

**MIDWAY CITY
Municipal Code**

TITLE 5 PUBLIC HEALTH AND SAFETY

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Section 5.01.010 Adoption of State Criminal Code

A. The Utah Code is adopted by reference and are made a part of the Midway City Code and shall take effect and be controlling within the limits of the City; provided, however, this Chapter is not intended to and does not purport to grant to the City any power or jurisdiction not specifically or by implication granted by law.

B. Any crimes specified within Titles 76 and 58 which are designated felonies are specifically excluded from inclusion in this Chapter.

Section 5.01.020 Failure to Appear

Any person who willfully fails to appear before the Court pursuant to a citation issued by the Wasatch County Sheriff's Department under the provisions of Utah Code is guilty of a class B misdemeanor, regardless of the disposition of the charge upon which he or she was originally cited.

CHAPTER 5.02 NUISANCE ABATEMENT

Utah Code grants Municipalities the right to “declare what shall be a nuisance, and abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist.” Exercising this right, Midway City declares the following applies to all properties within the Midway City Corporate limits:

Section 5.02.010 Noise

Section 5.02.020 Smoke

Section 5.02.030 Heat and Associated Glare

Section 5.02.040 Vibrations

Section 5.02.050 Fly Ash, Dust Fumes, Vapors, Gases, and Other Forms of Air Pollution

Section 5.02.060 Liquid and Solid Wastes

Section 5.02.070 Odors

Section 5.02.080 Outdoor Lighting and Glare

Section 5.02.090 Junk, Rubbish, Weeds and Debris

Section 5.02.100 Junk Vehicles

Section 5.02.110 Excessive Motor Vehicle Noise

Section 5.02.120 Sale or Use of Fire Works

Section 5.02.130 Window Peeping

Section 5.02.140 Unlawful Discharge of Weapons

Section 5.02.150 Public Nuisance Enforcement and Penalty

Section 5.02.010 Noise

A. At no point on the property line shall the sound level of any individual operation / action on the property exceed the decibel levels shown Table 1.

1. Sound levels shall be measured with a sound level meter that meets the American National Standards Institute (ANSI) standard S1.4-1983 (R2006) or EIC 61672 requirements.

Measurements shall be made using the “A weighted” filter of the sound level meter.

2. Impulsive type noises shall be measured using an integrating meter that complies with these standards and uses the same measurement procedure.

Table 1 Noise Limit Chart

<i>Maximum sound pressure level in decibels as measured on the A. Scale</i>	
<i>6:00 AM to 10:00 PM</i>	<i>10:00 PM to 6:00 AM</i>
<i>70 dBA</i>	<i>55 dBA</i>

B. Special events or other occurrences that will exceed the above noise levels may be granted a temporary use permit at the discretion of the Midway City Council.

Section 5.02.020 Smoke

No emission of smoke from any source shall be permitted to exceed a greater density than that density describe as No. 1 on the Ringlemann Smoke Chart. However, smoke may be emitted, which is equal to but not darker than No. 2 on the Ringlemann Smoke Chart, for not more than four minutes in any 30 minute period. For the purpose of grading the density of smoke, the Ringlemann Smoke Chart, with instruction for use as published in May, 1967 by the U.S. Department of Interior, Bureau of Mines, and as may from time to time be amended, shall be the standard.

Section 5.02.030 Heat and Associated Glare

Any activity or process producing intense heat and associated glare shall be performed within a completely enclosed building or behind a sight obscuring fence in such a manner as not to create a nuisance or hazard beyond the property lines.

Section 5.02.040 Vibration

No vibration, which is originated from a process or operation on a parcel or property, shall be permitted which is discernible beyond the lot line to the human sense of feeling for three minutes or more duration in any one hour of the day between the hours of 7 a.m. and 7 p.m., or of 30 seconds or more duration in any one hour during the hours of 7 p.m. and 7 a.m.

Section 5.02.050 Fly Ash, Dust Fumes, Vapors, Gases. and Other Forms of Air Pollution

No emission shall be permitted from any source whatsoever of such quantities of air contaminants or other materials which can cause damage to health, animals, vegetation, or property, or which can cause any excessive soiling.

Section 5.02.060 Liquid and Solid Wastes

No materials deemed hazardous by the Utah Department of Environmental Quality, the United States Environmental Protection Agency, or any other body having jurisdiction, shall be discharged in a public or private sewerage system, upon the ground, below the ground, into a storm drain system, or in any other manner which would endanger the normal operation of the public or private water or sewerage system, the storm drainage system, contaminate soil, or would harm the water aquifer.

Section 5.02.070 Odors

A. No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be offensive in such a manner that annoys, injures, or endangers the comfort, repose, health, or safety of a person.

B. When as many as three complaints of an objectionable odor situation are registered with the City, or earlier, at the option of the City, it shall be the responsibility of the City to investigate the complaints by interview with the complainants, and/or other occupants of the area of concern

to determine the source or sources of odorous matter and the circumstances surrounding its emission.

C. When necessary to ascertain the presence or absence of an objectionable odor, the determination shall be made by the City, using a panel of five people appointed by the Mayor, consisting of not more than two members of the City Council.

D. An odor shall be deemed objectionable for the purpose of this regulation when a majority of the members of the panel exposed to the odor determine that it does or tends to annoy, injure, or endanger the comfort, repose, health, or safety of a person, or which in any way renders a person insecure in life or the use of property.

E. If the panel determines that a person is causing or permitting the emission of an objectionable odor, that person shall take all steps required by the City to control the objectionable odor.

F. Odor-producing materials shall be stored and handled in a manner such that odors produced from such materials are confined. Accumulation of odor-producing materials resulting from spillage or other escape is prohibited.

