

TITLE 10

CHAPTER 3

**ADMINISTRATION AND ENFORCEMENT**

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**10-3-1: ZONING ADMINISTRATOR**

- A. It shall be the duty of the zoning administrator to inspect or cause to be inspected all buildings in the course of construction or repair. He shall enforce all of the provisions of this title, entering actions in the courts, when necessary. The failure of the zoning administrator to prosecute shall not be construed by the courts as acquiescence or tacit approval of ordinance violations. (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)
- B. Upon appeal to the appeal authority of any matters on which said authority is required to pass, the zoning administrator shall forthwith transmit all papers, records and other pertinent data pertaining to the appeal to said appeal authority as required by the terms of this title. The zoning administrator shall also refer matters to the planning commission and city council as set forth in this title. (4-2010, 7-13-10)

**10-3-2: APPEAL AUTHORITY**

- A. Created, Members, Terms: There is hereby created an appeal authority as described by Utah Code Annotated as amended. (4-2010, 7-13-10)
- B. The same people may not act on a matter as both the approving authority and as the appeal authority.

C. Application to Appear before Appeal Authority:

1. Any citizen or person, or any officer or department of the municipality, may appeal to the appeal authority by filing a request in writing with the zoning administrator and by paying a fee as established by city council resolution, provided such appeal is made within thirty (30) days from the grant or refusal of a building permit by the zoning administrator. The request to appear before the appeal authority shall be made on forms furnished by the zoning administrator.
2. The appeal authority shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publication of notice at least ten (10) days prior to the date of hearing, as well as notice by mail to adjacent property owners within three hundred feet (300') of the property, and decide the same within a reasonable time. Any party may appear at the hearing, in person, or by agent or by attorney. (Ord., 1-22-2002) (1-2016, 3-22-16)
3. The appellant has burden of proof that the land use authority erred in administering or applying the ordinance. Before going to court an adversely affected person must:
  - a. Exhaust all administrative remedies and:
  - b. Make a specific appeal within the time frame stated above to the appeal authority as provided herein. (4-2010, 7-13-10)

**10-3-3: PLANNING COMMISSION**

- A. Created; Membership; Terms; Appointment; Removal; Vacancies: There is hereby created a planning commission for the city, as required by Utah Code Annotated as amended. The planning commission shall consist of five (5) members. Each member shall serve for five (5) years. The mayor shall nominate and appoint members, with the advice and consent of the city council. The mayor, with the approval of the majority of the city council, and after a public hearing, may remove a member of the planning commission for cause. Within ten (10) days of the creation of a vacancy on the planning commission, the mayor shall appoint a new member to fill a vacancy who will serve for the remainder of the term. A planning commission member who wishes to resign shall submit a signed letter of resignation to the mayor. The planning commission shall elect a chairperson from its members annually at the first regularly scheduled meeting of the calendar year. (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)
- B. Powers and Duties: The powers and duties of the planning commission shall be as stated in Utah Code Annotated as amended (Ord., 1-22-2002; amd. 2005 Code) (4-2010, 7-13-10), and act as the approval authority for the preliminary plat.

**10-3-4: DEVELOPMENT REVIEW COMMITTEE (DRC)**

- A. The Development Review Committee is the administrative land use authority whose purpose is to receive, review, and consider the final plat, and if all requirements and standards are met, issue final plat approval.
- B. The DRC is comprised of the following members: city attorney, public works director, city engineer, and a citizen planner with demonstrated experience, education, certification and knowledge in city and land use planning. These individuals are to provide their respective expertise in the technical and policy requirements and standards regarding development applications subject to the development review provisions of this Title and other city ordinances.

**10-3-5: ADMINISTRATIVE LAND USE AUTHORITY (ALUA)**

- A. An administrative land use decision-making body. The River Heights Planning Commission shall act as the approval authority for preliminary plat. The Development Review Committee (DRC) shall act as the approval authority for the final plat and for minor subdivisions.
- B. Powers and Duties: The powers and duties of the ALUA shall be as stated in Utah Code Annotated as amended.

