weeks of age in any quantity less than six.
B. Dates Prohibited. It is unlawful for any person to sell, offer for sale, barter or give away any baby rabbits or fowl under eight weeks of age during the two-week period preceding Easter in any quantity less than twenty-five.

C. Dye or Color. It is unlawful to artificially dye or color any animal under six months of age.

D. Personal Use and Consumption. Nothing in this section shall be construed to prohibit the purchase and raising of such rabbits and fowl by a private individual for his/her personal use and consumption; provided, that he/she shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his/her possession.

E. Adequate Care. It is unlawful to offer as an advertising device, or to display, any animal without at all times keeping adequate food and water available for the animal’s use.

F. Offering Live Animal Prohibited. It is unlawful for any person to offer as a premium, prize, award, novelty or incentive to purchase merchandise any live animal. Nothing herein shall be construed to prohibit the offering or sale of animals in conjunction with the sale of food or equipment designed for the care or keeping of such animals.

G. Separate Offense. Each day an offense of this section occurs or continues shall be a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.120 Selling certain turtles prohibited.
It is unlawful to own or sell, barter or trade any Chrysemys scripta-elegans, Red-Eared Sliders, that are four inches in length or smaller, or P. troostii, family Testudinidae, “pet turtles.” (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.130 Killing birds.
It is unlawful to kill any bird, or to rob or destroy any nest, egg or young of any bird, in violation of state law. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.140 Tethering of dogs—Restricted.
A. It is unlawful for an owner or handler of a dog to tether a dog in any manner that would cause injury or damage to the dog, or when freedom of movement would endanger a dog. A tether must be of sufficient length to provide the dog with adequate space. Each dog tethered in violation of this section shall constitute a separate offense.

B. It is unlawful for an owner or handler of a dog to tether a dog for longer than ten hours within a twenty-four-hour period. Each dog tethered in violation of this section shall constitute a separate offense. (Ord. 2012-12 § 2 (Exh. A) (part))

6.32.150 Tethering of dogs—Exemptions.
The provisions of Section 6.32.140 will not apply in the following circumstances:

A. The owner or handler has been mandated by animal services to keep the dog properly restrained at all times by the use of a tether or other means of containment.

B. The owner or handler has a dog that is registered as a dangerous animal under Section 6.12.130. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.36

WILD, DANGEROUS AND EXOTIC ANIMALS

Sections:
6.36.010  Prohibitions relating to wild, dangerous and exotic animals—Exceptions.

6.36.010  Prohibitions relating to wild, dangerous and exotic animals—Exceptions.

A. Specified. It is unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor or purchase any wild, dangerous or exotic animal (as defined in Title 50 C.F.R., in state law or regulation, or in Sections 6.04.160, 6.04.225 and 6.04.580), or which is otherwise a “vicious animal” or a “nuisance,” as defined in this title.

B. Exceptions. The prohibitions of subsection (A) of this section shall not apply to a person, animal shelter, zoological park, veterinary hospital, Internal Revenue Code Section 501(c)(3) animal welfare shelter, public laboratory, circus, sideshow, amusement show, or facility for education or scientific research if such organizations are otherwise licensed or permitted as provided in this title; provided, that said animals are restrained or confined in such a manner as to prevent their escape and/or injury to the public. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.38

DOG BREEDERS

Sections:
6.38.010 License.
6.38.020 License—Responsible breeder—Five-year license.
6.38.030 Inspections.
6.38.040 Standards.
6.38.050 Records.
6.38.060 Enforcement and penalties.

6.38.010 License.
A. Dog breeders shall obtain a license issued by the division, in addition to any current general kennel or fancier’s permit required by ordinances.
B. An applicant for a license shall submit an application on a form prescribed by the division, together with an annual, nonrefundable license fee in an amount determined by the council.
C. The division, through its inspector, may conduct an inspection for the license requested by the applicant to determine whether the applicant qualifies to hold a license pursuant to this section. The division shall issue the license upon receipt of the application and annual license fee and upon satisfactory completion of any required or qualifying inspection and compliance with all requirements of this chapter.
D. A license will not be issued to an applicant who has pled no contest or has been found to have violated any federal, state or local laws or regulations pertaining to any animal laws within five years of the date of application.
E. An applicant who does not receive a license shall be afforded the opportunity for a hearing before a hearing officer of the division to present evidence that the applicant is qualified to hold a license.
F. This section shall not apply to:
   1. Any person licensed or subject to inspection by the United States Department of Agriculture pursuant to the federal Animal Welfare Act (7 U.S.C. 2131 et seq.) and its regulations (Title 9 C.F.R.).
   2. Any evacuation or management activity associated with any emergency or disaster declared by local, state or federal government.
G. A license to operate as a dog breeder shall be renewed by filing with the division annually a renewal application and license fee.
H. License registration should be made prior to any litter being delivered. Failure to timely register under this chapter may result in additional penalties, including a late fee as established by the council.
I. A license is not transferable to another person or location.
J. A licensee may be put on probation requiring him or her to comply with the conditions set out in an order of probation issued by the division, may be ordered to pay a civil penalty or may have his or her license suspended after:
   1. The division determines the licensee has not complied with the provisions of this section or with division regulations;
   2. The licensee is given written notice to comply and written notice of the right to a hearing to show cause why the license should not be revoked; and
3. The division finds that issuing an order revoking the license is appropriate based on the hearing record or on available information if the hearing is waived in writing by the licensee or the licensee does not appear at a scheduled hearing after the licensee has received notice of the hearing.

K. The facility or operation of any licensee whose license has been suspended shall close and remain closed and all operations cease until the license has been reinstated and a new license is issued. Any facility or operation for which the license is revoked shall not be eligible to apply for a new license until one year after the date of the order revoking the license or, if the revocation is appealed, one year from the date of the order sustaining the revocation.

L. The division may terminate proceedings undertaken pursuant to this section at any time if the reasons for instituting the proceedings no longer exist. A license which has been suspended may be reinstated, a person with a revoked license may be issued a new license, or a licensee may no longer be subject to an order of probation if the division determines the conditions which prompted the suspension, revocation, or probation have been remedied or no longer exist.

M. A licensee shall have the right to appeal adverse decisions to the division director or designee. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.020 License—Responsible breeder—Five-year license.

A. Licensees belonging to recognized organizations which require and enforce adherence to a code of ethics and standards specific to their breed may obtain a five-year license, at no charge.

B. Recognized Organizations.

1. Local, regional or national dog club or organization recognized by the American Kennel Club which have a written code of ethics that members are held accountable in order to remain member-in-good-status standing; or

2. If the breed is not recognized by the American Kennel Club, then a local, regional or national dog club or an organization recognized by the United Kennel Club which has a written code of ethics that members are held accountable to in order to remain member-in-good-status standing; or

3. If the breed is not recognized by the American Kennel Club or the United Kennel Club the organization may be recognized by providing the following information to the division:

   a. Articles of organization and bylaws (or equivalent);

   b. Copy of the organization’s code of ethics; and

   c. Statement regarding member’s requirement to abide by code of ethics to maintain membership.

C. Application for five-year license must include the following:

1. Proof that the applicant is a member in good standing with a recognized organization; and

2. A copy of the recognized organization’s code of ethics (or equivalent) that members are held accountable to in order to maintain member-in-good-standing status. The code of ethics must include at a minimum:

   a. Expectations for following guidelines and recommendations for breed specific health and medical testing;

   b. Prohibits selling, trading or bartering of a puppy/adult that is sick, or shipping or delivering to the buyer a puppy less than eight weeks of age; and

   c. Requirements to take back or make rescue or placement arrangements for any dog produced that has been displaced or abandoned at any time during its life.
D. A five-year license may be revoked if the licensee is found to have lost member-in-good-standing status or if the licensee is found to be in violation of any section of this chapter.

E. Organizations found to not be enforcing their member’s adherence to the organization’s standards and code of ethics may be suspended from participating in the five-year license program for two years. During the two-year period of the organization’s suspension, no five-year licenses will be issued or renewed to members of the suspended organization. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.030 Inspections.
A. The division may inspect any dog breeders licensed under this chapter to determine compliance. The division may conduct additional inspections upon receipt of a complaint or on its own motion to ensure compliance with this chapter. When an inspection produces evidence of a violation of this chapter, a copy of an inspector’s written report of the inspection, including alleged violations, shall be provided to the applicant or licensee, together with written notice to comply within the time limit established by the division.