Section 5.02.080 Outdoor Lighting and Glare

A. Purpose. The purpose of this Section is to restrict the use of outdoor artificial illuminating devices emitting undesirable light rays that:

1. Have a detrimental effect on astronomical observations.
2. Create a public nuisance.

B. General Regulations.

1. The provisions of this Section shall apply to all outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights, and other fixtures used to illuminate:

- a. buildings and structures
- b. recreational areas
- c. parking lot lighting
- d. billboards and other signs (advertising or other)
- e. street lighting
- f. lighting for gas station canopies and other similar uses
- g. general area and yard lighting (including security lighting and lighting for the convenience of customers, patrols, visitors, and so forth)

2. Every outdoor light source shall be operated so that it does not emit a beam or intense glare beyond the property boundary. Such lighting shall be operated in a way that it is directed away from and shielded from any adjacent property and shall not detract from driver visibility on adjacent streets. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

3. All exterior illuminating devices, except those devices exempt from this Section, shall be fully or partially shielded as required in this Chapter, "Requirements for Shielding and Filtering," including requirements set forth in Table 2.
4. Those outdoor light fixtures requiring a filter according to Table 2 below shall be equipped with a filter consisting of a glass, acrylic or translucent enclosure. Quartz glass does not meet this requirement.
5. Outdoor light output total. For lamp types that vary in their output as they age (such as high pressure sodium), the initial output, as defined by the manufacturer, is the value to be considered. For determining compliance with this Chapter, the light emitted from outdoor light fixtures is to be included in the total output as follows:
 - a. Outdoor light fixtures installed on poles (such as parking lot luminaries) and light fixtures installed on the sides of buildings or other structures, when not shielded from above by the structure itself as defined in b and c below, are to be included in the total outdoor light output by simply adding the lumen output of the lamps used.
 - b. Outdoor light fixtures installed under canopies, building overhangs, or roof eaves where the center of the lamp or luminary is located at least five feet but less than ten feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's rated lumen output.
 - c. Outdoor light fixtures located under the canopy and ten or more feet from the nearest edge of a canopy, building overhang, or eave are to be included in the total outdoor light output as though they are produced one-tenth (1/10) of the lamp's rated lumen output.
6. Total outdoor light output (excluding streetlights used for illumination of public rights-of-way) of any development project in Midway City shall not exceed 80,000 lumens per net acre, averaged over the entire project. Furthermore, no more than 5,500 lumens per net acre may be accounted for by lamps in unshielded or partially-shielded fixtures permitted in Table 2, except that lamps emitting no more than 4,720 lumens per single family dwelling unit or duplex dwelling unit for residential outdoor lighting purposes are exempt from the shielding requirements of Table 2, though they must conform to all other applicable restrictions. Single-Family attached units (e.g. townhouses), and multi-family residential units are limited to 360 lumens of unshielded lights per unit.
7. Service Station Canopy Lighting. In addition to the calculations for subsections 5 and 6 above, the following requirements apply to service station canopies:
 - a. All luminaries mounted on the under surface of service station canopies shall be fully shielded and utilize flat glass or flat plastic (acrylic or polycarbonate) covers.
 - b. The total light output used for illuminating service station canopies, defined as the sum of all under-canopy initial bare-lamp outputs in lumens, shall not exceed 100 lumens per square foot of canopy in all lighting mounted under the canopy, including but not limited to luminaries mounted on the lower surface of the canopy and auxiliary lighting within signage or panels over the pumps, is to be included toward the total.
8. Requirements for Shielding and Filtering.
 - a. The requirements for shielding and filtering light emissions from outdoor light fixtures shall be as set forth in the following Table 2 below.
9. The provisions of this Section are not intended to prevent the use of any material or method of installation that is not specifically prohibited by this Section, if any such alternative has been approved by the Planning Director. The Planning Director may approve any such alternate as long as the proposed design, material or method:

- a. Provides approximate equivalence to those specific requirements of this Section; or
- b. Is otherwise satisfactory and complies with the intent of this Section.

10. All outdoor illuminating devices shall be installed in conformance with the provisions of this Section as well as with all other provisions of the Midway City Land Use and Building Codes, as these are later amended and as applicable. Any language contained in this Section that conflicts with other Sections of the Midway City Municipal Code shall be construed consistent with this Section.

TABLE 2 REQUIREMENTS FOR SHIELDING AND FILTERING

<u>FIXTURE/LAMP TYPE</u>	<u>SHIELDED</u>	<u>FILTERED¹</u>
Low Pressure Sodium ²	Partially	None
High Pressure Sodium	Fully	None
Metal Halide ³	Fully	Yes
Fluorescent	Fully ⁴	Yes ⁵
Quartz ⁶	Fully	None
Incandescent 100 Watt or more (per fixture)	Fully	None
Incandescent 100W or Less (per fixture)	None	None
Mercury Vapor	Fully	Yes
Fossil Fuel	None	None
Glass Tubes filled with Neon, Argon, Krypton	None	None
Other Sources	AS APPROVED BY THE CITY COUNCIL	

¹Most glass, acrylic, or translucent enclosures satisfy these filter requirements. Quartz glass does not meet this requirement.

²This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations

³ Metal halide display lighting shall not be used for security lighting after 11 p.m. (or after closing hours if before 11 p.m.) unless fully shielded. Metal halide lamps shall be in enclosed luminaries.

⁴ Outdoor advertising signs of the type constructed for translucent materials and wholly illuminated from within do not require shielding (nevertheless, all signs shall meet requirements in the Sign Regulations of the Zoning Ordinance).

⁵ Warm White and Natural Lamps are preferred to minimize detrimental effects.

⁶ For the purposes of this Code, quartz lamps shall not be considered an incandescent light source.

C. Definitions

1. Fully Shielded. (full cut off) Fixtures shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are below a

horizontal plane running through the lowest point on the fixture where light is emitted, thus preventing the emission of light above the horizontal. This type of fixture uses a lamp that is recessed in the fixture and an internal reflector that directs the light downward, thereby eliminating the spill of light. This type of fixture provides optimum light control.

2. Foot candle. A unit of illuminance amounting to one lumen per square foot.
3. Glare. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.
4. Illuminance. The quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, measured in lux or foot candles.
5. Luminance. The physical quantity corresponding to the brightness of a surface (e.g. lamp, luminaire, sky, or reflecting material) in a specified direction. It is the luminous intensity of an area of the surface divided by that area. The unit is candela per square meter.
6. Lux (lx). The SI unit of illuminance. One lux is one lumen per square meter.
7. Outdoor Light Output Total. The maximum total amount of light, measured in lumens, from all outdoor light fixtures.
8. Partially Shielded. Fixtures shall be shielded in such a manner that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light rays above the horizontal plane. This type of fixture uses a lamp that is partially exposed and an internal reflector that directs the light downward and spill light to the side and upward. Such fixtures provide some lighting control.
9. Unshielded Fixtures. A lamp that provides no lighting control and is totally exposed with no internal reflector, allowing light to be emitted in all directions. This type of fixture provides no lighting control.