**10-3-6: BUILDING PERMIT, ZONING CLEARANCE PERMIT REQUIRED:**

- A. Requirements; Building Permit: The Cache County Building Department issues building permits within and for River Heights City. Prior to applying for a building permit, however, the applicant must obtain a zoning clearance permit (ZCP) from the city.
- B. Requirements; Zoning Clearance Permit: A Zoning Clearance Permit (ZCP) shall be required whenever the County Building Department requires a building permit. A Zoning Clearance Permit is also required for the following:
  - 1. Any accessory structure;
  - 2. Making a change in use of any land within the territory shown on the zone map, which has been adopted as a part of this title.

The ZCP is documentation that the applicant's plans are in compliance with this title. If, for any reason, the applicant's ZCP is denied, the zoning administrator shall explain the reason for denial, in writing, to the applicant. (Ord 1-2007, )

- C. Moveable Structures: A Zoning Clearance Permit shall also be required for the moving and/or improvement of, remountable homes, manufactured homes and similar movable structures. Buildings must be completed within one year of receiving a permit. (1-2007, 3-27-07)

**10-3-7: PLANS REQUIRED**

All applications for Zoning Clearance Permits shall be accompanied by plans which have been drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of existing buildings and, as required, the location and layout of off street parking. A record of said application and plans shall be kept in the office of the zoning administrator for a period of seven (7) years from the date of receipt thereof. Building must be complete in one year thereafter. The city council must approve a project that takes longer than one year to complete. (Ord., 1-22-2002; amd. 2005 Code)

**10-3-8: CERTIFICATE OF OCCUPANCY REQUIRED**

No building shall be occupied until a certificate of occupancy shall have been issued by the building inspector, stating that the building complies with the provisions of this title and all applicable building codes. (Ord., 1-22-2002)

**10-3-9: PERMITS AND LICENSES TO COMPLY**

- A. Permits: From the time of the effective date hereof, permits shall not be granted for the construction or alteration of any building or structure, or for the moving of a building or structure onto a lot, or for the change in use of any land, building or structure, if such construction, alteration, moving or change in use would be a violation of any provision of this title, nor shall any sewer or water service line or electric utilities be installed to serve the premises if such use would be in violation of this title.
- B. Licenses: No license shall be issued by an official or employee vested with the duty and authority to issue licenses which would not be in conformance with the provisions of this title. Any license so issued shall be null and void. (Ord., 1-22-2002)

**10-3-10: CONFLICTS**

Whenever regulations in this title require higher standards than are required in other ordinances or laws, the provisions of this title shall govern. Whenever regulations of other ordinances or laws require higher standards than the provisions of this title, then said other ordinances shall govern. All ordinances or parts of ordinances in conflict with any of the provisions of this title are hereby repealed. (Ord., 1-22-2002)

**10-3-11: PUBLIC HEARINGS**

- A. Public Hearing: An opportunity for members of the public to comment, verbally or written, on a subject pending approval of the city. Public hearings are held prior to authorization of items including, but not limited to, code amendments, rezones, conditional use permits, and subdivisions (including minor subdivisions).
- B. Noticing Required for Public Hearing on Adoption or Modification of Land Use Regulation: Not less than ten (10) days prior to the hearing date, the city shall mail a written notice to each affected entity, publish a notice on the state's public meeting notice website and the city website. Said notices shall be in addition to any other requirements as specified by Utah law. The notice shall include the date, time and

place of the meeting, the project's title, the address of the subject property, the name of the applicant, a general description of the proposed use, a statement explaining when and where interested persons can obtain information as well as participate in the comment and hearing process. (9-2120, 11-16-21)

- C. Noticing Required for Public Hearings on Specific Property: Notice will include the name of applicant and a general description of the request and will follow the posting requirements in 10-3-9:B. Not less than ten (10) days prior to the hearing date the city shall mail a written notice to owners of real property, as shown on the latest official county assessor's rolls within three hundred feet (300') of the perimeter boundaries of the subject property.

