

1-1-1: TITLE:

Upon the adoption by the town council, this municipal code is hereby declared to be and shall hereafter constitute the official municipal code of Daniel. This municipal code of ordinances shall be known and cited as the *DANIEL MUNICIPAL CODE, or simply the MUNICIPAL CODE*, and is hereby published by authority of the town council and shall be supplemented to incorporate the most recent legislation of the town as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this municipal code by title in any legal documents.

1-1-2: ACCEPTANCE:

The municipal code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the town of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title.

1-1-3: AMENDMENTS:

Any ordinance amending the municipal code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this municipal code. All such amendments or revisions by ordinance shall be immediately forwarded to the town recorder, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this municipal code. Each such replacement page shall be properly identified and shall be inserted in each copy of the municipal code.

1-1-4: CODE ALTERATIONS:

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this municipal code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the town council. The town clerk shall see that the replacement pages are properly inserted in the official copies maintained in the office of the town clerk. Any person having custody of a copy of the municipal code shall make every effort to maintain said code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the town clerk. Said code books, while in actual possession of officials and other interested persons, shall be and remain the property of the town and shall be returned to the office of the town clerk when directed so to do by order of the town council.

1-1-5: INCORPORATION OF STATUTES:

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this code unless the provisions of this code specifically include, incorporate or make the citation or statute part of this code by reference or incorporation, and any such

reference or citation not specifically included or incorporated may be changed, amended or deleted without publication on an order of the town council.

1-2-1: REPEAL OF GENERAL ORDINANCES:

- A. Repealer; Exceptions: All general ordinances of the town passed prior to the adoption of this municipal code are hereby repealed, except such as are included in this municipal code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; and all special ordinances.
- B. Effect Of Repealing Ordinances: The repeal of the ordinances provided in subsection A of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this municipal code or by virtue of the preceding section, excepting as the municipal code may contain provisions for such matters, in which case, this municipal code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

1-2-3: COURT PROCEEDINGS:

- A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be applied, by consent of the party affected, to any judgment announced after the new ordinance takes effect.
- B. Scope Of Section: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. Actions Now Pending: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the adoption of this municipal code.

1-2-4: SEVERABILITY CLAUSE:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this municipal code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court or arbitrator of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The town council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

1-3-1: CONSTRUCTION OF WORDS:

A. Whenever any word in any section of this municipal code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this municipal code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this municipal code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto. The use of any verb in the present tense shall include the future and past tense when applicable.

B. All words and phrases shall be constructed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.

C. The word "ordinance" contained in the ordinances of the town has been changed in the content of this municipal code to "title", "chapter", "section" and/or "subsection", or words of like import for organizational and clarification purposes only. Such change to the town's ordinances is not meant to amend passage and effective dates of such original ordinances.

1-3-2: DEFINITIONS, GENERAL:

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

BUSINESS: Includes any trade, profession, calling, activity, operation or enterprise for which a license or permit is required by any ordinance of the town.

CODE: The municipal code of the Town of Daniel, Utah.

COUNTY: Wasatch County, Utah.

EMPLOYEES: Whenever reference is made in this code to a town employee by title only, this shall be construed as though followed by the words "of the Town of Daniel".

FEE: A sum of money charged by the town for the carrying on of a business, profession or occupation.

GENDER: A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.

HIGHWAY; ROAD: Includes public bridges, and may be equivalent to the words "county way", "county road", "common road" and "state road".

LICENSE: The permission granted for the carrying on of a business, profession or occupation. The term "license" includes any certificate, permit or license issued by the town.

MAYOR: The individual appointed or elected to act as the mayor of the town.

NUISANCE: Anything done by one which annoys or disturbs another in the free use, possession or enjoyment of his/her property, or which renders its ordinary use or occupation physically uncomfortable. Excessive and unwanted noise or the intrusion of excessive and/or harsh light could be considered such an annoyance. Any act or activity creating a hazard which threatens the health, safety and/or welfare of the inhabitants of the town. Whatever renders soil, air, water or food impure, unwholesome or materially polluted. Any action or activity which fits this definition or which is declared a nuisance by the municipal code shall be considered a nuisance and unlawful hereunder. It shall also be unlawful for any person either as an owner, agent, tenant or occupant to create, contribute to, maintain or aid in the creation of a nuisance.

OCCUPANT OR TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

OFFICERS OR OFFICIALS: Any elected or appointed person employed by the town, unless the context clearly indicates otherwise. Whenever reference is made in this code to a town officer or official by title only, this shall be construed as though followed by the words "of the town of Daniel".

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

PROPERTY: Includes both real and personal property.

REASONABLE TIME: In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

RECORDER: The individual appointed to act as the recorder of the town.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

STATE: The state of Utah.

STREET: Includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.

TENANT OR OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

TIME COMPUTED: The time within which an act is to be done as provided in any ordinance or in any resolution or order of the town, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday. When time is expressed in hours, Sunday and all legal holidays shall be excluded.

TOWN: The town of Daniel, Wasatch County, Utah.

TOWN CLERK: The individual appointed to act as the town clerk of the town.

TOWN COUNCIL: Unless otherwise indicated, the town council of the Town of Daniel, Utah.

TREASURER: The individual appointed to act as the treasurer of the town.

WEEK: Shall be construed to mean any seven (7) day period.

WHOLESALER: The terms "wholesaler" and "wholesale dealer", as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

1-3-3: CATCHLINES:

The catchlines of the several sections of the municipal code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1-4-1: SENTENCING:

A. Penalty For Violation Of Ordinance:

1. Specified: The town council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

2. Exceptions:

a. Except as provided in subsection A2b of this section, the town council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301.

b. The municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance, except as authorized in Utah Code Annotated section 10-3-703.5.

B. Term Of Imprisonment For Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a class B misdemeanor, for a term not exceeding six (6) months;

2. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

C. Infractions:

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

D. Fines Of Persons: A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

1. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.

E. Fines Of Corporations: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the town, or for an offense defined outside of this code over which this town has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a class C misdemeanor conviction or for an infraction conviction.

1-4-2: OFFENSES DESIGNATED; CLASSIFIED:

A. Sentencing In Accordance With Chapter:

1. A person adjudged guilty of an offense under this code or the ordinances of this town shall be sentenced in accordance with the provisions of this chapter.

2. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

B. Designation Of Offenses: Offenses are designated as misdemeanors or infractions.

C. Misdemeanors Classified:

1. Misdemeanors are classified into two (2) categories:

a. Class B misdemeanors;

b. Class C misdemeanors.

2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or any ordinance of this town when no other specification as to punishment or category is made, is a class B misdemeanor.

D. Infractions:

1. Infractions are not classified.

2. Any offense which is made an infraction in this code or other ordinances of this town, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this town which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

1-4-3: ADMINISTRATIVE HEARINGS:

A. Request: Unless otherwise specifically provided in any ordinance of the town or any code adopted by reference, a hearing before the town council may be requested by any person:

1. Who is denied or refused a permit or license by any officer, agent or employee of this town.

2. Whose permit or license is revoked, restricted, qualified or limited from that for which it was first issued.

B. Form Of Request: The request for hearing must be made in writing to the mayor or town clerk and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying or restricting the license or permit is mailed by the town to the applicant or license holder at his address as it appears on the application or license.

C. Procedure:

1. Time And Place: Following receipt of a request for hearing, the town council shall inform the person requesting a hearing of the time and place the hearing is to be held.

2. Witnesses; Evidence: At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the town may produce to support its decision and to present his own evidence in support of his contention.

3. Decision Of Town Council: The town council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the town council.

- D. Not Additional Remedy: This section shall not be construed so as to afford any aggrieved party more than one hearing before the town council nor shall the hearing provided in this section apply to any criminal complaint or proceeding.

1-5-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS:

- A. Declaration Of Candidacy: A person filing a declaration of candidacy for a town office shall:

1. Have been a resident of the town for at least one year immediately before the date of the election; and
2. Meet the other requirements of Utah Code Annotated section 20A-9-203.