B. The inspector, for purposes of inspection, may with an appointment enter the premises of any applicant or licensee during normal business hours and in a reasonable manner, including all premises in or upon which dogs are housed, sold, exchanged, or leased or are reasonably suspected of being housed, sold, exchanged or leased. An applicant or licensee shall, upon request of the inspector, provide assistance in making any inspection authorized under this section and its regulations.

C. The private residence of any applicant or licensee shall be available for purposes of inspection only if dogs are housed within the residence, including a room in such residence, and only the portion of the residence used as an enclosure shall be open to an inspection pursuant to this section.

D. The division shall have authority to investigate reported violations of this chapter and division regulations, including failure to obtain a license as a dog breeder, as required under this chapter. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.040 Standards.
A. Licensees shall ensure that appropriate preventative and therapeutic veterinary care is provided. A dog shall not be bred if a veterinarian determines the dog is unfit for breeding purposes.

B. Each licensee must have a plan for disaster response and recovery, including but not limited to structural damage, electrical outages and other critical system failures.

C. All dogs over four months old must be properly licensed.

D. All dogs must be provided necessary and appropriate veterinary care, including, at a minimum, an examination at least annually by a licensed veterinarian, prompt treatment of any illness or injury by a licensed veterinarian, and, where justified, humane euthanasia by an appropriate agency using lawful techniques determined acceptable by the division.

E. All dogs shall be provided sufficient housing, including protection from the elements, constant and unfettered access to an indoor enclosure that has a solid floor (a wire-mesh or similar floor is not permitted), no stacking of one animal’s enclosure above or below another animal’s enclosure, and waste removal at least once a day while the dog is outside the enclosure.

F. To prevent an extremely large number of dogs on a property, licensees can have multiple bitches, but are only allowed one litter, from one bitch, at a time. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.050 Records.
A. A licensee shall maintain accurate records for each dog within the licensee’s care for at least five years including:

   1. The date the dog enters the kennel facility;
2. The person from whom each dog was purchased or obtained, including the name, address and phone number of the person, and license or registration number if applicable;

3. A description of each dog, including the color, breed, sex, date of birth (if not known, the approximate age) and weight;

4. A description of any tattoo, microchip, or other identification number carried by or appearing on the dog;

5. For breeding females:
   a. Breeding dates;
   b. Whelping dates;
   c. Number of puppies per litter; and
   d. Sire for each litter;

6. All preventative and therapeutic veterinary care provided for each dog; and

7. The disposition of each dog and the date.

B. A copy of the dog’s record, as required by this section, shall be provided at the time of transfer of ownership. Registration of any tattoo, microchip, or other identification number shall also be transferred.

C. Licensees shall provide copies of records listed in this section to the inspector, as requested, to enforce the provisions of this section or its regulations. (Ord. 2012-12 § 2 (Exh. A) (part))

6.38.060 Enforcement and penalties.

A. In enforcing this section, the division may:

1. Issue an order of probation;

2. Issue a cease and desist order;

3. Suspend or revoke a license; or

4. Seek other injunctive relief as may be necessary to enforce this section and its regulations, including impounding and seizing dogs where the division determines there is significant threat to the health or safety of the dogs harbored or owned by the licensee. Costs incurred for the care of animals impounded or seized under this section shall be recoverable from the owner of the animal who is found to have violated provisions of this section.

B. Each act committed against an individual animal in violation of this chapter or division regulations, and each day during which a violation continues, shall constitute a separate offense for purposes of this section.

C. A failure to comply with this chapter shall constitute a Class B misdemeanor. The attorney’s office may bring an action to collect unpaid license fees and/or unpaid civil penalties.

D. It shall be a violation of this section for any person to:

1. Deny access to any inspector or offer any resistance to, thwart, or hinder an inspector by misrepresentation or concealment;

2. Interfere with, threaten, verbally or physically abuse, or harass any inspector in the course of carrying out inspection duties;

3. Fail to disclose all dog housing locations owned or controlled by a licensee; or

4. Violate an injunction order or order of compliance issued pursuant to this section.

E. Proceedings undertaken under this section shall not preclude the division from seeking other civil or criminal actions. This section does not prohibit the division from assisting a law enforcement agency in a criminal investigation. Nothing in this section shall be construed to prohibit prosecution under state statute or county ordinance. (Ord. 2012-12 § 2 (Exh. A) (part))
Chapter 6.40

ENFORCEMENT AND PENALTIES

Sections:
6.40.010 Violation of title—Penalties.
6.40.020 Issuance of citations—Notice of violation and stipulation.
6.40.030 Violation—Procedure for court orders.
6.40.040 Pick up orders.

6.40.010 Violation of title—Penalties.
A. Penalty. Any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of Section 1.01.070.

B. Notice of Violation Processing Fee. Any notice of violation issued pursuant to this title shall subject the person to a processing fee as set forth in the current fee schedule. (Ord. 2012-12 § 2 (Exh. A) (part))

6.40.020 Issuance of citations—Notice of violation and stipulation.
A. Criminal Citation. A peace officer and/or animal control officer is authorized to issue a criminal citation to any person upon a charge of violating any provisions of this title. The form of the citation, and proceedings to be handled upon the basis of the citation, shall conform to the provisions of the Utah Code of Criminal Procedure, including, without limitation, Sections 77-7-16 through 77-7-22 of the Utah Code Annotated, as amended.

B. Notice of Violation in Lieu of Criminal Citation. Where violations of this title are observed, an animal control officer may, in lieu of issuance of the criminal citation and, with the consent of the person charged with a violation, issue a notice of violation to any person. The notice of violation shall state, with reference to the pertinent sections of this title, the violation which must be remedied by the person charged and shall set forth a compliance date by which the violator must comply with the remedial requirements. It shall also set forth a waiver provision providing that the person to whom the notice of violation is issued waives all rights to contest the charge made against him/her in the notice of violation and further waives the rights to a trial or hearing upon the charges. The notice of violation shall also include the amount of an administrative and processing fee to be paid to the division by the person charged in the notice of violation. Refusal to execute the waivers defined herein, refusal and/or nonpayment of the administrative and processing fee, or failure to comply with the notice of violation and stipulation by the deadline set as the compliance date may result in the issuance of a criminal citation to the person charged. (Ord. 2012-12 § 2 (Exh. A) (part))

6.40.030 Violation—Procedure for court orders.
Unless modified by the court, court orders pursuant to this title shall be obtained according to the following minimum notice and procedure:

A. Petition for Action. The director or his/her authorized representative shall petition the court for the desired action;

B. Service Prior to Hearing. The petition for the action, together with supporting affidavits, shall be served on the party against whom the action is taken at least five days prior to the hearing. (Ord. 2012-12 § 2 (Exh. A) (part))

6.40.040 Pick up orders.
The director or his authorized representative may petition the court for a “pick up order” for an animal within the premises of and/or under the control of a person who is in violation of this title. This section may be used for, but is not limited to, picking up of animals pursued but not captured by an animal control officer, nuisance animals or for any other violation of this title. (Ord. 2012-12 § 2 (Exh. A) (part))
NOTICE OF VIOLATION AND STIPULATION PROCEDURES

Sections:
6.44.010 Purpose and authority.
6.44.020 Definition.
6.44.030 Administrative procedure.
6.44.040 Division conference.

6.44.010 Purpose and authority.
The use by the division of a notice of violation and stipulation in lieu of issuance of a criminal citation is intended to provide an equitable and uniform method for administering and resolving disputes between the division of animal services and parties alleged to have violated one or more of the sections of this title. (Ord. 2012-12 § 2 (Exh. A) (part))

6.44.020 Definition.
“Notice of violation and stipulation” means a division determination, with the consent of the person charged, to forego the criminal citation and enter into a contractual stipulation to resolve the issue. (Ord. 2012-12 § 2 (Exh. A) (part))

6.44.030 Administrative procedure.
A. Conference. In lieu of issuing a criminal citation, and in an attempt to resolve disputes at the lowest level, the division may convene a conference with the person charged and attempt to enter into a contractual settlement to resolve the issue.

B. Deviation from Procedures. When good cause appears, the division may permit a deviation from these procedures if it finds compliance to be impractical or unnecessary or that such deviation furthers justice or purpose of the division.