(3-2020, 5-19-20) (9-2022, 11-1-22)

### **10-3-12: AMENDMENTS**

This title, including the map, may be amended as hereinafter provided.

- A. Intent with Respect to Amendments: It is hereby declared to be public policy that this title shall not be changed except to correct manifest errors or to more fully carry out the intent and purpose of the master plan for the city and of this title. (Ord., 1-22-2002)
- B. Procedure: Any person seeking an amendment to this title, or the zoning map shall submit to the planning commission a written petition describing the change desired and the reasons, therefore. Upon receipt of the petition and the payment of the nonrefundable filing fee, the planning commission shall consider the petition at a regularly scheduled planning commission meeting. Upon approval of the petition, the planning commission shall certify its recommendations to the city council for its consideration as prescribed by state law. If request is rejected by the Planning Commission, the requestor may appeal to the city council. The planning commission or city council may also initiate amendments to this title or the map. (Ord. 0-01-13, 1-11-2005, eff. retroactive to 11-26-2002) (2-2021, 6-1-21)
- C. Public Hearing Required Before Amending: Amendments to this title may be adopted by the City Council only after a public hearing is held before the Planning Commission, giving citizens and interested parties an opportunity to be heard. A notice of the time and place of such hearing shall be published as required by state law. (6-2006, 5-9-06, 4-2010, 7-13-10, 3-2020, 5-19-20)

### **10-3-13: VIOLATIONS**

It shall be the duty of all architects, contractors, subcontractors, builders and other persons having to do with the establishment of any use of land or the erection, altering, changing or remodeling of any building or structure to see that a proper permit has been granted before such work is begun. Any such architect, builder, contractor or other person doing or performing any such work without a permit having been issued is in conflict with the requirements of this title and shall be deemed guilty of violation of this title in the same manner and to the same extent that the owner of the premises or the persons for whom the use is established, or for whom such buildings are erected or altered, and shall be subject to the penalties herein prescribed for violation. (Ord., 1-22-2002)

### **10-3-14: PENALTY**

- A. Mandatory and Prohibiting Nature of Provisions:
1. It is unlawful for any person, firm or corporation to perform or refuse to perform any act prohibited or required by this title, or to fail or refuse to comply with any valid order issued by the building inspector or his or her designate pursuant to the provisions of this title.
  2. Any person, firm or corporation violating any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction, subject to penalty as provided in section 1-4-1 of this code. (Ord., 1-22-2002; amd. 2005 Code)
- B. Continuing Offenses Deemed Daily Violations: Each person, organization or business entity found guilty of violation of this title shall be punished for a separate offense for each day during which violation of any provision of this title is committed, continued or permitted.
- C. Start of Work Without Permit; Penalty Fees; Emergencies:
1. Fee Increase: Whenever a person, organization or business entity commences without a permit any construction, work or a property use for which this title requires a permit, the building inspector may exact a double fee. The payment of double fees shall not be construed to release the person, organization or business entity from immediate and/or future compliance with the requirements of this title.
  2. Exception; Emergency Work: This provision shall not apply to situations where in an emergency, to protect life and property from harm, a person, organization or business entity reasonably commences without a permit any construction, work or a property use. However, in all emergency situations, as soon as reasonably possible, the person, organization or business entity shall apply for a permit. Failure to apply for a permit within a reasonable time shall constitute waiver of this privileged exception for emergency work, in which case the building inspector has discretion to exact a double fee. (Ord. 04-12-14, 1-11-2005, eff. retroactive to 12-14-2004)

### **10-3-15: SEVERABILITY**

This title and the various parts, sections and clauses are hereby declared to be severable. If any part, section, paragraph, sentence, clause or phrase is adjudged to be unconstitutional or invalid, it is hereby declared that the remainder of this title shall not be affected thereby. The city council hereby declares that it would have passed this title on each part, section, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions thereof be declared invalid. (Ord., 1-22-2002)