- B. Annexed Areas: A person living in an area annexed to the town meets the residency requirement of this section if that person resided within the area annexed to the town for at least one year before the date of the election.

- C. Registered Voter: Any person elected to town office shall be a registered voter in the town.

- D. Continuous Absence From Town: If an elected town officer is absent from the town any time during his term of office for a continuous period of more than sixty (60) days without the consent of the town council, the town office is automatically vacant.

1-5-2: MEMBERSHIP; TERMS:

- A. Composition: The town council shall be a council of five (5) persons, one of whom shall be the mayor and the remaining four (4) shall be council members.

- B. Election; Terms: The election and terms of officers shall be as follows: the offices of mayor and all council members shall be filled in municipal elections. The terms for each shall be for four (4) years. The elections for mayor and two (2) council members shall be staggered from the election of the other two (2) council members such that there shall be a two (2) year separation between said elections.

- C. Vacancy In Office: Mayor or town council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510.

1-5-3: MAYOR AS MEMBER OF TOWN COUNCIL:

- A. Presiding Officer; Mayor Pro Tempore: The mayor shall be the chairperson and preside at the meetings of the town council. In the absence of the mayor or because of his inability or refusal to act, the town council may elect a member of the town council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

- B. Voting: The mayor shall vote as a member of the town council. Any member of the town council appointed to act as mayor pro tempore shall cast only one vote.

C. Powers And Duties: The mayor:

1. Shall execute on the town's behalf all bonds, notes, contracts and written obligations of the town;
2. Shall appoint, with the advice and consent of the town council, persons to fill town offices or vacancies on commissions or committees of the town.

D. No Veto: The mayor shall have no power to veto any act of the town council, unless otherwise specifically authorized by statute.

1-5-4: MUNICIPAL ADMINISTRATION:

A. Additional Powers And Duties Of Elected Officials: The town council may, by resolution, prescribe additional duties, powers and responsibilities for any elected or appointed official which are not prohibited by any specific statute, except that the mayor may not serve as clerk or mayor and neither the mayor nor the clerk may serve as treasurer. A justice court judge may not hold any other town office or position of employment with the town.

B. Rules And Regulations For Administration: The town council shall approve rules and regulations which are not inconsistent with the laws of this state, as it deems best for the efficient administration, organization, conduct and business of the town.

C. Appointed Officers; Residency Requirements: The town council may require by ordinance that any or all appointed officers reside in the town.

1-5-5: MEETINGS; PROCEDURE AND CONDUCT:

A. Regular Meetings: The town council shall hold one regularly scheduled meeting per month, which shall be held at a place, on a day and at a time established by the town council on at least an annual basis; provided, that:

1. If the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on the day before or after the regular meeting;
2. Upon approval of each member, the town council may provide for a different time and place for holding any regular meeting in any given month, provided notice of the change and of the new meeting time and place is posted at the location of the meeting and at two other public locations no later than the Friday preceding the meeting.
3. The town council may also call for and hold work meetings as deemed necessary to discuss matters of town business, said meetings shall be held and noticed in compliance with open meeting regulations, Utah Code Annotated sections 52-4-1 et seq., and 10-3-502.

B. Special Meetings: If at any time the business of the town requires a special meeting of the town council, such meeting may be ordered by the mayor or any two (2) members of the town council. The order shall be entered into the minutes of the town council. The order shall provide at least three (3) hours' notice of the special meeting and notice thereof shall be served by the town clerk on

each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a council member at any specially called meeting constitutes a waiver of the notice required in this subsection.

C. Open Meetings; Exceptions: Every meeting is open to the public, unless closed pursuant to Utah Code Annotated sections 52-4-4 and 52-4-5.

D. Quorum:

1. Defined: The number of members of the town council necessary to constitute a quorum is three (3) or more.
2. Necessary: No action of the town council shall be official or of any effect, except when a quorum of the members is present.
3. Compelling Attendance: The town council shall have the power to compel the attendance of its own members and provide such penalties as it deems necessary for the failure to comply therewith.

E. Voting:

1. How Vote Taken: A roll call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the town and in any other case at the request of any member of the town council by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.
2. Minimum Vote Required: The minimum number of "yes" votes required to pass any ordinance, resolution or to take any action by the town council, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3).
 - a. Any ordinance, resolution or motion of the town council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the town council even though such majority vote is less than that required herein.
 - b. A majority of the members of the town council, regardless of number, may fill any vacancy in the town council.
3. Reconsideration: Any action taken by the town council shall not be reconsidered or rescinded at any special meeting unless the number of members of the town council present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

F. Record Of Proceedings: The town council shall keep a journal of its proceedings. The books, records, accounts and documents of the town shall be kept at the office of the town clerk and approved copies shall be open and available to the public during regular business hours for examination and copying. The town council may by resolution establish reasonable charges for providing copies of its

public records to individuals, except when by law the town must provide the records without cost to the public.

G. Procedure; Conduct:

1. Rules Of Procedure: The procedure governing meetings of the town may be established by resolution.

2. Rules Of Conduct:

a. The town council may fine or expel any member for disorderly conduct on a three-fifths (3/5) vote of the members of the town council.

b. The town council, on a three-fifths (3/5) vote, may expel any person who is disorderly during the meeting of the town council. This subsection or any action taken by the town council pursuant hereto, shall not preclude prosecution under any other provision of law.

H. Action On Committee Reports: Final action on any report of any committee appointed by the town council shall be deferred to the next regular meeting of the town council on the request of any two (2) members, except that the town council may call a special meeting to consider final action.

I. Requiring Attendance Of Witness; Production Of Evidence: The town council may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the town. The town council may by ordinance establish its own procedures for issuing subpoenas to require attendance and production under this subsection or it may issue subpoenas in its own name in the same manner as is provided in the Utah rules of civil procedure.

1-5-6: METHOD OF COMMUNICATION FOR PROFESSIONAL SERVICES:

Any requests made upon persons or entities under contract for professional services for legal, accounting, engineering or other professional opinions or services shall be sent by the town clerk or deputy town clerk and signed by two (2) council members.

1-5-7: ORDINANCES AND RESOLUTIONS; PROCEDURES:

A. Legislative Power Exercised By Ordinance: Except as otherwise specifically provided, the town council shall exercise its legislative powers through ordinances.

B. Power Exercised By Ordinance: The town council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the town shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

C. Penalty For Violation Of Ordinance:

1. Specified: The town council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

2. Exceptions:

a. Except as provided in subsection A2b of this section, the town council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301.

b. The municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance, except as authorized in Utah Code Annotated section 10-3-703.5.

D. Form Of Ordinance: Any ordinance passed by the town council shall contain and be in substantially the following order and form:

1. A number;

2. A title which indicates the nature of the subject matter of the ordinance;

3. A preamble which states the need or reason for the ordinance;

4. An ordaining clause which states "Be it ordained by the Town of Daniel:";

5. The body or subject of the ordinance;

6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the town ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;

7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;

8. A line for the signature of the mayor or mayor pro tem to sign the ordinance; and

9. A place for the town clerk to attest the ordinance and affix the seal of the town.

E. Requirements As To Form; Effective Date:

1. Ordinances passed or enacted by the town council shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the town council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code Annotated section 10-3-704(1) through (4).

2. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the town council, whichever is sooner.

F. Publication And Posting Of Ordinances: All ordinances, except those enacted pursuant to Utah Code Annotated sections 10-3-706 to 10-3-710, before taking effect shall be deposited in the office of the town clerk and a short summary of the ordinance published at least once in a newspaper published within the town, or if there is no newspaper published therein, then by posting complete copies in three (3) public places within the town. Any ordinance, code or book, other than the state code, relating to building or safety standards, town functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least three (3) copies have been filed for use and examination by the public in the office of the town clerk prior to the adoption of the ordinance by the town council. Any state law relating to building or safety standards, town functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code. The ordinance adopting the code or book shall be published in the manner provided in Utah Code Annotated sections 10-3-709 and 10-3-710.