D. Prohibitions.

1. The operation of searchlights for advertising purposes are prohibited.
2. The unshielded outdoor illumination of any building, landscaping, signing or other purpose, is prohibited except with incandescent fixtures less than 100 watts per fixture, fossil fuels, and/or glass tubes (see Table 2).
3. The nighttime use of white lighting or white strobe lighting for communications towers is prohibited. (Nighttime white strobe lighting is not required by the FAA). Applicants must show proof of any such FAA requirement.

E. Lighting Exemptions.

1. Light fixtures using fossil fuel (i.e. light produced directly or indirectly by the combustion of natural gas or other utility type fossil fuels) are exempt from the requirements of this Chapter.
2. Outdoor lighting on facilities and lands owned and operated or protected by the United States Government or the State of Utah are exempted by law from all requirements of this Section. Voluntary compliance with the intent of this Chapter at those facilities is encouraged.
3. The illumination of outdoor recreational facilities, public or private, shall be shielded such that the glare or beam does not emit beyond property lines, and no such facility shall be illuminated after 11 p.m. except to conclude a specific sporting event or any other activity conducted at a ball park, outdoor amphitheater, arena or similar facilities in progress prior to 11 p.m.

4. The City Council may grant a special exemption to the City lighting requirements contained herein only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.
5. Display of an American flag not to exceed 150 watts per fixture.
6. Seasonal-holiday displays.

F. Temporary Exemptions. Any individual as defined herein may submit a written request to the City Council on a Midway City form prepared for a “temporary exemption” to the requirements. The exemption shall contain the following listed information:

1. Specific exemptions and justification for exemptions requested.
2. Type, use and hours of operation of exterior light involved.
3. Duration of time for requested exemption.
4. Type of lamp and calculated lumens.
5. Total wattage of lamps.
6. Proposed location of exterior light.
7. Physical size of exterior lights and type of shielding and/or filtering provided.
8. Previous temporary exemption, if any.

In addition to the above data, the City Council may request any additional information which would enable its member to make a reasonable evaluation of the request for temporary exemption. The City Council may grant a temporary exemption only if it finds that doing so would not be injurious to the public health, safety, or welfare and would not constitute a nuisance.

Section 5.02.090 Junk, Rubbish, Weeds and Debris

A. Declaration of Policy. The accumulation of junk, rubbish, and debris, and grass, weeds, shrubs, bushes or trees which are growing or which have grown and died, facilitates rodent, pest and vermin harborage, compromises public health resulting from dangerous and unsanitary conditions, and constitutes a fire hazard and threat to public safety and the general welfare.

(2010-23, Sub-section Amended, eff. 7/28/2010)

B. Definitions:

1. Junk. Junk includes, but is not limited to, scrap or remnant building materials; lumber or metals; discarded furniture; fixtures; appliances; motor vehicle parts and tires; inoperable, abandoned, demolished, dismantled machinery, trailers, automobiles and other goods in such condition of deterioration or disrepair so as to be unusable in their existing condition.
2. Rubbish. Rubbish and debris means all waste, refuse and rejected matter and material, whether animal, vegetable or mineral, manufactured or natural.

C. Unlawful Accumulations.

1. It shall be deemed a public nuisance and unlawful to deposit, accumulate, store, keep, abandon, or to permit the accumulation, storage, keeping or abandonment of junk, rubbish or debris on private or public property within the City, unless such area is specifically used and appropriately zoned for such deposit, accumulation, storage or keeping of junk, rubbish or debris and all applicable fencing, setback and other requirements applicable to such use meet compliance.

2. It is unlawful for any person to place, leave, dump or permit to accumulate any garbage, rubbish or trash in any building or on any premises, improved or vacant, or on any open lot or alley so that the same shall or may afford food or harborage for rats or other vermin.
3. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any open lot or alley, any lumber, boxes, barrels, bottles, cans, containers or similar materials that may be permitted to remain thereon, unless same shall be placed on open racks that are elevated not less than twelve inches above the ground and evenly piled or stacked.

D. Weed abatement compliance shall be accomplished upon approval by the City by discing, plowing, or mowing weeds within eight (8) inches of the ground. Weeds are to be maintained less than eight (8) inches in height throughout the growing season.

(2010-23, Sub-section Added, eff. 7/28/2010, 2012-09, Section Amended, eff. 04/04/12)

E. The City may inspect properties within the city and identify those needing weed, garbage, refuse, unsightly and deleterious object abatement and then serve notice in writing upon the owner and/or occupant of such land pursuant to Chapter 2.14 of this Code. The notice shall require the owner and/or occupant, as the case may be, to abate the weeds, garbage, refuse, unsightly and deleterious objects by a specific time pursuant to Chapter 2.14 of this Code. One notice shall be deemed sufficient on any lot or parcel of property for an entire year.

(2010-23, Sub-section Added, eff. 7/28/2010)

F. It shall be a Class C misdemeanor violation for any owner or occupant of lands described herein to fail or neglect to conform to the requirements hereof relating to the eradication or destruction or removal of accumulated weeds, garbage, refuse, objects or structures, and shall be punishable both by the imposition of civil remedies as provided in this Code and by criminal sanctions.

(2010-23, Sub-section Added, eff. 7/28/2010)

Section 5.02.100 Junk Vehicles

A. Definitions.

1. **Junk Vehicles.** A vehicle which is inoperable, dismantled in any way, unregistered or has flat tires.
2. **Vehicle.** A machine propelled by power other than human power. This includes campers, trailers and other equipment designed to be carried upon, or towed behind such powered vehicles designed to travel along the ground by use of wheels, treads, runners, or slides, or upon such vehicle, and shall include without limitation, automobiles, airplanes, trucks, trailers, campers, motorcycles, motor scooters, snowmobiles, golf carts, recreational vehicles and so forth.

B. Unlawful Storage.

1. It shall be unlawful for more than one junk motor vehicle to remain on a parcel within Midway City. Said vehicle shall be covered with a commercial car cover or an opaque tarp that is securely fastened at all times. Notwithstanding the above sentence, more than one junk motor vehicle, under the ownership of the same person who owns the parcel or who has a lease for the

parcel, may be stored if placed within a completely enclosed structure. Note: Any vehicle stored in compliance with this subsection and outside of a completely enclosed structure shall be safely and properly blocked, but shall not be blocked up for a period of more than 30 days.