C. Construction of Procedures. These procedures will be liberally construed to secure a just, speedy, and economical determination of all issues presented to the division, as applicable.

D. No Review. Actions commenced in court, whether criminal or civil, are not subject to review under these procedures.

E. Appeal Not Authorized. There is no appeal from the notice of violation and stipulation procedure. Failure by the person charged to comply with the provisions of the notice of violation and stipulation settlement agreement will result in negation of the stipulation and issuance of the criminal citation, or, at the director’s option, the settlement agreement may be enforced in court as provided in Section 6.40.030. (Ord. 2012-12 § 2 (Exh. A) (part))

6.44.040 Division conference.
A. Proceeding. In a director conference, the party shall be permitted to testify and present evidence, and comment on the issues. Discovery shall be limited. Intervention by a third party is prohibited. No recording will be made of the conference. The conference will be private and not open to the public.

B. Settlement Agreement. Upon reaching agreement as to the issues, requirements and penalties (if any), the division representative shall prepare a binding settlement agreement and shall submit the agreement to the parties for approvals and signature. The director or his or her designee may sign for the city. After signing a settlement agreement, the parties waive all rights to further hearings or appeals unless the terms are not honored, in which case the director or designee may issue a criminal citation, or seek enforcement in court as provided in Section 6.40.030. (Ord. 2012-12 § 2 (Exh. A) (part))

SUBMITTED BY: Lisa A. Garner, City Attorney

SUMMARY:

Chapter 5.04.02 of the Midvale Municipal Code regulates the conditions in which the City can suspend or revoke a business license previously issued to a business by the City. The proposed amended ordinance allows for the suspension of a business license for any violation of any provision of Chapter 5 of the Midvale Municipal Code. The current ordinance only allows for a business license suspension if the licensee violates any provision of the chapter. The amended ordinance will extend to any violation committed by agent, employee, or independent contractor working for or representing the business. Chapter 5.26.040 identifies the acts that are considered prohibited acts by a business. The current ordinance does not include an independent contractor as a representative of the business and therefore not subject to the provisions of Chapter 5. Both proposed changes to the ordinances are designed to include independent contractors as individuals who are governed by the ordinance.

Fiscal Impact: None

STAFF’S RECOMMENDATION AND MOTION:


Attachments: Proposed amendments to Chapter 5.04.020 and 5.26.040
WHEREAS, The City has an interest in regulating the conduct and practices of businesses and employees of its businesses within Midvale City

WHEREAS, The City’s regulation of its businesses is enforced under Title 5 of the Midvale Municipal Code;

WHEREAS, Midvale City Council has determined that it is necessary to amend certain portions of its ordinance under Title 5, specifically Chapters 5.04.020 and 5.26.040;

WHEREAS, Midvale City Council feels that it is in the best interest of the City to amend its ordinance to provide clarification and inclusion under Title 5;

NOW THEREFORE BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The City Council desires to amend Midvale Municipal Code Chapters 5.04.020 and 5.26.040 as set forth in Exhibit A.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstance is held invalid or unconstitutional by a court of competent jurisdiction, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 4. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this 17th day of July, 2018.

__________________________
Robert Hale, Mayor

ATTEST:

__________________________
Rori L. Andreason, MMC
City Recorder

Voting by the City Council  “Aye”  “Nay”
Bryant Brown  _____  _____
Dustin Gettel  _____  _____
EXHIBIT “A”

5.04.020 Reasons for suspension or revocation.
An existing business license or alcoholic beverage license shall be suspended or revoked if any of the following criteria apply:

A. The licensee does not now meet the qualifications for a licensee as provided under this title;
B. False or incomplete information was given on an application;
C. Violation of any provision of this title by the licensee;
D. Violation of any other law by the licensee committed while acting in the licensee’s business capacity;
E. The licensee has obtained or aided another person to obtain a license by fraud or deceit;
F. The licensee has failed to file the appropriate documents with the State Tax Commission distributing the local portion of sales tax to Midvale City;
G. The licensee has refused authorized representatives of the city to make an inspection or has interfered with such representatives while in the performance of their duty in making such inspection;
H. The licensee is not complying with a requirement or condition set by the planning commission or planning and zoning division, if applicable, under a conditional use permit or administrative conditional use permit; if applicable, granting a variance or special exception; by the city council or board of adjustment; or by agreement;
I. Violation of this title by an agent, independent contractor, or employee of a licensee;
J. Violations of any other laws by an agent, independent contractor, or employee committed while acting as an agent, independent contractor, or employee of the licensee; or
K. Any other reason expressly provided for in this title.

For purposes of subsections (D) and (J) above, a violation of a law by a licensee, agent, independent contractor, or employee at the licensee’s place of business is presumed to have occurred while the individual was acting in the licensee’s business capacity or acting as an agent, independent contractor, or employee of the licensee.

The following acts are prohibited:

A. It is unlawful for any person to practice or engage in or attempt to practice or engage in massage, without first being licensed by the state of Utah as a massage technician or massage apprentice.
B. It is unlawful for any massage establishment to employ or contract with, for the purpose of performing massage, any individual who is not licensed by the state of Utah as a massage technician or massage apprentice.
C. It is unlawful to serve, store, allow to be served, or allow to be consumed any alcoholic beverage on the licensed premises of a massage establishment.
D. It is unlawful for a massage technician, massage therapist, massage apprentice, employee, or independent contractor of a massage establishment to touch or offer to touch or massage the genitalia of customers.
E. It is unlawful for a massage technician, massage therapist, massage apprentice, employee, independent contractor, or customer of the massage establishment to display to any other person any specified anatomical area or to engage in any specified sexual activity, as defined in Section 5.12.050, while on the premises of the massage establishment.
5.04.020 Reasons for suspension or revocation.
An existing business license or alcoholic beverage license shall be suspended or revoked if any of the following criteria apply:

A. The licensee does not now meet the qualifications for a licensee as provided under this title;
B. False or incomplete information was given on an application;
C. Violation of any provision of this title by the licensee;
D. Violation of any other law by the licensee committed while acting in the licensee’s business capacity;
E. The licensee has obtained or aided another person to obtain a license by fraud or deceit;
F. The licensee has failed to file the appropriate documents with the State Tax Commission distributing the local portion of sales tax to Midvale City;
G. The licensee has refused authorized representatives of the city to make an inspection or has interfered with such representatives while in the performance of their duty in making such inspection;
H. The licensee is not complying with a requirement or condition set by the planning commission or planning and zoning division, if applicable, under a conditional use permit or administrative conditional use permit; if applicable, granting a variance or special exception; by the city council or board of adjustment; or by agreement;
I. Violation of this title by an agent, independent contractor, or employee of a licensee;
J. Violations of any other laws by an agent, independent contractor, or employee committed while acting as an agent, independent contractor, or employee of the licensee; or
K. Any other reason expressly provided for in this title.

For purposes of subsections (D) and (J) above, a violation of a law by a licensee, agent, independent contractor, or employee at the licensee’s place of business is presumed to have occurred while the individual was acting in the licensee’s business capacity or acting as an agent, independent contractor, or employee of the licensee. (Ord. 2014-10 § 1 (Exh. A) (part); Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97G (part), 1997)
The following acts are prohibited:

A. It is unlawful for any person to practice or engage in or attempt to practice or engage in massage, without first being licensed by the state of Utah as a massage technician or massage apprentice.

B. It is unlawful for any massage establishment to employ or contract with, for the purpose of performing massage, any individual who is not licensed by the state of Utah as a massage technician or massage apprentice.

C. It is unlawful to serve, store, allow to be served, or allow to be consumed any alcoholic beverage on the licensed premises of a massage establishment.

D. It is unlawful for a massage technician, massage therapist, massage apprentice, employee, or independent contractor of a massage establishment to touch or offer to touch or massage the genitalia of customers.