G. Recording; Numbering; Certification Of Passage: The town clerk shall record, in a book used exclusively for that purpose, all ordinances passed by the town council. The town clerk shall give each ordinance a number, if the town council has not already so done. Immediately following each ordinance, or codification of ordinances, the town clerk shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage and publication or posting of the ordinance or codification.

H. Resolutions:

1. Purpose: Unless otherwise required by law, the town council may exercise all administrative powers by resolution, including, but not limited to: a) establishing water and sewer rates; b) charges for garbage collection and fees charged for town services; c) establishing personnel policies and guidelines; and d) regulating the use and operation of town property. Punishment, fines or forfeitures may not be imposed by resolution.

2. Form: Any resolution passed by the town council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

3. Publication; Effective Date: Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the town council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

1-6-1: CREATING OFFICES; FILLING VACANCIES:

A. Offices Created By Council: The town council may create any office deemed necessary for the government of the town and provide for filling vacancies in elective and appointive offices.

B. Mayor To Appoint And Fill Vacancies: The mayor, with the advice and consent of the town council, may appoint and fill vacancies in all offices provided for by law or ordinance.

C. Continuation In Office: All appointed officers shall continue in office until their successors are appointed and qualified.

1-6-2: TOWN CLERK AND TOWN TREASURER:

A. Appointment: On or before the first Monday in February following a town election, the mayor, with the advice and consent of the town council, shall appoint a qualified person to each of the offices of town clerk and town treasurer.

B. Ex Officio Auditor: The town clerk is ex officio town auditor and shall perform the duties of that office.

1-6-3: BONDS OF OFFICERS:

A. Bonds Required: All elected officers of the town, before taking office, shall execute a bond with good and sufficient sureties, payable to the municipality in such amount as shall be set by the town council by ordinance or resolution from time to time, conditioned for the faithful performance of the duties of the respective officers and the payment of all monies received by such officer according to law and the ordinances of the municipality.

B. Approval Of Bonds: The bonds of the mayor and the council members shall be approved by the town council at the first meeting of the town council in January following a town election.

C. Premium Paid By Town: The premium charged by a corporate surety for any bond required by the town shall be paid by the town.

D. Additional Bonds; Filing: The town council may at any time require further and additional bonds of any or all officers elected or appointed, with good and sufficient sureties, payable to the town in such sum as the resolution or ordinance may establish, conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law and the ordinances of the town. All bonds given by the officers, except as otherwise provided by law, shall be filed with the town treasurer.

1-6-4: OATH OF OFFICE:

A. Constitutional Oath Of Office: All officers, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office. The form of oath shall be as provided in the Utah constitution article IV, section 10.

B. Filing: The oath of office required under this section shall be administered by any judge, notary public or by the town clerk. Elected officials shall take their oath of office at twelve o'clock (12:00) noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the town clerk.

C. Acts Of Officials Not Voided: No official act of any town officer shall be invalid for the reason that he failed to take the oath of office.

1-6-5: COMPENSATION: Amd. 2015

A. Specified: The salary of the elective and statutory/appointive officers of this town shall be paid in the amount and at such times as is below specified:

| | |
|---------------------|--|
| Mayor | \$800 per month |
| Council member | \$50.00 per meeting attended |
| Planning commission | \$2.00 per meeting |
| Town clerk | \$600 per month |
| Town treasurer | \$600 per month |
| Town engineer | As agreed upon in employment contract approved at public hearing held as provided in this section |
| Town attorney | As agreed upon in employment contract approved at public hearing held as provided in this section. |

B. Benefits: In addition to the salary paid the elective and statutory/appointive officers of this town, they shall receive the following benefits:

1. The employees' share of the social security tax.
2. Health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the town council may from time to time establish by resolution.

C. Serving Two Or More Positions: Whenever any person serves in two (2) or more positions either as officers or employees of this town, unless otherwise specifically provided in the employment agreement, by ordinance or by resolution, that person shall receive the salary or compensation of the office or employment paying the greater amount.

D. Travel Expenses; Per Diem: In addition to all other compensation or salary, any officer or employee of this town may receive, following the submission to the town clerk of a claim, travel expenses and per diem established by the Utah state department of finance for expenses actually incurred by the person for attending any meeting, conference, seminar or training session, provided attendance shall have been approved by the Mayor.

E. Review Of Compensation; Public Hearing: Upon its own motion, the town council may review or consider the compensation of any officer of the town, or a salary schedule applicable to any officer of the town, for the purpose of determining whether or not it should be adopted, changed or

amended. In the event that the town council decides that the compensation or compensation schedule should be adopted, changed or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

F. Notice Of Public Hearing: Notice of the time, place and purpose of the meeting shall be published at least seven (7) days prior thereto by publication at least once in a newspaper published in the county within which the town is situated and generally circulated in the town. If there is no such newspaper, then notice shall be given by posting such notice in three (3) public places in the town.

G. Ordinance Enacted: After the conclusion of the public hearing, the town council may enact an ordinance fixing, changing or amending the compensation of any elective or appointive officer of the town or adopting a compensation schedule applicable to any officer.

1-6-6: OFFICIAL NEGLIGENCE AND MISCONDUCT:

In case any town officer shall at any time willfully omit to perform any duty, or willfully and corruptly be guilty of oppression, misconduct, misfeasance or malfeasance in office, the person is guilty of a class A misdemeanor, shall be removed from office and is not eligible for any town office thereafter.

1-6A-1: APPOINTMENT:

The mayor, with the advice and consent of the town council, shall appoint a town engineer. The person so appointed as town engineer shall be a registered professional engineer under Utah Code Annotated title 58, chapter 22.

1-6A-2: POWERS AND DUTIES:

A. Specified: The town engineer shall:

1. Be custodian of all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the town;
2. Record all maps, plats, etc., that relate to public improvements; and
3. Be responsible for and coordinate construction of, by example and not by way of limitation, bridges, roads, water systems, sewer systems, irrigation systems, reservoirs, power stations and utilities.

B. Other Duties: The town engineer shall also perform all other duties as directed from time to time by the town council.

1-6A-3: RECORDINGS NOT IN LIEU OF OTHER RECORDINGS:

Recording or filing of a document in the town engineer's office does not remove the obligation to file a drawing or instrument in other offices. Subdivision plats must be filed with the mayor, town engineer, planning commission, town attorney, town clerk and county recorder.

1-6B-1: TOWN ATTORNEY:

- A. Powers And Duties: The town attorney may prosecute violations of town ordinances and under state law, infractions and misdemeanors occurring within the boundaries of the town. The town attorney has the same powers in respect to the violations as are exercised by a county attorney or district attorney, including, but not limited to, granting immunity to witnesses. The town attorney shall represent the interests of the state or the town in the appeal of any matter prosecuted in any trial court by the town attorney.
- B. Appointment: The mayor shall appoint, with the advice and consent of the town council, a town attorney. Rate of pay and terms of the contract shall be negotiated from time to time by the mayor and ratified by the town council. Contact with the town attorney for assistance will be authorized by the mayor or the director of community development. This appointment is at the will of the town council and can be terminated without cause or notice, at which time the vacancy could be filled by appointment of another qualified licensed attorney.

1-7-1: CONDUCT OF MUNICIPAL ELECTIONS:

Election for mayor and council members shall be conducted according to the municipal election section of the Utah code.

1-7-2: PRIMARY ELECTIONS:

This chapter provides for the candidates for mayor and council members to be nominated at a primary election, if required. A primary election will be held only when the number of candidates filing for an office exceeds twice the number to be elected. The candidates nominated at the primary election, plus candidates that were not required to run in the primary, are to be placed on the November ballot.