2. All vehicles not stored as described above must run, bear currently registered license plates, have all four tires inflated and not be dismantled in any way. Any vehicle parts must be stored inside or removed from the property.

Section 5.02.110 Excessive Motor Vehicle Noise

A. Definitions.

1. **Engine Retarding Brake.** A Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

2. **Abnormal or Excessive Noise.**

a. Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value.

b. Noise in excess of that permitted by Utah Code as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order.

B. Excessive Vehicle Noise.

1. It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

2. It shall be unlawful for the operator of any vehicle to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

C. **Signing.** Signs stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKES PROHIBITED" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this ordinance, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKES PROHIBITED" shall be installed on a state highway without a permit from the Utah Department of Transportation. The provisions of this Chapter are in full force and effect even if no signs are installed.

Section 5.02.120 Sale or Use of Fireworks

The sale or use of fireworks shall be governed in strict accordance with the provisions of Utah Code.

Section 5.02.130 Window Peeping

No person shall look, peer, or peep into or be found loitering around or within view of any window within a structure occupied as a residence of another with the intent of watching or

looking through the window to observe any person or persons or otherwise invading the privacy of the occupant(s).

Section 5.02.140 Unlawful Discharge of Weapons

A. It is unlawful for any person to discharge any firearm within the limits of Midway City, provided that this Section shall not apply to peace officers in the pursuit of official duties, persons acting in self defense, or residents residing in the RA-1-43 zone protecting their property, livestock and poultry from predators such as dogs, coyotes, rock chucks, and skunks, provided that use of such weapon shall be limited to shotguns when such discharge does not endanger persons or damage to buildings or vehicles. This Section shall not apply to persons hunting with shotguns during regularly scheduled hunting seasons, provided that any person so hunting must strictly comply with state laws and regulations concerning carrying loaded firearms and distance requirements from roads, vehicles and buildings.

B. A violation of this Section is a class B misdemeanor.

Section 5.02.150 Public Nuisance Enforcement and Penalty

A. Declaration of Penalty. Any violation of this Chapter is deemed a public nuisance and its use shall be discontinued. Violations of this Chapter shall be classified as a class C misdemeanor unless otherwise noted.

B. In addition to the penal remedy stated in this Section, the City Attorney may bring action before any competent court having jurisdiction to enjoin the continuation of any prohibited condition of nuisance and impose a civil penalty of up to \$1,000.00 per day plus costs and reasonable attorney's fees.

C. Generally accepted practices associated with agriculture, farming, raising livestock, and related activities shall be exempt from the following:

1. Noise
2. Smoke
3. Vibration
4. Solid and Liquid Waste. Nevertheless, this exemption shall apply only to animal waste, fertilizers when legally and properly applied, and other generally accepted practices. It shall not apply to spills and other releases of chemicals such as fuels, solvents, and other such materials that are harmful to the groundwater, humans, animals, and so forth.

CHAPTER 5.03 PARKS AND TRAILS

Section 5.03.010 Protection of Trees, Plants, and Structures.

Section 5.03.020 Regulation of Traffic.

Section 5.03.030 Commercial Transactions.

Section 5.03.040 Signs Restrictions.

Section 5.03.050 Restricted Areas.

Section 5.03.060 Miscellaneous Activities.

Section 5.03.070 Animals.

Section 5.03.080 Permits for Park Use.

Section 5.03.090 Golf Prohibited

Section 5.03.100 Water Activities.

Section 5.03.110 Tobacco Products, Alcoholic Beverages and Controlled Substances in Parks and on Trails.

Section 5.03.120 Enforcement.

Section 5.03.010 Protection of Trees, Plants, and Structures

A. No person shall, within or on any of the parks or trails within Midway City, do any of the following:

1. Climb any trees, or pluck any flowers or fruit, whether wild or cultivated;
2. Break, cut down, or trample upon or remove, or in any manner injure or deface any statue, ornament, tree, plant, shrub, flower bed, curb, or any of the buildings, fences, bridges, playground equipment, benches, rock or stones, other structures, or construction within such parks or park trails.

Section 5.03.020 Regulation of Traffic

A. No person shall drive, ride, or operate any bicycle, motorcycle, horse or other animal used for riding or pulling a vehicle, or any other vehicle upon any part of the park or trail, except upon the streets or drives within a park, or upon such other trails, sidewalks, paths or other places specifically designated for such purpose.

B. No person shall park or leave a vehicle at any location other than at such places designated for such purpose.

C. No person shall ride or drive a bicycle, automobile or other vehicle within the parks or upon park trails at a speed that may pose a risk to other trail or park users.

D. Midway City, in its discretion, may forbid any automobile, motorcycle, bicycle or other vehicle from entering upon or traveling over any of the parks or trails, or upon or over any portion of the same, whenever the City deems the restriction necessary for the safety of the public or preservation of public property. The City may call for the erection or use of signs, barricades, or other devices to prevent such entry or travel. No person shall enter upon or travel over such designated areas.

Section 5.03.030 Commercial Transactions

No person shall engage in the commercial sale or display of goods, merchandise, or any other articles in the parks or upon any drive therein, without having first obtained a permit for such activity. Permits for commercial sale and display shall be issued by the City under the direction of guidelines and criteria established by the City. An application for such commercial use of a park shall be submitted to the City no later than 30 days prior to the proposed event. The application shall include a proposed site plan for review and approval, or modification, by the City Planner. Fees for such commercial use of a park shall be in amounts set by the City Council from time to time. All sales conducted at City parks must comply with sales tax collection laws administered by the Utah State Tax Commission and verified by the City. All sales of food at City parks are subject to inspection and approval by the Wasatch County Health Department. No commercial use of any park shall be permitted on the Friday or Saturday of Labor Day weekend, with the exception of events held on the Town Square.

2016-11, Section Amended, eff. 06/08/2016)

Section 5.03.040 Signs Restrictions

No person shall post or affix any printed or written bill, sign, placard, notice or other paper upon any tree, structure or thing within the parks or trails, or upon any gate, fence, or enclosure within the limits thereof, except that park notices and other authorized bulletins or signs may be put up at the direction of the City.

Section 5.03.050 Restricted Areas

The parks and trails and every part thereof are for the use and enjoyment of the public, subject to such restrictions as may be lawfully made for their orderly government. All visitors are free to go upon the grass, lawn or turf of any park or trail except in any space indicated by visible lines of enclosure on which is posted a sign prohibiting such entry.