E. It is unlawful for a massage technician, massage therapist, massage apprentice, employee, independent contractor, or customer of the massage establishment to display to any other person any specified anatomical area or to engage in any specified sexual activity, as defined in Section 5.12.050, while on the premises of the massage establishment. (Ord. 2015-11 § 1 (Exh. A) (part); Ord. 10/28/2003O-12 (part), 2003; Ord. 12-09-97O (part), 1997)
ITEM: Approve Ordinance No. 2018-O-09, amending Chapters 13.04 and 13.08

SUBMITTED BY: Lisa A. Garner, City Attorney

SUMMARY:

Chapters 13.04 and 13.08 of the Midvale Municipal Code regulate the City’s water and sewer systems, respectively. Currently, Chapters 13.04 and 13.08 do not provide for the division of responsibilities between the City and the property owner/resident. Chapter 13.04.395 provides that the customer is responsible for the installation, repair, and maintenance of water mains and lateral lines from the water main to the connection point on the meter. Chapter 13.08.055 states that the customer is responsible for the installation, repair, maintenance of the sewer lateral from the customer to the main sewer line. The city is responsible for the installation, repair, and maintenance of the sewer main.

Fiscal Impact: None

STAFF’S RECOMMENDATION AND MOTION:


Attachments: Proposed amendments to Chapters 13.04 and 13.08
An Ordinance Amending Chapters 13.04 and 13.08 of the Midvale Municipal Code

WHEREAS, Under the provisions of Title 13 of the Midvale Municipal Code, the City regulates the water and sewer systems and usage within the City.

WHEREAS, Midvale City Council determined that it was necessary to make certain amendments to Title 13, clarifying the division of responsibilities of the City and the users/customers of the systems.

NOW THEREFORE BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The City Council desires to amend Midvale Municipal Code Chapters 13.04 and 13.08 as set forth in Exhibit A.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstance is held invalid or unconstitutional by a court of competent jurisdiction, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 4. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this 17th day of July, 2018.

ATTEST:

______________________________
Robert Hale, Mayor

______________________________
Rori L. Andreason, MMC
City Recorder

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<th>Voting by the City Council</th>
<th>“Aye”</th>
<th>“Nay”</th>
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<td>Bryant Brown</td>
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<td>Quinn Sperry</td>
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Chapter 13.04
WATER SYSTEM

Sections:
13.04.010 Department and system established.
13.04.020 Superintendent—Office created.
13.04.030 Superintendent—Duties.
13.04.040 Connection application—Generally.
13.04.050 Connection application—By subdivider.
13.04.060 Service application—Generally.
13.04.080 Rates and connection fees.
13.04.090 Special rates.
13.04.100 Board of equalization.
13.04.110 Use without payment or injury to system prohibited.
13.04.120 Delinquency—Service discontinuance.
13.04.130 Turning on water after being turned off prohibited.
13.04.140 Separate connections.
13.04.150 Unauthorized users.
13.04.160 Use period for visitors.
13.04.170 Pipes to be kept in good repair.
13.04.180 Quality of service pipe.
13.04.190 Faulty equipment.
13.04.200 Sprinkling vehicles.
13.04.210 Free access required.
13.04.220 Nonliability for damages.
13.04.230 Water for machinery—Permission required.
13.04.240 Use of sprinklers.
13.04.250 Water scarcity—Use limitations.
13.04.280 Waste of water—Hearing on termination.
13.04.300 Water meters—Required.
13.04.310 Water meters—Application and fee payment required.
13.04.320 Water meters—Property of municipality.
13.04.360 Water meters—Estimation upon failure to register.
13.04.370 Water meters—Liability for negligence.
13.04.380 Water lines—Installation permit.
13.04.390 Water lines—Application for installation.
13.04.395 Water lines—Division of responsibility
13.04.400 Water lines—Moving or replacement.
13.04.410 Compliance with building and plumbing codes.
13.04.420 Customer request to have water turned off.
13.04.430 Fire hydrants.
13.04.440 Main extensions—Application by petition.
13.04.450 Main extensions—Determination of costs.
13.04.460 Main extensions—Deposit.
13.04.470 Main extensions—Return or forfeiture of deposit.
13.04.480 Main extension—Ownership.
13.04.490 Service outside municipality—Allowed.
13.04.500 Service outside municipality—Petition.
13.04.510 Service outside municipality—Metering.
13.04.520 Service outside municipality—Cost determination.

13.04.010 Department and system established.
The water department of the municipality is created. It shall administer the operation and maintenance of the water system of the municipality. (Prior code § 14-110)

13.04.020 Superintendent—Office created.
There is created the position of superintendent of the water system. (Prior code § 14-111)

13.04.030 Superintendent—Duties.
The superintendent of the water system shall manage and supervise the municipal water system pursuant to the provisions of this chapter and pursuant to resolutions, rules and regulations adopted by the governing body from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the mayor. (Prior code § 14-112)

13.04.040 Connection application—Generally.
Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system, shall file with the water department for each such connection a written and signed connection application in substantially the following form:

__________, UTAH

APPLICATION FOR WATER CONNECTION

TO THE MUNICIPALITY OF _________

I hereby apply to the municipality of _________ for permission to connect my premises at _________ with the municipality of water system and hereby agree as follows:

1. (a) The municipality shall make the requested connection from its water main to and including the water meter and up to my property line or to the meter if the meter is installed within my property. I agree to pay the municipality the connection charges and fees as may be fixed by the governing body by resolution or ordinance including a reservoir charge if so provided.

   Additionally, I agree to pay $ _________ for inspection and overhead charges and other miscellaneous costs of the municipality as may be fixed by the governing body by resolution or ordinance.

   The work of extending the water connection from the point to which the municipality installs it to the place at which the water is to be used shall be my responsibility and shall be performed at my sole cost.

   (b) The connection so made by the municipality, including the meter, shall remain the property of the municipality at all times, and the municipality shall have access thereto at all times.

2. The location of the meter, whether on my premises or at some point near my premises, may be decided solely by the municipality.

3. Before making connection with the water system, I shall cause the plumbing upon my premises to be inspected by the municipality and if the plumbing is not approved, I will cause the plumbing to be rectified at my own expense to meet the requirements of the municipality or of any other governmental agency having jurisdiction to regulate the water system within the municipality.
4. I will be bound by the rules, regulations, resolutions or ordinances enacted now or hereafter by the municipality applicable to the municipality’s water system.

5. The purpose for which the water connection will be used is __________

6. The municipality shall have free access to the lines and meters installed under this agreement and, at reasonable times, through my property if necessary.

   Dated this __________ day of __________, 20__________.

   __________

   (Applicant)

(Prior code § 14-113)

13.04.050 Connection application—By subdivider.
Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required. (Prior code § 14-114)

13.04.060 Service application—Generally.
Any person who desires or is required to secure water service when such service is available from the municipal water system shall file with the water department a written application and agreement for the service, which shall be in substantially the following form:

   __________, UTAH

   APPLICATION FOR WATER SERVICE

   TO THE MUNICIPALITY OF __________, UTAH

   The undersigned hereby applies for water service from the municipality of __________, Utah, for premises located at __________, and hereby agrees:

   1. To pay charges for such water service as are fixed from time to time by the governing body.

   2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days’ written notice of the municipality’s intention, until all outstanding utility charges and any reconnection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.

   3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality’s water system.

   Applicant does hereby deposit $ __________ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon all bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant’s account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit is made.

   4. That the deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the

(Prior code § 14-114)
applicant or user of water service shall not have the right to compel the municipality to apply the
deposit to any account to avoid delinquency.

Dated this __________ day of __________, 20__________.

________________________
(Applicant)

(Ord. 1/2/2007O-1 § 1 (part), 2007: prior code § 14-115)

13.04.080 Rates and connection fees.
The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental

to connection and services from the municipal water system shall be fixed from time to time by resolution enacted by the
governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and
collecting charges for water services and all other rules necessary for the management and control of the water system.
Rates for services furnished shall be uniform with respect to each class or classes of service established or that may
hereafter be established. (Prior code § 14-117)

13.04.090 Special rates.
The governing body may from time to time fix by agreement or by resolution special rates and conditions for users using
exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon
such terms and conditions as they may deem proper. (Prior code § 14-118)

13.04.100 Board of equalization.
The City administrator is constituted as the board of equalization of water rates, to hear complaints and make corrections of
any assessments deemed to be illegal, unequal or unjust. He may, if he sees fit, rebate all or any part of the water bill of any
indigent person. (Ord. 11-1-83C § 1, 1988: prior code § 14-119)

13.04.110 Use without payment or injury to system prohibited.
It is unlawful for any person by himself, family servants, or agents to utilize the municipal
water or sewer system without
paying therefor, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures
attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It is
unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any
reservoir or tank belonging to the water system. (Prior code § 14-120)

13.04.120 Delinquency—Service discontinuance.
A. The City shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or
printed statement stating thereon the amount of water service charges assessed against him once each month or at such
other regular interval as the governing body shall direct.