1-7-3: CAMPAIGN FINANCE DISCLOSURE REQUIREMENTS:

A. Definitions:

CONTRIBUTION: Monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things, but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

EXPENDITURE: A purchase, payment distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

- B. Filing Of Disclosure Reports: Candidates for elective municipal offices, who receive more than seven hundred fifty dollars (\$750.00) in campaign contributions or spend more than seven hundred fifty dollars (\$750.00) on their campaigns, shall file with the town clerk, dated, signed and sworn financial reports which comply with this section.
- C. Time Of Filing: Each candidate for elective municipal office shall report their itemized and total contributions and expenditures at least once seven (7) days before the municipal general election and at least once thirty (30) days following the municipal general election.

D. Financial Reports; Required Information: Financial reports required by this section shall identify:

1. Each contribution of more than fifty dollars (\$50.00);
2. The name of the donor of the contribution;
3. The actual amount of the contribution;
4. Each expenditure;
5. The name of the recipient of each expenditure; and
6. The actual amount of each expenditure.

E. Public Information: The statements required by this section shall be public documents and shall be available for public inspection and copies may be requested in accordance with the Government Records Access and Management Act.

F. Penalty For Noncompliance: Any candidate who fails to comply with this section shall be guilty of an infraction.

1-8-1: ESTABLISHMENT:

A. Authority: The town council may by ordinance or interlocal agreement establish a justice court.

B. Established: The mayor is hereby appointed to enter into an interlocal agreement with the Fourth District Court located in Heber City, Utah to establish a justice court. Said agreement shall be on file in the town recorder's office.

1-9-1: PURPOSE:

The town is desirous of establishing policies and procedures to be followed in the purchasing of goods and services required for efficient operation of the town.

1-9-2: PURCHASE OF RECURRING OPERATIONAL MATERIALS, SERVICES:

Purchases of recurring operational materials and services (e.g., gasoline, tires, paper products, printing, employee salaries, taxes, contributions for insurance, workmen's compensation, utilities, etc.) shall be paid on a monthly basis. At all times, two (2) different authorized signatures are required.

1-9-3: APPROVAL OF PURCHASES:

Purchases, other than those described in section 1-9-2 of this chapter, which costs more than five hundred dollars (\$500.00), shall be approved in advance by a motion of the town council in open meeting. Items for approval at a given meeting may be included in a list. The town council may approve or disapprove on each line item, or on the list as a whole.

1-9-4: BID REQUIREMENTS:

- A. State Procurement Code Adopted: Pursuant to Utah Code Annotated section 10-7-86, which allows a municipality to adopt selected portions of the state procurement code, the town adopts Utah Code Annotated section 63-56-36(1)(a), (b), (c) and (2)(a) to apply to all public improvement contracts entered into by the town other than those specified in this chapter. Said section 63-56-36(1)(a), (b), (c) and (2)(a) allows the use of a construction manager/general contractor as one method of construction contracting management.
- B. Construction Manager/General Contractor Selection: Said construction manager/general contractor shall be selected through a sealed bid procedure. Public notice of the invitation for sealed bids describing the position sought and the criteria for the position shall be given a reasonable time before the date for the opening of the bids. At the date of opening, such bids shall be made a part of the public record. Award shall be made to the responsible bidder whose proposal shall be determined to be the most advantageous to the town, taking into consideration price and the criteria set forth in the bid invitation.
- C. Prequalification: Bidders for the position of construction manager/general contractor may be required to "prequalify" by presenting their state contractor's license, performance bond and other qualifications (e.g., length of time in the business, list of jobs previously done, and written permission to contact previous employers, etc.) at the time they submit their bids. Any contractor with a history of abuse of the bidding performance may have his bid rejected at the bid opening, or at any time before signing of the contract. Pursuant to Utah Code Annotated section 10-7-86, the town shall not be compelled to accept the lowest bidder in the case of professional architects, engineers and surveyors, but may make its selection according to such other criteria as is described in the statute.
- D. Exceptions: The above shall not apply with respect to the conduct or management of the departments, business or property of the town, for lowering or repairing water mains or sewers, or for grading, repairing or maintaining streets, sidewalks, bridges, culverts or conduits, with the understanding that all other applicable state laws shall be followed in the administration of these matters.

1-9-5: DISCLOSURE REQUIREMENTS:

Any purchase of goods and services will be subject to the disclosure requirements of Utah Code Annotated section 10-3-1301 et seq., to ensure that any conflict of interest between any employee or elected official of the town is disclosed and approved before any such business is approved. Any council member having a conflict due to doing business with the town or any person having business with the town shall not be allowed to vote either for or against the proposal.

1-9-6: EMERGENCY PURCHASES:

In the event of a bona fide emergency, approval of expenditures may be made by circulation of an approval sheet, and subject to ratification at the next regular town council meeting, in compliance with the Open and Public Meetings Act.

1-10-1: ADOPTION OF STATE STANDARDS:

Except as otherwise provided in this chapter, the town does hereby adopt all relevant provisions of the government records access and management act, Utah Code Annotated section 63-2-101 et seq., as the same may be amended from time to time. Town records shall be classified and managed pursuant to the standards set out in the act.

1-10-2: FEES:

The town shall establish by resolution reasonable fees for the cost of duplicating requested records.

1-10-3: RETENTION:

Retention of town records shall be in accordance with the Government Records Access and Management Act; however, the town reserves the right to maintain any or all of its records beyond the time limits set out in the state retention schedule.

1-10-4: APPEALS:

Appeals shall be made pursuant to the requirements and time limits set out in the government records and access management act, except that appeals must be made to the town council, which shall constitute the "appeals board" referred to in the act.

TITLE 2

CHAPTER 2-1

OF THE DANIEL MUNICIPAL CODE

PLANNING COMMISSION & BOARD OF APPEALS

(Adopted March 3, 2008)

2-1-1: ESTABLISHMENT

- A. Utah Code Annotated 10-9a-201 requires a municipality to establish a planning commission and an appeal authority within the municipality. The legislative body of the municipality hereby establishes a planning commission under the administration, powers and duties set forth in this Chapter and as set forth in other sections of the Daniel Municipal Code that may be amended from time to time and that make reference to a planning commission. The legislative body of the municipality hereby establishes a board of appeals under the administration, powers and duties set forth in this Chapter and as set forth in other sections of the Daniel Municipal Code that may be amended from time to time and that make reference to a board of appeals or to an appeal authority for decisions rendered by the planning commission.
- B. Candidates for the planning commission and board of appeals shall be registered voters and residents of the municipality and conform to the requirements of DMC Section 1-5-1. Candidates shall file a

declaration of candidacy or resumés with the clerk/recorder before November 15th. The municipal legislative body will then pick from the applicants to fill vacancies within the planning commission or board of appeals in accordance with DMC Section 1-5-4(c). The mayor, with the advice and consent of the municipal legislative body, has the authority to appoint members to the planning commission and board of appeals for filling vacancies and for removal from office.

2-1-2: POWERS AND DUTIES:

- A. The planning commission is the land use authority and has the authority to prepare and recommend to the municipal legislative body for the adoption and amendments to the land use map, General Plan, ordinance (Title 8), Zoning Maps, or official maps, the Annexation Policy Plan, and subdivision plats. The planning commission has the authority to review all plans as a development review committee and application as Title 8 allows and provide other functions as the municipal legislative body directs.
- B. The Board of Appeals is the appeal authority to hear on appeal decisions of the planning commission on site plans and denial of application.
- C. These boards will meet and elect a chair and vice-chair from the members of the board. The chair and vice-chair shall serve a term from Jan 1 – Jan 1 of each year or until the board meets and elects the replacement and adopts policy and procedures for the conduct of its meetings, and the process or applications,, and for other purposes considered necessary for the function of the board.
- D. Other duties as instructed by the municipal legislative body.