Section 5.03.060 Miscellaneous Activities

A. No person shall, within any park or upon any trail, do any of the following:

1. Play any music in a manner that violates the Midway City Code.
2. Keep or offer for sale, or post or display any sign or placard, flag, target, transparency, advertisement or device of business, unless by the permission of the City, and subject to such rules and regulations as the City shall prescribe.
3. Publicly solicit or beg.
4. Utter loud, threatening or abusive or indecent language or any language tending to cause a breach of the peace.
5. Engage in any indecent, obscene or disorderly conduct.
6. Make any oration or harangue on such trail, park or parkway without the written permission of the City.
7. Metal detecting except as permitted under the direction of the City.
8. Camp in any park, unless upon issuance of a permit by the City.

Section 5.03.070 Animals.

A. No person shall take, ride, drive or conduct into a park or upon any trail, any quadruped or other animal except the following:

1. Dogs that are under control of the person by a maximum six foot leash, chain, cable or suitable enclosure.
2. All dog owners will be responsible for cleaning up and properly depositing any waste left by their animals.
3. Horses that are being used for carriage rides pursuant to a permit issued by the City.
4. Such other animals as shall be permitted under the direction of the City.
5. No animals of any kind will be allowed on the Town Square except as permitted under the direction of the City.

Section 5.03.080 Permits for Park Use

A. Athletic games, sports, picnics and other forms of recreation or amusement sanctioned by the City may be held or practiced in such parts of the parks as shall be designated for such use, subject to such regulations as may be made by the City.

B. Permits for the use of any picnic shelter or park area for any specified date or time, may be granted at the discretion of the City, and no person shall in any manner disturb or interfere with any club or party occupying the ground under such permit without their consent. An application for use of an entire park shall be submitted to the City no later than 30 days prior to the proposed event. The application shall include a proposed site plan for review and approval, or modification, by the City Planner. Fees for use of any park areas shall be in amounts set by the City Council from time to time. No application for use of an entire park shall be permitted on the Friday or Saturday of Labor Day weekend, with the exception of events held on the Town Square.

2016-11, Section Amended, eff. 06/08/2016)

Section 5.03.090 Golf Prohibited

No person shall play or practice golf, or otherwise hit any golf balls within the limits of any park or trail.

Section 5.03.100 Water Activities

No person shall swim, bathe, fish or float watercraft in the waters of any park or in any other public waters within the limits of the City's parks, except in places designated by the City. No person shall kill, injure, molest or unnecessarily disturb the fish in said waters, or any water fowl or other birds, or any animal properly within any park.

Section 5.03.110 Tobacco Products, Alcoholic Beverages and Controlled Substances in Parks and on Trails

It is unlawful for any person to bring upon, sell, possess or consume in a park or on a trail any tobacco products, alcoholic beverages, or controlled substances.

Section 5.03.120 Enforcement

Violation of any provision of this Chapter shall be punishable as a class C misdemeanor unless otherwise specified. In addition, all other legal remedies, both criminal and civil, may be pursued by the City to enforce this Chapter.

CHAPTER 5.04 NOXIOUS WEED CONTROL

Section 5.04.01 Adoption of Management Plan

Section 5.04.02 Requirements

Section 5.04.03 Definition

Section 5.04.04 Duty to Comply

Section 5.04.05 Notice of Violation

Section 5.04.06 Failure to Comply

Section 5.04.07 (Deleted)

Section 5.04.01 Adoption of Management Plan

In an effort to comply with the Utah State Strategic Plan for the management of noxious and invasive weeds, Midway City adopts the Wasatch County Noxious Weed Law Enforcement Procedures and the Coordinate Noxious Weed Management Plan for Wasatch County.

(2012-08, Section Added, eff. 03/14/2012)

Section 5.04.02 Requirements

An owner, agent or occupant of real estate within Midway City shall not permit or maintain on any such real estate any growth of noxious weeds in violation of the Utah Noxious Weed Act, as said Act may be amended from time to time. Violation of this provision shall be punishable as a Class C misdemeanor.

(2010-25, Section Amended, eff. 7/28/2010)

Section 5.04.03 Definition

Weeds shall include any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the Utah Commissioner of Agriculture.

Section 5.04.04 Duty to Comply

It shall be the duty of the owner, agent or occupant of real estate within Midway City to cut and remove or destroy by lawful means all such noxious weeds and grass as often as may be necessary to comply with the provisions of this Chapter.

Section 5.04.05 Notice of Violation

Upon discovering a parcel of real estate containing noxious weeds, the City may give the owner, agent or occupant of the real estate a written notice to remove and eliminate the noxious weeds, pursuant to Chapter 2.14 of this Code.

(2010-25, Section Amended, eff. 7/28/2010)

Section 5.04.06 Failure to Comply

Pursuant to Utah Code Section 4-17-8, as amended from time to time, if the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance Midway City will give a copy of the notice of violation to Wasatch County for enforcement.

(2010-25, Section Amended, eff. 7/28/2010) (2012-08, Section Amended, eff. 03/14/2012)

Section 5.04.07

(2010-25, Section Amended, eff. 7/28/2010) (2012-08, Section Deleted, eff. 03/14/2012)

CHAPTER 5.05 FLOOD DAMAGE PREVENTION

Section 5.05.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives

Section 5.05.020 Definitions

Section 5.05.030 General Provisions

Section 5.05.040 Administration

Section 5.05.050 Provisions for Flood Hazard Reduction

Section 5.05.060 Penalties for Noncompliance

Section 5.05.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives

A. Statutory Authorization. The Legislature of the State of Utah delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses and facilitate homeowner participation in the National Flood Insurance Program (NFIP). Therefore, the City Council of Midway City does ordain as follows:

B. Findings of Fact.

1. The flood hazard areas of Midway City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

C. Statement of Purpose. It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this Chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 5.05.020 Definitions

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this Chapter it's most reasonable application.

- A. Alluvial Fan Flooding. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- B. Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- C. Area of Shallow Flooding. A designated AO, AH, or VO zone on Midway City's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- D. Area of Special Flood Hazard. Land in the floodplain within Midway City subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.
- E. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
- F. Basement. Any area of the building having its floor sub-grade (below ground level) on all sides.
- G. Critical Feature. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- H. Development. Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- I. Elevated Building. A non-basement building:

1. built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and

2. adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

J. Existing Construction. For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

K. Existing Manufactured Home Park Or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by Midway City.

L. Expansion To An Existing Manufactured Home Park Or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

M. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

N. Flood Insurance Rate Map (FIRM). FIRM is an official map of Midway City, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to Midway City.