B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any
person fails to pay the water charges within thirty days of the date due, the City shall give the customer notice in writing of
intent to discontinue water services to the customer unless the customer pays the bill in full within five days from the date
of notice.

C. If the water service is thereafter discontinued for failure to make payment, then before services to the premises shall
again be provided all outstanding water, sewer and other charges for City utility services must have been paid to the
treasurer or arrangements made for their payment in a manner satisfactory to the municipality. In the event water is turned
off for nonpayment of water charges, then before services to the premises shall again be provided the customer shall pay, in
addition to all outstanding utility charges, such extra charge for turning the water on and off as the governing body may
have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge of five dollars
for turning on the water during regular working hours and fifteen dollars if turning on the water at any other time.
Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new
application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The City is
authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the

13.04.130 Turning on water after being turned off prohibited.
It is unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or
other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the
13.04.140  Separate connections.
It is unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the governing body and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the municipality for all water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the municipality to require separate pipes, connections, or meters at a subsequent time. (Prior code § 14-123)

13.04.150  Unauthorized users.
It is unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises. (Prior code § 14-124)

13.04.160  Use period for visitors.
Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and violative of the provisions of this chapter relating to separate connections and unauthorized use. (Prior code § 14-125)

13.04.170  Pipes to be kept in good repair.
All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the water superintendent shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe. (Prior code § 14-126)

13.04.180  Quality of service pipe.
A. All service and other pipe used in conjunction with the water services of the municipality shall be of such material, quality, and specification as the governing body may from time to time by resolution provide, and shall be installed at such distances below ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the water superintendent, and no connections with any water mains shall be made without first obtaining a permit therefor from the recorder/clerk.

B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him. (Prior code § 14-127)

13.04.190  Faulty equipment.
It is unlawful for any water user to:

A. Waste water;

B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow;

C. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks or other apparatus;

D. Use the water for purposes other than for those which he has applied, or to use water in violation of the rules and regulations for controlling the water supply. (Prior code § 14-128)

13.04.200  Sprinkling vehicles.
Vehicles for sprinkling shall be regulated and controlled by the water department through the superintendent of the water department. (Prior code § 14-129)
13.04.210  Free access required.
The water superintendent and his agents shall at all ordinary hours have free access to any place supplied with water services from the municipal system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use. (Prior code § 14-130)

13.04.220  Nonliability for damages.
The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occur as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act. (Prior code § 14-131)

13.04.230  Water for machinery—Permission required.
No water shall be supplied from the pipes of the municipal water system for the purpose of driving motor, syphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the governing body. (Prior code § 14-132)

13.04.240  Use of sprinklers.
A. It is unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.

B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this chapter. (Prior code § 14-133)

13.04.250  Water scarcity—Use limitations.
In time of scarcity of water, whenever it shall in the judgment of the mayor and the governing body be necessary, the mayor shall make a proclamation to limit the use of water to such extent as may be necessary. It is unlawful for any person, his family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this chapter. (Prior code § 14-134)

Users of water from the municipal water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the water superintendent or of any of the officers of the municipality, a user of municipal water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue wastefulness has been given, the superintendent or any officer may refer the matter to the governing body. (Prior code § 14-135(A))

The governing body may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of the termination. (Prior code § 14-135(B))

13.04.280  Waste of water—Hearing on termination.
A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued. (Prior code § 14-135(C))

After due hearing, the governing body may arrive at a determination. If the determination is to discontinue the wasteful water user’s service connection, it shall notify him of the decision and of the period during which the service will remain discontinued. (Prior code § 14-135(D))

13.04.300  Water meters—Required.
Except as otherwise expressly permitted by this chapter, all structures, dwelling units, establishments and persons using water from the municipal water system must have such number of water meters connected to their water system as are
necessary in the judgment of the superintendent to adequately measure use and determine water charges to the respective users. (Prior code § 14-136(A))

13.04.310 Water meters—Application and fee payment required.
Meters will be furnished by the municipality upon application for a connection, and upon payment of such connection fees and other costs as may be established by the governing body from time to time by resolution. (Prior code § 14-136(B))

13.04.320 Water meters—Property of municipality.
Meters shall be deemed to be and remain the property of the municipality. Whenever a dispute between superintendent and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the governing body after due notice in writing to the parties involved. (Prior code § 14-136(C))

The superintendent shall cause meter readings to be taken regularly and shall advise the recorder/clerk thereof for the purpose of recording the necessary billings for water service. (Prior code § 14-136(D))

Meters may be checked, inspected or adjusted at the discretion of the municipality, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the municipality unless special permission is given by the municipality through its representatives to the customer to do so. (Prior code § 14-136(E))

If a customer submits a written request to the superintendent to test his water meter, the municipality may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve months after the date of the last previous test the customer may be required to pay the cost of such test. If the meter is found in such test to record from ninety-seven to one hundred three percent of accuracy under methods of testing satisfactory to the governing body, the meter shall be deemed to accurately measure the use of water. (Prior code § 14-136(F))

13.04.360 Water meters—Estimation upon failure to register.
If the municipality’s meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than ninety-seven percent or more than one hundred three percent of accuracy, the municipality shall make such adjustments in the customer’s previous bills as are just and fair under the circumstances. (Prior code § 14-136(G))

13.04.370 Water meters—Liability for negligence.
All damages or injury to the lines, meters or other materials of the municipality on or near the customer’s premises caused by any act or neglect of the customer shall in the discretion of the municipality be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the municipality through its efforts to repair the damage to the lines, meters or to other equipment of the department or collect such costs from the customer. (Prior code § 14-136(H))

13.04.380 Water lines—Installation permit.
It is unlawful for any person to lay, repair, alter or connect any water line to the municipal culinary water system without first having received a construction permit from the office of the recorder/clerk or from the water superintendent. (Prior code § 14-137)

13.04.390 Water lines—Application for installation.
A. Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the municipal water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature of the work to be done for which the application is made.

The application shall be granted if the superintendent determines that:

1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main;
2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the municipality.

All connections, alterations or installations shall be the line and grade designated by the water superintendent.

B. Fees for permits or for inspection services shall be of such amounts as the governing body shall from time to time determine by resolution. (Prior code § 14-138)

13.04.395 Water lines—Division of responsibilities.
The customer is responsible for the installation, repair, and maintenance of the water lateral line from the customer to the meter. The City is responsible for installation, repair, and maintenance of water mains and lateral lines from the water main to the connection point on the meter.

13.04.400 Water lines—Moving or replacement.
In the event that the municipality in its sole discretion determines that any water line of the municipality must be moved or replaced, the municipality shall bear that portion of the cost of such move or replacement which applies to main lines up to the property line of the customer. The cost of reconnecting such new line or lines from the house of the customer to his property line shall be borne by the customer. (Prior code § 14-139)

13.04.410 Compliance with building and plumbing codes.
Permission to connect with the municipal water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the municipality. (Prior code § 14-140)

13.04.420 Customer request to have water turned off.
Any customer desiring to have water turned off shall notify the municipality in writing of such fact at least ten days before the date when such action is required. Turning off water does not relieve the property owner of paying the minimum monthly fee. Any customer desiring to have water turned back on shall notify the municipality in writing of such fact at least ten days before the date when such action is required. The customer shall be responsible for paying a charge for having the water turned back on as the governing body has established by resolution. (Ord. 1/2/2007O-1 § 1 (part), 2007: prior code § 14-141)

13.04.430 Fire hydrants.
Water for fire hydrants will be furnished free of charge by the municipality. Installation and repairs on such hydrants shall be at the expense of the municipality and shall be made under the direction of the municipality. All customers shall grant the municipality, upon demand, a right-of-way or easement to install and maintain such hydrants on their premises if the municipality concludes that hydrants shall be so installed for the protection of the residents of the municipality. (Prior code § 14-142)

13.04.440 Main extensions—Application by petition.
Any person or persons, including any subdivider, who desires to have the water mains extended within the municipality, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the governing body by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the water superintendent. The governing body may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the municipality. (Prior code § 14-143)

13.04.450 Main extensions—Determination of costs.
Upon the receipt of such petition and map and before the petition is granted, the governing body shall obtain from the water superintendent a certified statement showing the whole cost of expense of making such extension. (Prior code § 14-144)

13.04.460 Main extensions—Deposit.
If the governing body grants the petition, the amount of the cost of making the extension, as certified by the superintendent shall be deposited with the recorder/clerk before any work shall be done on such extension. The deposit shall be made within thirty days, or such other time as the governing body shall indicate, after the granting thereof. (Prior code § 14-145)

13.04.470 Main extensions—Return or forfeiture of deposit.
A. At the time the governing body decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or
credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.

B. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund. (Prior code § 14-146)

13.04.480 Main extension—Ownership.
Any such extension shall be deemed the property of the municipality. (Prior code § 14-147)

13.04.490 Service outside municipality—Allowed.
The municipality may furnish water service from its water system to persons outside the municipality in accordance with the provisions of this chapter. (Prior code § 14-151)

13.04.500 Service outside municipality—Petition.
Any person located outside the municipal limits who desires to be supplied with water services from the municipal water system and is willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending any water main beyond its present location, may make application to the governing body by petition containing:

A. A description of the proposed extension;

B. A map showing the location thereof;

C. An offer to pay the whole expense incurred by the municipality in providing such extension and to advance such expense as shall be verified to by the water superintendent. The governing body and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded;

D. An acknowledgement that the municipality in granting the petition need supply only such water to the petitioner which from time to time the governing body deems beyond the requirements of water users within the municipal limits, and that such extension shall be the property of and subject to the control of the municipality. (Prior code § 14-152)

13.04.510 Service outside municipality—Metering.
When an extension supplying more than one house or user outside the municipal limits is connected to municipal water mains, the water superintendent may require a master meter to be installed near the point where the connection is to be made to the municipal main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates. (Prior code § 14-153)

13.04.520 Service outside municipality—Cost determination.
Upon receipt of such petition and map and before the petition is granted, the governing body shall determine what portion, if any, of the extension of the municipal water mains to the municipal limits the municipality shall construct, and shall obtain from the water superintendent a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the municipal water department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor. (Prior code § 14-15
Chapter 13.04

WATER SYSTEM

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13.04.480 Main extension—Ownership.
13.04.490 Service outside municipality—Allowed.
13.04.500 Service outside municipality—Petition.

13.04.510 Service outside municipality—Metering.
13.04.520 Service outside municipality—Cost determination.

13.04.010 Department and system established.
The water department of the municipality is created. It shall administer the operation and maintenance of the water system of the municipality. (Prior code § 14-110)

13.04.020 Superintendent—Office created.
There is created the position of superintendent of the water system. (Prior code § 14-111)

13.04.030 Superintendent—Duties.
The superintendent of the water system shall manage and supervise the municipal water system pursuant to the provisions of this chapter and pursuant to resolutions, rules and regulations adopted by the governing body from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the mayor. (Prior code § 14-112)

13.04.040 Connection application—Generally.
Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system, shall file with the water department for each such connection a written and signed connection application in substantially the following form:

__________, UTAH
APPLICATION FOR WATER CONNECTION
TO THE MUNICIPALITY OF __________

I hereby apply to the municipality of __________ for permission to connect my premises at __________ with the municipality of water system and hereby agree as follows:

1. (a) The municipality shall make the requested connection from its water main to and including the water meter and up to my property line or to the meter if the meter is installed within my property. I agree to pay the municipality the connection charges and fees as may be fixed by the governing body by resolution or ordinance including a reservoir charge if so provided.

Additionally, I agree to pay $ __________ for inspection and overhead charges and other miscellaneous costs of the municipality as may be fixed by the governing body by resolution or ordinance.

The work of extending the water connection from the point to which the municipality installs it to the place at which the water is to be used shall be my responsibility and shall be performed at my sole cost.

(b) The connection so made by the municipality, including the meter, shall remain the property of the municipality at all times, and the municipality shall have access thereto at all times.

2. The location of the meter, whether on my premises or at some point near my premises, may be decided solely by the municipality.

3. Before making connection with the water system, I shall cause the plumbing upon my premises to be inspected by the municipality and if the plumbing is not approved, I will cause the plumbing to be rectified at my own expense to meet the requirements of the municipality or of any other governmental agency having jurisdiction to regulate the water system within the municipality.
4. I will be bound by the rules, regulations, resolutions or ordinances enacted now or hereafter by the municipality applicable to the municipality’s water system.

5. The purpose for which the water connection will be used is _________

6. The municipality shall have free access to the lines and meters installed under this agreement and, at reasonable times, through my property if necessary.

Dated this _________ day of __________, 20________.

__________  
(Applicant)

(Prior code § 14-113)

13.04.050 Connection application—By subdivider.
Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required. (Prior code § 14-114)

13.04.060 Service application—Generally.
Any person who desires or is required to secure water service when such service is available from the municipal water system shall file with the water department a written application and agreement for the service, which shall be in substantially the following form:

__________, UTAH

APPLICATION FOR WATER SERVICE

TO THE MUNICIPALITY OF __________, UTAH

The undersigned hereby applies for water service from the municipality of __________, Utah, for premises located at __________, and hereby agrees:

1. To pay charges for such water service as are fixed from time to time by the governing body.

2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days’ written notice of the municipality’s intention, until all outstanding utility charges and any reconnection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.

3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality’s water system.

Applicant does hereby deposit $ _________ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant’s account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit is made.
4. That the deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency.

Dated this __________ day of __________, 20__________.

________________________________________
(Applicant)

(Ord. 1/2/2007 O-1 § 1 (part), 2007: prior code § 14-115)

13.04.080 Rates and connection fees.
The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the municipal water system shall be fixed from time to time by resolution enacted by the governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established. (Prior code § 14-117)

13.04.090 Special rates.
The governing body may from time to time fix by agreement or by resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper. (Prior code § 14-118)

13.04.100 Board of equalization.
The City administrator is constituted as the board of equalization of water rates, to hear complaints and make corrections of any assessments deemed to be illegal, unequal or unjust. He may, if he sees fit, rebate all or any part of the water bill of any indigent person. (Ord. 11-1-83 C § 1, 1988: prior code § 14-119)

13.04.110 Use without payment or injury to system prohibited.
It is unlawful for any person by himself, family servants, or agents to utilize the municipal water or sewer system without paying therefor, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It is unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system. (Prior code § 14-120)

13.04.120 Delinquency—Service discontinuance.
A. The City shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against him once each month or at such other regular interval as the governing body shall direct.

B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges within thirty days of the date due, the City shall give the customer notice in writing of intent to discontinue water services to the customer unless the customer pays the bill in full within five days from the date of notice.

C. If the water service is thereafter discontinued for failure to make payment, then before services to the premises shall again be provided all outstanding water, sewer and other charges for City utility services must have been paid to the treasurer or arrangements made for their payment in a manner satisfactory to the municipality. In the event water is turned off for nonpayment of water charges, then before services to the premises shall again be provided the customer shall pay, in addition to all outstanding utility charges, such extra charge for turning the water on and off as the governing body may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge of five dollars for turning on the water during regular working hours and fifteen dollars if turning on the water at any other time. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The City is authorized and empowered to enforce the payment of all
delinquent water charges by an action at law in the name of the municipality. (Ord. 1/2/2007O-1 § 1 (part), 2007: Ord. 5/4/2004O-19, 2004: prior code § 14-121)

13.04.130 Turning on water after being turned off prohibited.
It is unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the City. It shall be a class C misdemeanor to do so. Tampering fees may be charged at rates established by resolution of the governing body. (Ord. 1/2/2007O-1 § 1 (part), 2007: prior code § 14-122)

13.04.140 Separate connections.
It is unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the governing body and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the municipality for all water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the municipality to require separate pipes, connections, or meters at a subsequent time. (Prior code § 14-123)

13.04.150 Unauthorized users.
It is unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises. (Prior code § 14-124)

13.04.160 Use period for visitors.
Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and violative of the provisions of this chapter relating to separate connections and unauthorized use. (Prior code § 14-125)

13.04.170 Pipes to be kept in good repair.
All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the water superintendent shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe. (Prior code § 14-126)

13.04.180 Quality of service pipe.
A. All service and other pipe used in conjunction with the water services of the municipality shall be of such material, quality, and specification as the governing body may from time to time by resolution provide, and shall be installed at such distances below ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the water superintendent, and no connections with any water mains shall be made without first obtaining a permit therefor from the recorder/clerk.