2-1-3: MEMBERSHIP AND TERMS OF OFFICERS:

- A. The planning commission members shall be appointed from among the residents in accordance with the provisions of DMC Section 1-5-1. Persons that are not residents are not eligible for membership on the planning commission and board of appeals.
- B. The planning commission shall consist of seven (7) members with the chair and vice-chair being voted from the members of the commission. The chair and vice-chair shall be annual positions as described in Section 2-1-2(C) above. No more than one (1) member of the planning commission may also be a member of the legislative body.
- C. The planning commission members shall serve a four (4) year term with alternating terms of three (3) members then for four (4) members.
- D. The board of appeals shall consist of five (5) members with alternating terms for two (2) members then for three (3) members.
- E. In the event that a planning commission or board of appeals member moves from the municipal area, that board member shall be deemed to have resigned from the board and that position shall be deemed to have become vacant. In the event that there are unoccupied positions, the Clerk/Recorder will give public notice at least seven (7) days to allow for applications to be submitted to the Clerk/Recorder for filling that vacancy.

F. Any planning commission or board of appeals member may be removed from office for cause after a motion to remove for cause passes with a majority vote from that board.

2-1-4: OATH OF OFFICE/STAFF ASSISTANCE:

- A. Members of the planning commission and board of appeals shall be administered the oath of office by the Clerk/Recorder following appointment but before taking part in the consideration of any matter.
- B. The mayor or the municipal legislative body may provide staff assistance to the planning commission or board of appeals.

TITLE 2

CHAPTER 2-2

OF THE DANIEL MUNICIPAL CODE

DANIEL MUNICIPAL WATER CULINARY SYSTEM

(Adopted 10-05-2009)

2-2-1: SYSTEM CREATED:

Daniel Municipal Water department and system is hereby created. It shall administer the operations and maintenance of the water systems for culinary use.

2-2-2: DUTIES OF THE MANAGER:

The position of manager is hereby created. The manager shall manage, supervise, operate and maintain the water system pursuant to the provisions of this ordinance and pursuant to other ordinances and resolutions adopted by the Daniel Town Council and rules and laws of the state of Utah, prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor and council relating to the water systems.

All of the functions and activity of the manager shall be carried out under the direction of the town council and mayor.

2-2-3: APPLICATION FOR WATER CONNECTION:

- A. Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the culinary system, shall file an application with the

manager of Daniel Municipal Water for each connection. A written and signed connection application must be completed and all fees paid or arrangements made with the town council for fees to be paid, prior to water connection. The town council will approve the format of the application and may change the format as it deems necessary.

- B. No new waterline shall be constructed or engineered until all easements and rights of way have been property secured and recorded at the Wasatch County Recorder's office. All rights of way, easements, etc. shall meet town ordinances pertaining to roads, sidewalks, property setbacks, construction and maintenance policies, or any other related town ordinances. All costs and expenses incurred for surveying, legal descriptions, and recording will be paid by the applicant.
- C. Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider shall enter into a written agreement with Daniel Municipal Water which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

2-2-4: RATES AND CONNECTION FEES:

- A. The rates, penalty fee for delinquency in payment, connection fee, inspection fee, reconnect fee, and other charges incidental to services from the Daniel Municipal Water culinary water system shall be fixed from time to time either by resolution enacted by the town council or by a majority vote of those members of the council at which a quorum is present or has waived the notice of holding a meeting and sustaining a motion to fix the rates and entered into the minutes of said meeting at which the vote is taken. The town council shall from time to time promulgate rules of levying, billing, guaranteeing, and collecting charges for culinary water service and all other rules necessary for controlling and managing the water system. The rates for service furnished shall be uniform with respect to the class or classes of service established.
- B. The town council may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.
- C. Rates may be established for services outside the corporate boundaries of the town by the town council with the advice of the manager of the water system.
- D. The town council is hereby constituted a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal, or unjust. The council may, if they see fit, rebate all or any part of the water bill of any indigent person.

2-2-5: BILLING:

- A. The town council or its agent shall send to each user, by mail, e-mail, fax, or leave at his place of business or residency, a statement stating thereon the amount of water service charges assessed against him once each month or at other intervals as the town council shall direct.
- B. The statement shall specify the amount of the bill for the service and the due date. If any customer fails to pay his bill and becomes delinquent, a delinquent user will be notified by mail on the first of the month following the nonpayment month that he/she has 15 days to bring the water bill current or face loss of service. This procedure provides a total of 45 days' grace period unless prior arrangements are made with and approved by the Daniel Town Council, but bills must be paid in full within the grace period. If the customer fails to pay within 45 days and has not made arrangements with the town council, the service will be terminated and a \$50 reconnection fee attached.
- C. If the service is discontinued for any reason, then before the service is established again, delinquent charges must have been paid or arrangements made for their payment satisfactory to the town council and must be in writing and signed by an agent of the town and the consumer. In addition to the above, a fee for termination and reestablishing service shall be assessed to the account and be satisfied with the town council or its agent prior to service reconnection.
- D. Furthermore, in addition to such payments or penalties, a delinquent consumer may be required to file a new application and deposit with the Daniel Municipal Water Culinary System.

2-2-6: TURNING ON WATER AFTER IT HAS BEEN SHUT OFF PROHIBITED:

It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water services or other violations of the ordinances, resolutions, and rules pertaining to the water services, to turn on or to allow the water to be turned on or used without authority from the manger or town council.

2-2-7: SEPARATE CONNECTIONS:

It shall be unlawful for a person receiving service for a residence to allow more services to a business, or separate detached and independent facility from a same service connection, unless permission for the combination uses is granted by the town council and shall be in writing and signed by both parties or agents. Failure to comply with this section may warrant a withholding of water service until compliance or payment for water services has been made. The property owner shall be primarily liable to Daniel Municipal Water for all water services utilized on all such premises. Nothing herein shall be deemed to preclude Daniel Municipal Water or town council, at a future time, to require separate pipes or connections to the water system.

The prohibitive uses herein shall not apply in those instances where the joint residential and business are in existence at the time of the adoption hereof. If and when such use is discontinued or there is a change of ownership, or severance of ownership between the residence and business, then the use protection afforded herein shall terminate.

2-2-8: UNAUTHORIZED USERS:

It shall be unlawful for any water user to permit any person from other premises or any unauthorized person to use or obtain water service regularly from his water facilities, either outside or inside his premises.

2-2-9: CROSS CONNECTIONS PROHIBITED:

It shall be unlawful for any water service user to intentionally or through negligence cause there to be a cross connection of the Daniel Municipal Water system and another source which results in contamination or the risk of contamination of the town water system. All users shall keep their service pipes in good repair and protected from frost or freezing at their own expense. No person except under the direction of the manager or agent of the town is allowed to dig into the street for the purpose of laying, removing, or repairing any service pipe. Users that use water for other purposes, other than those applied for, are prohibited from doing so and are in violation of the rules and regulations for controlling water supply.

2-2-10: SPRINKLING VEHICLES:

Sprinkling and construction uses shall be under the direction of the manager or his agents of the water department.

2-2-11: FREE ACCESS TO PROPERTY:

The manager or his agents shall have free access at all ordinary hours to any place serviced with water from the culinary water system, to inspect any apparatus and ascertain the amount and risk of water service being used and the manner of its use.

2-2-12: NON-LIABILITY FOR DAMAGES:

The town or its agents shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any

other unavoidable cause. This section shall not be construed to extend the liability of the government immunity act.

2-2-13: SCARCITY OF WATER:

In times of scarcity of water the mayor, water manager, or town council in their judgment shall issue a proclamation to limit the use of water to such an extent as may be necessary.

It shall be unlawful for any person, his family, servants or guests or agents to violate any proclamation made by the mayor, council, or manager in pursuance of this part. In the event that the use of water need be limited, a notice of such will be mailed, phones, or door-to-door contact be made with every customer affected by such a proclamation.