O. Flood Insurance Study. Is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

P. Floodplain or Flood-Prone Area. Any land area susceptible to being inundated by water from any source (see definition of flooding).

Q. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

R. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

S. Flood Protection System. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within Midway City subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

T. Flood Proofing. Is any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

U. Floodway (Regulatory Floodway). Is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

V. Functionally Dependent Use. Is a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

W. Highest Adjacent Grade. Is the highest natural elevation of the ground surface next to the proposed walls of a structure.

X. Historic Structure. Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior or;

b. directly by the Secretary of the Interior in states without approved programs.

Y. Levee. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Z. Levee System. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

AA. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

BB. Manufactured Home. A manufactured home is a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

CC. Manufactured Home Park or Subdivision. Is a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

DD. Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on Midway City 's Flood Insurance Rate Map are referenced.

EE. New Construction. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by Midway City and includes any subsequent improvements to such structures.

FF. New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by Midway City.

GG. Recreational Vehicle. A vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;

3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

HH. **Start of Construction.** For new construction or substantial improvement, except for new construction or substantial improvement subject to the Coastal Barrier Resources Act (Pub. L. 97-348), start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

II. **Structure.** A structure is a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

JJ. **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

KK. **Substantial Improvement.** A substantial improvement is a reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

LL. **Variance.** A variance is a grant of relief to a person from the requirement of this Chapter when specific enforcement would result in an unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.).

MM. **Violation.** The failure of a structure or other development to be fully compliant with Midway City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section

44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

NN. Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Section 5.05.030 General Provisions

A. Lands to which this Chapter applies. The Chapter shall apply to all areas of special flood hazard within the jurisdiction of Midway City.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Midway City" dated March 15, 2012 or thereafter, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter.

(2012-07, Sub-section Amended, eff. 3/14/2012)

C. Establishment of Development Permit. A Development Permit shall be required to ensure conformance with the provisions of this Chapter.

D. Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Chapter and other applicable regulations.

E. Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

G. Warning and Disclaimer or Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards, or uses permitted within such areas, will be free from flooding or flood damages. This Chapter shall not create liability on the part of Midway City or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made there under.

Section 5.05.040 Administration

A. The Zoning Administrator is hereby appointed as the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR 60.3 Floodplain Management Criteria for Flood-prone Areas.

B. The Duties & Responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.
2. Review permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this Chapter.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the Utah Department of Public Safety, Division of Homeland Security prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with this Chapter, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of this Chapter.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on Midway City 's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Midway City.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, Midway City may approve certain development in Zones A1-30, AE, AH, on Midway City's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that Midway City first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

C. Permit Procedures.

1. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing

and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of this Chapter.
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - e. Maintain a record of all such information in accordance with this Chapter.
2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:
- a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - j. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures

1. The Appeal Board, as established by Midway City, shall hear and render judgment on requests for variances from the requirements of this Chapter.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in C(2) of this Section have

been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

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

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

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

b. Variances shall only be issued upon:

i. showing a good and sufficient cause;

ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

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

c. Any applicant to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by Midway City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria outlined in this Chapter are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Section 5.05.050 Provisions for Flood Hazard Reduction

A. General Standards. In all areas of special flood hazards the following provisions are required for all new construction and all structures undergoing substantial improvements:

1. Shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. Shall be constructed by methods and practices that minimize flood damage;

3. Shall be constructed with materials resistant to flood damage;

4. Shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Unit Construction Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in this Chapter the following provisions are required:

1. Residential Unit Construction. In new construction, or any substantial improvement of any residential structure, the lowest floor (including basement) shall be elevated 18 inches or more above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this Chapter is satisfied.
2. Nonresidential Unit Construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated by 18 inches or more above the base flood level or, together with attendant utility and sanitary facilities, shall be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
3. Enclosure Construction. New construction, or substantial improvement, of any enclosure with fully enclosed areas below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area, other than a basement, which is subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Manufactured Homes. This sub-section requires that all manufactured homes to be placed within Zone A on Midway City's FHBM or FIRM:
 - a. shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - b. requires that any manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on Midway City's FIRM on sites;
 - i. outside of a manufactured home park or subdivision,

- ii. in a new manufactured home park or subdivision,
- iii. in an expansion to an existing manufactured home park or subdivision, or
- iv. in an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage" as a result of a flood,
 - be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to 18 inches or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. requires that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on Midway City's FIRM that are not subject to the provisions paragraph 4 of this subsection be elevated so that either:
 - i. the lowest floor of the manufactured home is elevated to 18 inches or more above the base flood elevation, or
 - ii. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 5. Recreational Vehicles. This sub-section requires that recreational vehicles placed on sites within Zones A1-30, AH, and AE on Midway City's FIRM either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use, or
 - c. meet the permit requirements of Section 5.05.040 subsection C1, and the elevation and anchoring requirements for "manufactured homes" in paragraph 4 of this Subsection.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. Design standards for proposed Subdivision or Planned Unit Development (PUD), including those that are designed for the placement of manufactured homes, shall:

- 1. Be consistent with the requirements of Section 5.05.010 Subsections B, C, and D of this Chapter.
- 2. Meet the Development Permit requirements of Subsections 5.05.030 C, 5.05.040 C, and 5.05.050 of this Chapter.
- 3. Generate base flood elevation data for all subdivision, PUD's, manufactured home parks and any other proposed development of 5 acres or more in area or contain 50 or more lots or pads if not otherwise provided pursuant to the requirements of Sections 5.05.030 B or 5.05.040 B8 of this Chapter.
- 4. Assure that adequate drainage is provided to reduce exposure to flood hazards.
- 5. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

D. Standards for Areas of Shallow Flooding (AO/AH Zones). Land located within the areas of special flood hazard established in Section 5.05.030 B of this Chapter, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet and where a clearly defined channel does not exist, where the path of flooding is unpredictable or where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction, or substantial improvement, of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade by a height at least equal to the depth number specified in feet on Midway City's FIRM plus 18 inches.
2. All new construction, or substantial improvement, of non-residential structures;
 - a. have the lowest floor (including basement) elevated above the highest adjacent grade by a height at least equal to the depth number specified in feet on Midway City's FIRM plus 18 inches or;
 - b. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads resulting from the effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Chapter Section 5.05.040 C are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

E. Floodways. Located within areas of special flood hazard established in this Chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within Midway City during the occurrence of the base flood discharge.
2. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, Midway City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that Midway City first applies for a conditional FIRM and floodway revision through FEMA
3. If encroachments are permitted under 1 and 2 above all associated new construction and / or substantial improvements shall comply with all applicable flood hazard reduction provisions of this Subsection.