B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him. (Prior code § 14-127)

13.04.190 Faulty equipment.
It is unlawful for any water user to:

A. Waste water;

B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow;
C. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks or other apparatus;

D. Use the water for purposes other than for those which he has applied, or to use water in violation of the rules and regulations for controlling the water supply. (Prior code § 14-128)

13.04.200 Sprinkling vehicles.
Vehicles for sprinkling shall be regulated and controlled by the water department through the superintendent of the water department. (Prior code § 14-129)

13.04.210 Free access required.
The water superintendent and his agents shall at all ordinary hours have free access to any place supplied with water services from the municipal system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use. (Prior code § 14-130)

13.04.220 Nonliability for damages.
The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occur as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act. (Prior code § 14-131)

13.04.230 Water for machinery—Permission required.
No water shall be supplied from the pipes of the municipal water system for the purpose of driving motor, syphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the governing body. (Prior code § 14-132)

13.04.240 Use of sprinklers.
A. It is unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.

B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this chapter. (Prior code § 14-133)

13.04.250 Water scarcity—Use limitations.
In time of scarcity of water, whenever it shall in the judgment of the mayor and the governing body be necessary, the mayor shall make a proclamation to limit the use of water to such extent as may be necessary. It is unlawful for any person, his family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this chapter. (Prior code § 14-134)

Users of water from the municipal water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the water superintendent or of any of the officers of the municipality, a user of municipal water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue wastefulness has been given, the superintendent or any officer may refer the matter to the governing body. (Prior code § 14-135(A))

The governing body may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of the termination. (Prior code § 14-135(B))
13.04.280 Waste of water—Hearing on termination.
A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued. (Prior code § 14-135(C))

After due hearing, the governing body may arrive at a determination. If the determination is to discontinue the wasteful water user’s service connection, it shall notify him of the decision and of the period during which the service will remain discontinued. (Prior code § 14-135(D))

13.04.300 Water meters—Required.
Except as otherwise expressly permitted by this chapter, all structures, dwelling units, establishments and persons using water from the municipal water system must have such number of water meters connected to their water system as are necessary in the judgment of the superintendent to adequately measure use and determine water charges to the respective users. (Prior code § 14-136(A))

13.04.310 Water meters—Application and fee payment required.
Meters will be furnished by the municipality upon application for a connection, and upon payment of such connection fees and other costs as may be established by the governing body from time to time by resolution. (Prior code § 14-136(B))

13.04.320 Water meters—Property of municipality.
Meters shall be deemed to be and remain the property of the municipality. Whenever a dispute between superintendent and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the governing body after due notice in writing to the parties involved. (Prior code § 14-136(C))

The superintendent shall cause meter readings to be taken regularly and shall advise the recorder/clerk thereof for the purpose of recording the necessary billings for water service. (Prior code § 14-136(D))

Meters may be checked, inspected or adjusted at the discretion of the municipality, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the municipality unless special permission is given by the municipality through its representatives to the customer to do so. (Prior code § 14-136(E))

If a customer submits a written request to the superintendent to test his water meter, the municipality may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve months after the date of the last previous test the customer may be required to pay the cost of such test. If the meter is found in such test to record from ninety-seven to one hundred three percent of accuracy under methods of testing satisfactory to the governing body, the meter shall be deemed to accurately measure the use of water. (Prior code § 14-136(F))

13.04.360 Water meters—Estimation upon failure to register.
If the municipality’s meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than ninety-seven percent or more than one hundred three percent of accuracy, the municipality shall make such adjustments in the customer’s previous bills as are just and fair under the circumstances. (Prior code § 14-136(G))

13.04.370 Water meters—Liability for negligence.
All damages or injury to the lines, meters or other materials of the municipality on or near the customer’s premises caused by any act or neglect of the customer shall in the discretion of the municipality be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the municipality through its efforts to repair the damage to the lines, meters or to other equipment of the department or collect such costs from the customer. (Prior code § 14-136(H))
13.04.380 Water lines—Installation permit.
It is unlawful for any person to lay, repair, alter or connect any water line to the municipal culinary water system without first having received a construction permit from the office of the recorder/clerk or from the water superintendent. (Prior code § 14-137)

13.04.390 Water lines—Application for installation.
A. Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the municipal water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature of the work to be done for which the application is made.

The application shall be granted if the superintendent determines that:

1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main;

2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the municipality.

All connections, alterations or installations shall be the line and grade designated by the water superintendent.

B. Fees for permits or for inspection services shall be of such amounts as the governing body shall from time to time determine by resolution. (Prior code § 14-138)

13.04.395 Water lines—Division of responsibilities.
The customer is responsible for the installation, repair, and maintenance of the water lateral line from the customer to the meter. The City is responsible for installation, repair, and maintenance of water mains and lateral lines from the water main to the connection point on the meter.

13.04.400 Water lines—Moving or replacement.
In the event that the municipality in its sole discretion determines that any water line of the municipality must be moved or replaced, the municipality shall bear that portion of the cost of such move or replacement which applies to main lines up to the property line of the customer. The cost of reconnecting such new line or lines from the house of the customer to his property line shall be borne by the customer. (Prior code § 14-139)

13.04.410 Compliance with building and plumbing codes.
Permission to connect with the municipal water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the municipality. (Prior code § 14-140)

13.04.420 Customer request to have water turned off.
Any customer desiring to have water turned off shall notify the municipality in writing of such fact at least ten days before the date when such action is required. Turning off water does not relieve the property owner of paying the minimum monthly fee. Any customer desiring to have water turned back on shall notify the municipality in writing of such fact at least ten days before the date when such action is required. The customer shall be responsible for paying a charge for having the water turned back on as the governing body has established by resolution. (Ord. 1/2/2007-O-1 § 1 (part), 2007: prior code § 14-141)

13.04.430 Fire hydrants.
Water for fire hydrants will be furnished free of charge by the municipality. Installation and repairs on such hydrants shall be at the expense of the municipality and shall be made under the direction of the municipality. All customers shall grant the municipality, upon demand, a right-of-way or easement to install and maintain such hydrants on their premises if the municipality concludes that hydrants shall be so installed for the protection of the residents of the municipality. (Prior code § 14-142)
13.04.440 Main extensions—Application by petition.
Any person or persons, including any subdivider, who desires to have the water mains extended within the municipality, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the governing body by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the water superintendent. The governing body may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the municipality. (Prior code § 14-143)

13.04.450 Main extensions—Determination of costs.
Upon the receipt of such petition and map and before the petition is granted, the governing body shall obtain from the water superintendent a certified statement showing the whole cost of expense of making such extension. (Prior code § 14-144)

13.04.460 Main extensions—Deposit.
If the governing body grants the petition, the amount of the cost of making the extension, as certified by the superintendent shall be deposited with the recorder/clerk before any work shall be done on such extension. The deposit shall be made within thirty days, or such other time as the governing body shall indicate, after the granting thereof. (Prior code § 14-145)

13.04.470 Main extensions—Return or forfeiture of deposit.
A. At the time the governing body decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.
B. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund. (Prior code § 14-146)

13.04.480 Main extension—Ownership.
Any such extension shall be deemed the property of the municipality. (Prior code § 14-147)

13.04.490 Service outside municipality—Allowed.
The municipality may furnish water service from its water system to persons outside the municipality in accordance with the provisions of this chapter. (Prior code § 14-151)

13.04.500 Service outside municipality—Petition.
Any person located outside the municipal limits who desires to be supplied with water services from the municipal water system and is willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending any water main beyond its present location, may make application to the governing body by petition containing:
A. A description of the proposed extension;
B. A map showing the location thereof;
C. An offer to pay the whole expense incurred by the municipality in providing such extension and to advance such expense as shall be verified to by the water superintendent. The governing body and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded;
D. An acknowledgement that the municipality in granting the petition need supply only such water to the petitioner which from time to time the governing body deems beyond the requirements of water users within the municipal limits, and that such extension shall be the property of and subject to the control of the municipality. (Prior code § 14-152)
13.04.510  Service outside municipality—Metering.
When an extension supplying more than one house or user outside the municipal limits is connected to municipal water mains, the water superintendent may require a master meter to be installed near the point where the connection is to be made to the municipal main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates. (Prior code § 14-153)

13.04.520  Service outside municipality—Cost determination.
Upon receipt of such petition and map and before the petition is granted, the governing body shall determine what portion, if any, of the extension of the municipal water mains to the municipal limits the municipality shall construct, and shall obtain from the water superintendent a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the municipal water department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor. (Prior code § 14-154)
Chapter 13.08
SEWER SYSTEM*

Sections:
13.08.010  Purpose of provisions.
13.08.020  Definitions.
13.08.025  Rates and fees.
13.08.030  Nonlimitation of powers.
13.08.040  Pretreatment and discharge permit requirements.
13.08.050  Industrial users—Permit application.
13.08.055  Sewer lateral—Division of responsibilities.
13.08.060  Sampling—Fees.
13.08.070  Violation—Strict liability.
13.08.080  Violation—Penalty.