2-2-14: WASTE OF WATER:

- A. Users from the culinary water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the manager or any officer of the town, a user of culinary water engages in practices which result in the needless waste of water and continues to do so after notice to discontinue such use has been given, the manager or town officer may refer the matter to the town council.
- B. Meters will be furnished by the Daniel Municipal Water system upon application for a connection, and upon payment and approval of such connection and fees and other costs as may be established by the town council from time to time.
- C. Meters shall be and shall remain property of the Daniel Municipal Water system. Meters may be checked, inspected or adjusted at the discretion of the manager, and shall not be adjusted or tampered with by the customer. Meter boxes shall be property of the Daniel Municipal Water system and should not be opened or used to turn off water except by an authorized person or in an emergency situation unless permission is given by the manager.
- D. If a customer submits a written request to the manager to have his meter tested, the town council may order a test of the meter. If the request is made within 12 months of a previous request, the customer may be charged for the cost associated with the test at the discretion of the town council or manager. If the meter reads usual and customary, the meter may be deemed as accurate. If the meter fails to register at any time, the water usage shall be estimated from previous billing cycles that are not in question.

2-2-16: DAMAGE TO TOWN PROPERTY OR LINES:

All damages or injury to the lines, meters, or other materials of the Daniel Municipal Water system on or near the customer's premises caused by any act or neglect of the customer shall, at the discretion of Daniel Municipal Water, be repaired by Daniel Municipal Water personnel and at the expense of the customer, including attorney fees that may arise or accrue to Daniel Municipal Water through its efforts to repair the damage to lines, meters, other equipment of Daniel Municipal Water or collection of such costs from the customer.

2-2-17: APPLICATION FOR INSTALLATION PERMIT:

Applications for permits to make water connections or other alterations or for laying or repairing waterlines connected directly or indirectly to the Daniel Municipal Water system must be made in writing by a licensed contractor, or his agent, or by the owner of the premises who shall accurately and completely describe the work to be done.

The applications may be granted if the manager determines that:

1) The connection, repair, alteration or installation will not cause damage to the street, or that it will not be prejudicial to the interest of the person whose property has been or may thereafter be connected to the water system; 2) the connection conforms to the ordinances, regulations, specifications, and standards of the town; 3) if any excavation takes place outside the property boundaries, an excavation permit is required from the town.

All connections, alterations, inspections, or installations shall be to the grade designated by the manager.

2-2-18: WATER LINE MAINTENANCE:

A. The actual costs of parts and labor for the approved initial installation of a water connection are the responsibility of the water user and will be paid by the property owner.

B. Daniel Municipal Water will be responsible for the maintenance of the main trunk line to the meter or property line of the Daniel Municipal Water customers. The resident or property owner will be responsible for maintenance of the connection line from the meter or property line to the structure.

2-2-19: DISCONTINUANCE OF SERVICE:

Any customer desiring to discontinue service shall notify Daniel Municipal Water in writing of such at least 15 days before the date when service is to be discontinued. On giving such written notice, the customer shall not be responsible for water bills incurred after the date specified in the notice.

2-2-20: FINAL METER READING AT TIME OF PROPERTY SALE:

The water meter must be read at the time of sale of any property and is the responsibility of the owner prior to the sale to notify Daniel Municipal Water, and any and all costs for collection of the bill will be at the previous owner's expense.

2-2-21: EXTENSION OF WATER WITHIN THE TOWN:

- A. Any person or persons, including any subdivider, who desires to have the water mains extended within the town and is willing to advance the whole expense of such extension, as hereinafter provided, may make application to the manager and town council by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the water manager. The town council may grant or deny the petition using its discretion on which seems best for the welfare of residents of the town.
- B. Upon the receipt of such petition and map and before the petition is granted, the town council shall obtain from the manager or town engineering firm a certified statement showing the whole cost of expense of making such extension.
- C. If the petition is granted, the certified amount of cost of making the extension shall be deposited with the town before any work shall be done on such extension. This deposit will be used to perform the work of the extension. In the event any deposit remains, the balance shall be refunded to the petitioner.
- D. Any such extensions shall be deemed the property of the Daniel Municipal culinary water system.

2-2-22: FIRE HYDRANTS:

Fire hydrants shall be installed under the direction of Daniel Municipal Water. All repairs shall be under the direction of Daniel Municipal Water's manager.

All customers shall grant the town, upon demand, a right of way or easement to install and maintain such hydrants and waterlines on their premises if the town concludes that hydrants are for the protection and welfare of the residents of the town.

2-2-23: SERVICE OUTSIDE THE BOUNDARY OF THE TOWN:

Daniel Municipal Water may furnish water service to connections outside the town. However, nothing therein contained shall be construed to require water connections or service outside the corporate limits of the town, and such shall be at the sole discretion of the town council, or as governed by other ordinances or resolutions of the town.

2-2-24: IMPACT FEES FOR WATER CONNECTIONS:

A. An impact fee shall be established and imposed upon new water connections.

B. Daniel Town Council is authorized to adjust impact fees as necessary by resolution.

3-1-1: DEFINITIONS:

As used in this chapter, APPLICATION: Includes an original application and an application for a renewal of a license or permit.

BUSINESS: Means and includes all activities engaged in within this town carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.

EACH SEPARATE PLACE OF BUSINESS: Each separate establishment or place of operation, whether or not operating under the same name, within the town, including a home or other place of residence, if the same is held out by advertisements, listings or otherwise as part of the business establishment or place of operation, of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the town.

EMPLOYEE: Operator, owner, or manager of a place of business and any persons employed by such person in the operation of that place of business, in any capacity, and also any salesman, agent engaged in the operation of that place of business, in any capacity.

ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, soliciting patronage for the business (actively or passively), performing or attempting to perform any part of such business in the town, and the rendering of personal services for others for a consideration by a person, firm or corporation engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

LICENSE OR PERMIT: Includes a renewal of a license or permit. Also, 'license' includes a permit unless the context clearly requires otherwise.

PEDDLER: One who sells food, goods, wares, services or commodities from place to place, without an appointment or invitation to the place of solicitation, and makes delivery of the product at the time to

conduct or promises delivery at a future date. The time of collection of payment is immaterial. The term “peddler” includes all activities described as solicitation of sales or services door to door. This type of business is prohibited in Daniel Town unless the sales are done by an approved civic organization.

PERSON: Any individual, corporation, limited liability company, general or limited partnership, joint venture, business trust, receiver, assignee for the benefit of creditors, trustee in bankruptcy, trust, estate, foundation, association, or any other form of organization, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

3-1-2: NOTICES:

Any communication regarding a licensee’s or applicant’s license may be sent by mail, postage prepaid, or by facsimile transmission with a machine confirmation of transmittal (followed by mailing), and shall be deemed received by the addresses two days after mailing for mailed communications, or immediately upon transmission for confirmed facsimile communications. The service of process of any documents concerning a license or application may, in addition to personal service or any other permitted method, be served via certified mail, return receipt requested unless otherwise provided by law.

3-1-3: LICENSE ASSESSOR AND COLLECTOR:

The chair of the planning commission is designated and appointed as ex officio assessor of license fees for this town. On receipt of any application of a license, the chair of the planning commission shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. The chair of the planning commission shall enforce all provisions of this title, and all other applicable ordinances and regulations, shall cause to be filed complaints against all persons violating any of the provisions of this title, and shall maintain a suitable index containing the names and addresses of all licensees of each class.

3-1-4: LICENSE REQUIRED:

It shall be a class B misdemeanor for any person to transact, engage in or carry on any business, trade, profession or calling, or to operate a coin-operated machine without first receiving the proper classification of business license required by the town. This Subsection shall be effective on July 1, 2007.