Section 5.05.060 Penalties for Noncompliance

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

B. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$750 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case.

C. Nothing herein contained shall prevent Midway City from taking such other lawful action as is necessary to prevent or remedy any violation.

(2009-14, Chapter Added, eff. 11/25/2009; 2010-01, Chapter Replaced, eff. 4/14/2010)

CHAPTER 5.06 RESIDENTIAL FACILITIES FOR ELDERLY PERSONS AND PERSONS WITH A DISABILITY

Section 5.06.010 Statement of Purpose and Scope

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Section 5.06.060 Parking Requirements

Section 5.06.010 Statement of Purpose and Scope

A. Statement of Purpose. The purpose of this chapter is to set forth land use and permitting procedures that:

1. Comply with Sections 10-9a-520 of the Utah Code; and
2. Avoid discrimination in housing against persons with disabilities pursuant to the Utah Fair Housing Act and the federal Fair Housing Act as interpreted by courts whose decisions are binding in Utah.

B. Scope. If any facility, residence, congregate living or other housing arrangement meets the definition of a residential facility for persons with a disability or a residential facility for elderly persons as set forth in this Title, the requirements of this Chapter shall govern the same notwithstanding any conflicting provision of this Title or the Midway City Code. Except as provided herein, the requirements of this Chapter, shall not be construed to prohibit or limit other applicable provisions of this Title, the Midway City Code or other laws.

Section 5.06.020 Definitions

A. Adult Day Care Facility. A facility that furnishes care, supervision and guidance for 3 or more adults unaccompanied by a guardian for periods of less than 24 hours per day.

B. Assisted Living Facility. A residential facility, licensed by the State of Utah, with a homelike setting that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who have been assessed under Utah Department of Health or Utah Department of Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

1. specified services of intermittent nursing care; administration of medication; or
2. support services promoting resident's independence and self-sufficiency. An assisted living facility does not include:
3. a residential facility for persons with a disability, or
4. adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

C. Boarder. A person living in a rented room in a boarding house. The boarding house operator, or a member of his or her immediate family who resides on the premises with the operator, shall not be deemed a boarder.

D. Boarding House. A building or a portion thereof, operated by a person residing on the premises where, for compensation, rooms are rented together with meals for not more than 15 boarders who generally do not directly utilize kitchen facilities. "Compensation" shall include money, services or, any other thing of value. A boardinghouse does not include:

1. a residential facility for the elderly or persons with a disability, or
2. any non-residential facility, such as a rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling; medical, protective or other similar services to the occupants thereof.

E. Building. A permanently located structure, including but not limited to dwelling units, designed, intended or used for occupancy by any person or for storage of property of any kind.

F. Community Correctional Facility. A facility licensed by or contracted by the State of Utah to provide temporary occupancy for previously incarcerated persons which assists such persons in making a transition from a correctional institution environment to independent living. Such facility may also provide ancillary, temporary occupancy for individuals placed as part of, or in lieu of confinement rehabilitation, or treatment in a correctional institution.

G. Correctional Facility. A prison, jail, juvenile detention facility, or juvenile secure facility.

H. Disability. A physical or mental impairment which substantially limits one or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802, or successor law. As used in this definition,

1. "Physical or mental impairment" includes:
 - a. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
 - b. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
 - c. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness; drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.
2. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
3. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
4. "Is regarded as having an impairment" means:
 - a. has a physical or mental impairment that does not substantially limit one or more major life activities but is treated by another person as constituting such a limitation;

- b. has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or
- c. has none of the impairments defined in paragraph (i) of this definition but is treated by another person as having such an impairment.

I. Domestic Staff. Persons employed or residing on the premises of a dwelling or other residential facility to perform domestic services or to assist residents in performing daily life activities.

J. Dwelling. Any building or portion thereof containing one or more dwelling units occupied as, or designed or intended for occupancy as, a residence by one or more families.

K. Dwelling Unit. One or more rooms in a building or portion thereof designed, occupied or intended as a residence for a family with complete and independent facilities for living, sleeping, eating, cooking and sanitation provided within the dwelling unit.

L. Dwelling, Multiple Family: A building arranged or designed to include three or more dwelling units, each to be occupied by one family.

M. Dwelling, Single Family: A building arranged or designed to include only one dwelling unit occupied by one family.

N. Dwelling, Two-Family/Duplex: A building arranged or designed to include two dwelling units, each to be occupied by one family.

O. Educational Institution. A public elementary or secondary school, seminary, parochial school or private education institution having a curriculum similar to that ordinarily provided in grades one through twelve in a public school system. The term educational institution for the purpose of this Title does not include post high school educational facilities or educational facilities which include residential facilities for its students.

P. Educational Institution With Housing: A public or private educational institution with on-site residential facilities for its students and/or staff.

Q. Elderly Person: A person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

R. Family: One or more persons related by blood, marriage, adoption, or guardianship or a group of not more than five unrelated persons living together as a single housekeeping unit, together with any incidental domestic or support staff who may or may not reside on the premises. "Family" does not exclude the care of foster children.

S. Fraternity or Sorority House. A building occupied by and maintained exclusively for students affiliated with an academic or professional college or university or other recognized institution of higher learning, who are associated together in a fraternity/sorority that is officially recognized by such institution and who receive lodging and/or meals on the premises for compensation.

T. Homeless Shelter. Charitable lodging or sleeping rooms provided on a daily or other temporary basis to persons lacking other safe, sanitary or affordable shelter. It may also include a kitchen and cafeteria.

U. Hospital. An institution licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. Any medical clinic or professional office which offers any inpatient or overnight care, or operates on a twenty-four hour basis shall be considered to be a hospital. A hospital may include integral support service facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to the operation of the hospital.

V. Hotel. A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms, entertainment and recreational facilities.

W. Jail. A facility established and operated by the County, either directly or under a contract with a private provider, for confinement of persons in lawful custody.