* Prior history: Ord. 11-1-83D; prior code §§ 14-211 through 14-228 and 14-231 through 14-235.

13.08.010  Purpose of provisions.
Sewer facilities and services to various residents of the City are provided by the City and the South Valley Water Reclamation Facility (“SVWRF”) in order to preserve and promote the health, safety and welfare of its residents, and in cooperation with the SVWRF, the City has determined that regulation of sewage disposal within and by the City is necessary and desirable. It is also in the public interest that the City participate in achieving a degree of uniformity in the area served by the SVWRF and to enable the facility to comply with applicable state and federal law. (Ord. 7-23-91B § 1 (part), 1991)

13.08.020  Definitions.
For purposes of this chapter and unless the context specifically requires otherwise:

A.  “City” means Midvale City, a municipal corporation organized and existing under the laws of the state of Utah.

B.  “Discharge” means to cause a substance to enter the sewer system by any means, whether directly or indirectly.

C.  “Industrial user” means any user of the sewer system that discharges wastewater from commercial and/or industrial processes.

D.  “Person” includes any natural person and any corporation, partnership or other separate legal entity, as well as the employer of any other person acting within the scope of his or her employment, the principal of any person who is an agent with respect to sewer matters, or the contractor of any person entering into a contract with respect to sewer matters.

E.  “Sewer system” means the facilities owned or used by the City and/or SVWRF for collecting, transmitting, treating and disposing of sewage, whether located in or out of the City.

F.  “South Valley board” means the South Valley Water Reclamation Facility (SVWRF) joint administrative board, a legal entity created pursuant to the Utah Interlocal Cooperation Act. The South Valley board is comprised of representatives from its member entities, i.e., Midvale City, West Jordan City, Salt Lake City Suburban Sanitary District No. 2, Sandy Suburban Improvement District and Salt Lake County Sewerage Improvement District No. 1. Its purpose is to provide sewage treatment and final disposal services. (Ord. 7-23-91B § 1 (part), 1991)

13.08.025  Rates and fees.
The rates, penalty fee for delinquency in payment, and other charges incidental to the collection, transmission, treatment, and disposal of sewage shall be fixed from time to time by resolution enacted by the governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for
the collection, transmission, treatment, and disposal of sewage, and all other rules necessary for the management and control of such service. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established. The City is authorized and empowered to enforce the payment of all delinquent sewer system charges by an action at law in the name of the municipality. (Ord. 1/2/2007O-1 § 1 (part), 2007; Ord. 11-09-99C, 1999)

13.08.030 Nonlimitation of powers.
Nothing in this chapter is intended to restrict or limit the extent or exercise of any power conferred on the City or the SVWRF by the laws of Utah. In delegating certain regulatory authority to the SVWRF, the City does not affect any authority the SVWRF may have independent of the City to regulate the same or similar matters, except as may be agreed by the City and the SVWRF in a written interlocal cooperation agreement. (Ord. 7-23-91B § 1 (part), 1991)

13.08.040 Pretreatment and discharge permit requirements.
A. Those persons required to pretreat wastewater in order to comply with federal pretreatment standards, the SVWRF wastewater control rules and regulations and any permits issued thereunder shall provide, operate and maintain the necessary pretreatment facilities in accordance with the SVWRF pretreatment regulations. (Ord. 7-23-91B § 1 (part), 1991)

13.08.050 Industrial users—Permit application.
Industrial users required to apply for a discharge permit pursuant to the SVWRF wastewater control rules and regulations shall obtain such permit prior to discharging into the sewer system. Applications shall be in the form prescribed by the South Valley board. By way of cooperation with South Valley, the City will submit business licenses and building permit applications to South Valley for informational proposes. South Valley will review and respond to the City on all such applications within ten days of the receipt of the information from the City. (Ord. 7-23-91B § 1 (part), 1991)

13.08.055 Sewer lines—Division of responsibilities.
The customer is responsible for the installation, repair, maintenance of the sewer lateral from the customer to the main sewer line. The City is responsible for installation, repair, and maintenance of the sewer main.

13.08.060 Sampling—Fees.
The SVWRF will sample the combined waste flows of existing food-preparation establishments, carwashes and motor vehicle repair shops which are engaged in business as of the date hereof. All new businesses will be required to separate domestic waste and process flows and to provide the required sampling facilities. All surcharges, as well as fees for sampling, inspections and penalties, will be billed and collected by the inspections and penalties, will be billed and collected by the SVWRF. Sums so collected will be applied to offsetting SVWRF operating costs unless otherwise required by federal or state regulations. (Ord. 7-23-91B § 1 (part), 1991)

13.08.070 Violation—Strict liability.
Any person violating any provision of the SVWRF wastewater discharge prohibitions and limitations shall be responsible for all damages resulting from the violation without regard to fault, knowledge, intent, or the state of mind of the person committing the violation. (Ord. 7-23-91B § 1 (part), 1991)

13.08.080 Violation—Penalty.
A. Any person who violates Chapter 5 of Title 19 of the Utah Code Annotated, 1953, as amended, or any permit, rules or orders adopted under or pursuant thereto, or any person who violates the wastewater control rules and regulations adopted by the SVWRF, upon showing that the violation occurred, is subject, in a civil proceeding, to a penalty not to exceed ten thousand dollars per day.

B. Pursuant to Title 19, Chapter 5 of the Utah Code Annotated, 1953, as amended, and the SVWRF wastewater control rules and regulations, a fine not exceeding twenty-five thousand dollars per day shall be assessed against any person who willfully or with gross negligence:

1. Discharges pollutants in violation of any condition or limitation included in a wastewater discharge permit or contract issued pursuant to any applicable law;

2. Discharges pollutants in violation of Section 19-5-107(1) of the Utah Code Annotated, 1953, as amended;
3. Violates Section 19-5-108 of the Utah Code Annotated, 1953, as amended or any requirements adopted pursuant thereto;

4. Violates Section 19-5-113 of the Utah Code Annotated, 1953, as amended;

5. Violates a pretreatment standard or toxic effluent standard adopted for the SVWRF, or the City.

C. In addition to the penalties outlined in subsection B of this section, a violation of any provision of this chapter constitutes a class B misdemeanor carrying with it the maximum punishment permitted under the laws of Utah.

D. In addition to any criminal penalties imposed on a person convicted under this section, the person may be enjoined from continuing the violations.

E. Each day on which a violation occurs is a separate violation under these subsections.

F. Any person twice convicted under subsection B of this section or Section 19-5-115 of the Utah Code Annotated, 1953, as amended, shall be punished by a fine not exceeding fifty-thousand dollars per day.

G. In addition to all other remedies available, the joint administrative board of the SVWRF may authorize the commencement of a civil action for any appropriate relief, including a permanent or temporary injunction, for any violation or threatened violation of the SVWRF rules and regulations or any of the provisions contained within Chapter 5, Title 19 of the Utah Code Annotated, 1953, as amended, which are by this reference deemed implemented as a part hereof by the City pursuant to Section 19-5-115 of the Utah Code Annotated, 1953, as amended.

H. Any person who knowingly makes a false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under Chapter 5 of Title 19 of the Utah Code Annotated, or by any permit, rule or order issued pursuant to it, including but not limited to any rule, regulation, order or permit adopted or issued by the SVWRF, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under Chapter 5 of Title 19 of the Utah Code Annotated, shall be punished by a fine not exceeding ten thousand dollars or by imprisonment for not more than six months, or by both. (Ord. 7-23-91B § 1 (part), 1991)