3-1-5: APPLICATION FOR LICENSE:

- A. Information Required: Any individual, corporation, partnership or business entity desiring a business license shall file with the planning staff for each such license a written and signed application.
- B. It is a violation of this chapter for any person to knowingly file a business license application or related documents containing false information or for any person to knowingly provide any false statement of information to any authorized official investigating any matter.
- C. Different Classifications of Businesses:
 - 1. The two classifications of businesses are commercial, which classification is only allowable in the commercial or industrial zones as defined in Title 8, and home-based, which classification would be

for any business allowable in any residential zone; both of which classifications require a permanent physical business location in Daniel from which the business will be conducted, unless the business office is located in another municipality but advertises itself as a Daniel business. Applicants with two (2) or more businesses of the same classification under the same roof, but which are of distinctly different types, i.e., food service, retail, lodging, etc., must be licensed together and pay an enhanced fee as set by the council by resolution from time to time. Businesses operated by the same owner in different locations must obtain a separate license and pay a separate fee for each location. (Amended eff. 3-3-2008)

- D. Applications for license renewal, including the required fees, must be received by the anniversary of the issuance of the license. A delinquent fee shall be charged for renewal applications and fees received more than thirty (30) days after that date, pursuant to section 3-1-7 and 3-1-8. Within thirty (30) days after the anniversary of the issuance of a certain license, the planning staff shall send a notice to all businesses that have not submitted a renewal application stating that if the renewal application and fees (including delinquent fees) are not received within thirty (30) days of the license expiration, the license will be terminated. (Amended eff. 3-3-2008)
- E. If an applicant for a renewal license has received a notice of pending denial pursuant to section 3-1-13.2, his license shall continue to be valid until ten (10) business days from such notice if a hearing is not requested, or if the applicant requests a hearing, until the town council issues a final decision after a hearing where the applicant appears, or if the applicant fails to appear at the hearing, until the date of the hearing. All business license applicants submitting applications and renewal applications are required to appear before the town council to discuss the application with the Daniel Town Council in a public meeting. The town council may vote to approve, approve with conditions, or continue the application at the public meeting. (Amended eff. 6-2-2008)

3-1-6: FEE FOR LICENSE; EXEMPTIONS:

- A. The business license fees for each classification of business shall be set by resolution from time to time by the town council, based on a periodical review of the relevant costs.
- B. Exemptions to License and Fee: No license shall be required and no license fee shall be imposed upon:
1. Any enterprise not maintaining a place of business within this town unless the business substantially advertises itself as operating from or being located in Daniel.
 2. Organizations recognized under Title 26, Section 501(c)(3) of the United States Internal Revenue Code or any successor law, rule or regulation, provided persons representing the organization act with the knowledge of the organization, and provided that persons representing the organization have identification establishing their connection with the organization on their person. Such identification may include, but is not limited to uniforms and preprinted nametags.
 3. Persons who represent a fixed place of business located outside of the town who regularly make deliveries, for the purposes of completing sales or fulfilling orders over an established route, or obtaining additional customers for regular deliveries. An example would be newspaper deliveries.

4. Any vehicle that is merely passing through the town and is used exclusively in intercity or interstate commerce.
5. Yard sales or garage sales of household goods held on residential property. Such sales shall operate not more than three (3) consecutive days, or any more than a total of twelve (12) days in any twelve (12) month period.
6. Any person whose only business activity in this town is the mere delivery in the town of property sold by that person at a regular place of business maintained by that person outside the town (such as a furniture store outside Daniel) where:
 - a. Such person's business is at the time of such delivery licensed by the state, municipality or county in which such place of business is situated;
 - b. The authority licensing such business grants to licensees of Daniel Town making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this subsection;
 - c. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of Daniel Town for compliance with health or sanitary standards prescribed by Daniel; and
 - d. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol used by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- C. The town clerk shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified.
- D. Fee Not To Constitute Undue Burden On Interstate Commerce: None of the license taxes provided for by this chapter shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at, or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting evidence, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor shall then conduct an investigation, comparing the applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the tax fixed by this chapter is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the town council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the town council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount.

E. Fees not refunded: No license fee, or any part of it, shall be refunded for any reason whatsoever, once the license has been granted or issued by the town.

F. If a license is denied for any reason, the applicant shall be entitled to a refund of the amount that accompanied the application in excess of \$25.00, which \$25.00 shall be retained by the town to offset **the cost of processing the application.**

3-1-7: PAYMENT DATES:

All license fees shall be due and payable as follows, except as may be otherwise provided:

A. Payable: Annual fees shall be payable before July 1 of each year. The annual license shall date from July 1 and shall expire on June 30 of the following year. As a courtesy to the licensees, in April of each year the town clerk shall mail a notice regarding expiration of the license(s) and describing the process for renewal of the same. A failure to send out such notice or the failure of the licensee to receive it shall not, however, excuse the licensee from a failure to annually obtain a new license, or a renewal of a license, nor shall it be a defense in an action for operation without a license.

B. Delinquent: Annual fees shall be due on July 1 and shall become delinquent if not paid by August 1 of each year.

C. New Applications: New applications shall be prorated using the annual fee schedule, times the number of months open. Payment shall be due upon the date of application approval and will be considered delinquent thirty (30) days past this date.

3-1-8: PENALTY FOR LATE PAYMENT:

If any license fee provided for in this title is not paid within thirty (30) days of the due date, it is considered delinquent and a late payment penalty in such amount as established by resolution of the town council shall be added to the original amount thereof. No license shall be issued until all penalties assessed have been paid in full. Businesses operating without a license are considered operating illegally. (Ord. 99-6, 4-1-1999; amd. 2001 Code)

3-1-9: LICENSE APPLICATIONS PUBLIC RECORDS EXCEPTIONS:

License applications shall be public records and information contained in them shall be public except for specific items of data that the licensee designates as proprietary information, or that the town clerk designates or classifies as private, controlled, or protected data consistent with the provisions of the Government Records Access and Management Act, UCA Section 63-2-101, et seq., or other applicable laws.

3-1-10: INVESTIGATION OF APPLICANT:

Upon receipt of a new application, the town clerk shall institute an investigation of the applicant utilizing investigative tools as deemed necessary to ensure the applicant and premises meet all necessary code requirements. Such investigations must be completed within fifteen business days of the time the application was received. However, when adequate investigation requires additional time, for example

for correspondence with agencies or other sources of information outside the town, or when the license applicant is not ready to be inspected, the applicant shall be notified of the need for additional time and such investigation shall be completed as soon as possible. The officer charged with the duty of making the investigation or inspection shall make a report on it, favorable or otherwise, within five days of completing the same inspection. A health inspection may be required in regard to care and handling of food, the prevention of nuisances and the spread of disease. A fire marshal inspection may be required relating to the safety of buildings or other structures used by applicants or licensed businesses. The police department may conduct a background investigation or records review, especially in conjunction with businesses involving the employment or care of minors. Criminal background investigations are required for individuals operating or employed by businesses including, but not limited to, preschools, childcare, instruction classes, locksmiths, residential and commercial cleaning, and massage therapy. The town clerk may perform the investigation and inspection described in this section for renewal license applications, in his/her sole discretion.

3-1-11: COMPLIANCE WITH BUILDING AND ZONING REQUIREMENTS:

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act, if the premises and building to be used for the purposes are not in compliance with the building, zoning and development code (Title 8 of this ordinance.)

3-1-12: EMERGENCY SUSPENSION:

Licenses issued under this chapter may be suspended by the town without prior hearing provided that there is probable cause to believe that violations of this chapter or state law are occurring, and conditions are such that there is a threat to the public health and safety. Written notice of such temporary suspension and of a hearing date before the town council on said suspension shall be served on the licensee if the licensee fails to remedy the violation within one (1) hour of notification by the town that a suspension will occur if the conditions complained of are not remedied in a manner that eliminates the threat to public health and safety. The hearing before the town council on the emergency suspension by the town is mandatory and shall be set as soon as possible, but in no event shall such hearing occur more than ten business days after the suspension. If no hearing occurs within ten business days, unless the delay is at the request of the licensee, the suspension shall be lifted. At the hearing the town council shall determine whether the suspension should be lifted, or the license should be revoked, or whether to grant a conditional license, pursuant to section 3-1-13.2.d. If the licensee fails to appear at the hearing, the license shall be revoked.