X. Juvenile Detention Facility. A facility established and operated by the State of Utah, either directly or under a contract with a private provider, for temporary detention of delinquent juveniles.

Y. Juvenile Secure Facility. A facility established and operated by the State of Utah, either directly or under a contract with a private provider, for incarceration of delinquent juveniles.

Z. Nursing Home. Convalescent Home, and Rest Home: An intermediate care/nursing facility or a skilled nursing facility, licensed by the State of Utah, for the care of individuals who due to illness, advanced age, disability, or impairment require assistance and/or supervision on a twenty four hour per day basis. Such facility does not include an adult day care facility or adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

AA. Prison. A facility for incarceration of persons convicted of crimes, established and operated by the State of Utah or by a private provider pursuant to the provisions of the Private Correctional Facilities Act, Chapter 13c, Title 64, Utah Code Annotated, as amended.

BB. Protective Housing Facility. A facility operated, licensed or contracted by a governmental entity, or operated by a charitable, non-profit organization, where, for no compensation, temporary, protective housing is provided to:

1. abused or neglected children awaiting placement in foster care;
2. pregnant or parenting teens;
3. victims of sexual abuse; or
4. victims of domestic abuse.

CC. Reasonable Accommodation. A change in a rule, policy, practice, or service necessary to afford a person equal opportunity to use and enjoy a dwelling. As used in this definition:

1. "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
2. "Necessary" means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.
3. "Equal opportunity" means achieving equal results as between a person with a disability and a non-disabled person.

DD. Rehabilitation/Treatment Facility. A facility licensed by or contracted by the State of Utah to provide temporary occupancy and supervision of adults or juveniles in order to provide rehabilitation, treatment, or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol & drug abuse, sex offenders, sexual abuse, or mental health. Associated education services may also be provided to juvenile occupants. A Rehabilitation/Treatment Facility does not include a residential facility for persons with a disability.

EE. Residence. A place where an individual is actually living at a given point in time and not a place of temporary sojourn or transient visit.

FF. Residential Facility for Elderly Persons. A dwelling unit owned by a resident thereof or an immediate family member of a resident, or for which the title has been placed in trust for a resident and is voluntarily occupied on a 24-hour-per-day basis by eight (8) or fewer elderly persons in a family-type arrangement. A "residential facility for elderly persons" does not include any facility:

1. operated as a business; provided, that such facility shall not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;
2. where persons are placed:
 - a. for alcoholism or drug abuse treatment; or
 - b. as part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility,
3. which is a healthcare facility as defined by the Utah Health Code, as amended; or
4. which is a residential facility for persons with a disability.

GG. Residential Facility for Persons with a Disability. A dwelling unit or other place in which more than one person with a disability resides and, if required by State law, is licensed or certified by:

1. Title 62A, the Utah Department of Human Services, Division of Services for People with Disabilities Chapter, of the Utah Code, or
2. Title 26, Department of Health, under the Health Care Facility Licensing and Inspection Act Chapter, of the Utah Code.

HH. Sheltered Workshop. A non-residential facility providing supervised educational or vocational training facility for persons with a disability.

II. Support Staff. Persons employed or residing on the premises of a dwelling or other residential facility to assist residents in performing daily life activities or to provide on-site treatment, rehabilitation, or habilitation services.

JJ. Trade or Vocational School. A post-high school educational or vocational training facility.

KK. Transitional Housing Facility. A facility owned, operated or contracted by a governmental entity or a charitable, non-profit organization which provides free temporary housing to homeless persons for at least 30 days while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility does not include:

1. a homeless shelter;
2. a dwelling unit provided to a family for its exclusive use as part of a transitional housing program for more than 30 days; and
3. a residential facility for persons with a disability.

Section 5.06.030 Permitted Uses and Termination

A. Permitted Uses. Notwithstanding any contrary provision of this Title, and subject to the development standards in section 5.06.040, a residential facility for persons with a disability shall be a permitted use in any zone where a dwelling is allowed as a permitted or conditional use; and a residential facility for elderly persons shall be a permitted use in any zone where residential dwellings are allowed except as are zoned to permit exclusively single-family dwellings.

B. Termination. A use permitted by this Chapter is nontransferable and shall terminate if

1. the facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability, or
2. any license or certification issued by the Utah Department of Health or the Department of Human Services for such facility terminates or is revoked, or
3. the facility fails to comply with requirements set forth in this Chapter.

Section 5.06.040 Development Standards

The development standards set forth in this Section shall apply to any residential facility for persons with a disability or residential facility for elderly persons.

A. Building, Safety and Health Regulations. The facility shall comply with building, safety, and health regulations applicable to similar structures.

1. Except as otherwise provided in this Chapter, each facility shall be subject to the same development standards applicable to similar structures located in the same zoning district in which the facility is located.
2. The minimum number of parking spaces required for a facility shall be the same as for similar structures located in the same zoning district in which the facility is located.

B. No Dangerous Persons Permitted. No facility shall be made available to an individual whose tenancy would:

1. constitute a direct threat to the health or safety of other individuals, or
2. result in substantial physical damage to the property of others.

C. License and Certification. Prior to occupancy of any facility, the person or entity operating the facility shall:

1. provide to the City a copy of any license or certification required by the Utah State Department of Health or the Utah State Department of Human Services, and
2. certify in a sworn statement that no person will reside or remain in the facility whose tenancy would:
 - a. constitute a direct threat to the health or safety of other individuals, or
 - b. result in substantial physical damage to the property of others.

Section 5.06.050 Reasonable Accommodation

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

B. Application. Any person or entity wanting a reasonable accommodation shall make application therefore to the Zoning Administrator and shall articulate in writing the nature of the requested accommodation and the basis for the request.

C. Decision. The Zoning Administrator shall render a decision on each application for a reasonable accommodation within 30 days.

D. Appeal. If a reasonable accommodation request is denied, the decision may be appealed to the City Council in the manner provided for appeals of administrative decisions set forth in this Code.

Section 5.06.060 Parking Requirements

Residential Facilities for elderly persons shall have two off-street parking stalls. Residential facilities for persons with a disability shall have one visitor parking space per three resident beds, plus one parking space for each employee that works in the facility during daylight hours.

(2010-05, Chapter Added, eff. 4/14/2010; 2012-12, Section Amended, eff. 04/11/12)