3-1-13: DENIAL OR REVOCATION OF A LICENSE; APPEALS:

A. The town clerk shall revoke an existing license or deny a new license application or a license renewal application if the applicant, or any partner, officer, director or employee of the applicant as applicable:

1. Has been convicted or plead guilty to a felony within the previous year;
2. Has obtained or sought to obtain or to aid another in obtaining a license from the town or

another governmental entity in the previous three (3) years by means of misrepresentation, fraud or deceit, including the filing of false information as part of the license application;

3. Has failed to pay required fees;
4. Within the previous ten (10) years has violated the law of the state, the United States Government, the ordinances of the town, or the rules and regulations of any town or Utah State agency governing the operation of the relevant business subject to the license, or;
5. Has failed to comply with conditions and requirements of this code or any ordinance or requirement of the town after notice of the violation and the passage of a reasonable time for compliance;
6. Has allowed or is responsible for unlawful activities conducted or permitted on the premises where the business is conducted;
7. Refuses to permit authorized officials to make a lawful inspection of the premises or to take a sample of a commodity or material, or has interfered with such authorized official while in the performance of his or her duty in making such inspection;
8. Conducts business or operations in a manner that creates a nuisance.

B. Notice: Hearing:

1.. Prior to the revocation of a license or denial of an application to renew a business license, the licensee or applicant shall be given a notice of pending denial or revocation which shall state in substance that the town council intends to revoke the business license or deny the application to renew, together with the reason or reasons therefore, and that the applicant/licensee may request a hearing on the revocation/denial at a regular or special meeting of the town council, which request shall not be made more than 10 business days from the date notice is sent, and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

2. Subsection 'a' above shall not apply to applications for licenses for businesses which have not previously been licensed by the town, and such applicants need only be given notice that their application has been denied and a brief summary of why the application was denied, and notice of the right to request a hearing before the town council within 10 business days to address the denial. (Ord. 99-6, 4-1-1999)

3. Scheduling Of Hearing; Fees And Expenses: Upon receipt of a timely request for hearing by an applicant/licensee, the town council shall set a hearing date as soon as is reasonably practical, and shall provide written notice to the person requesting the hearing of the time and place the hearing is to be held, and the manner in which the hearing will be conducted. The town council will set by resolution fees to cover the costs associated with the hearing process.

4. Within ten (10) business days of the date of any hearing on license revocation, suspension or denial, the town council shall issue a decision based on written findings regarding whether to

uphold or vacate the same, or to grant a conditional license for a specified period of time, in which case a review hearing shall be scheduled at the end of that specified time to review whether the conditions have been complied with and whether the license should be granted or denied.

5. If a licensee/applicant fails to make a timely request for a hearing, or fails to appear at a scheduled hearing, the proposed revocation/denial shall immediately take effect.

B. If at any time a license is suspended or revoked, or application for renewal is denied under the provisions of this chapter, it shall be unlawful for any person to engage in or carry on or operate any business, or to use or permit to be operated or used any property for any business with respect to which the license has been suspended or revoked, or renewal has been denied, until a new license is granted by the town council.

3-1-14: LICENSE PROVISIONS:

A. Information Contained On License: All licenses shall be signed by the mayor, attested by the town clerk, and shall contain the following information:

1. The name of the individual, corporation or partnership to which such license has been issued.
2. The amount paid.
3. The classification of the license and the type(s) of business, i.e., retail, lodging, service, etc.
4. The term of the license with the commencing date and the date of its expiration. All licenses expire on June 30 of each year.
5. The physical address where such business, calling, trade or profession is to be conducted. (Ord. 2005-04, 2-9-2005)

B. Display Of License: Every license issued under this title shall be posted by the licensee in a conspicuous place. When such license has expired or been revoked, it shall be removed. If the licensee's business is such that a license cannot be displayed due to the mobile nature of the business, then the licensee shall carry a copy of the license on his person.

C. Transferability: No license granted or issued under any ordinance of this town may be assigned or transferred to any other person. A license shall not be deemed to authorize any person other than the person therein named to do business or to authorize the licensee to perform any other business, calling, trade or profession than is therein named unless by permission of the town council.

D. Branch Establishments: A separate license must be obtained for each separate place of business, branch establishment or location of any business within the town as if such branch establishment or location were a separate business. For purposes of clarification, if one business operates under a separate roof from a business operated by the same licensee, it is deemed a separate business, except that motels may have more than one building related to lodging. Each license shall authorize the licensee to engage only in the business licensed thereby. Warehouses and distributing places

used in connection with a business licensed under this section shall not be deemed a separate location.

3-1-15: COMPLAINTS AND VIOLATIONS:

The town clerk and his or her deputies, in conjunction with the chief of police and other authorized officials, shall in the discharge and performance of their official duties, have and exercise the authority to issue notices of pending revocation or of denial of a new application or pending denial of a renewal application, or issue citations for the violation of any of the provisions of the license ordinances. The town clerk shall further have the duty of cooperating with the town's attorney to cause complaints to be filed against persons violating any of the provisions of the license ordinances.

3-1-16: OMITTED.

3-1-17: UNLAWFUL USES OF CERTIFICATES:

It is unlawful to counterfeit a license certificate, or to deface or mutilate an active license certificate or to remove it or attempt to remove it from a required location, or to use, or permit the same to be used, at any place other than that designated on the license, or for any licensee to maintain or place or to permit the license to be placed in any place of business after that business has been declared to be unlawful or the license has been revoked or its renewal denied.

3-1-18: PENALTY:

Any person violating any provision of this chapter is guilty of a class B misdemeanor and shall be subject to fines and punishment as provided in section 1-4-1 of this code. (Ord. 99-6, 4-1-1999; amd. 2001 Code)

3-3A-1: PURPOSE:

The purpose of this article is to levy a one percent (1%) sales and use tax in compliance with the provisions of the local sales and use tax act, Utah Code Annotated title 59, chapter 12, part 2.

3-3A-2: CONTRACT WITH STATE:

The Utah State Tax Commission will perform all functions incident to the administration and operation of the sales and use tax ordinance of this town, which is hereby declared to be in full force and effect.

3-3A-3: SALES AND USE TAX LEVIED:

A. Levy Of Tax: There is hereby levied a tax upon the transactions described in Utah Code Annotated section 59-12-103(1) made within the town at the rate of one percent (1%).

B. Situs Of Levy: For the purposes of this article, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are

consummated shall be as determined under the rules and regulations prescribed and adopted by the state tax commission. "Public utilities", as defined by Utah Code Annotated title 54, shall not be obligated to determine the place or places within any county or city where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the town shall be as determined by the state tax commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

- C. Exemptions: The tax levied hereunder shall not include any sales and uses described in Utah Code Annotated section 59-12-104 to the extent such sales and uses are exempt under that section. Furthermore, the town is prohibited from imposing a tax under Utah Code Annotated section 59-12-204 or 59-12-205 on any amounts paid or charged by a vendor that collects a tax under Utah Code Annotated section 59-12-107(1)(b) unless all the counties, cities and towns in the state impose such a tax, and in such case the rate of said tax shall be that of the lowest rate established by any county, city or town in the state.
- D. Substitution Of City/Town For State: Except as hereinafter provided and except insofar as they are inconsistent with Utah Code Annotated title 59, chapter 12, part 2, the local sales and use tax act, or with any other state law, all definitions and provisions of Utah Code Annotated title 59, chapter 12, part 1 (tax collection), as amended, in force and effect on the effective date hereof insofar as they relate to the town's sales or use tax, are adopted and made a part of this article as though fully set forth herein, except that the name of the town shall be substituted for that of the state where necessary and that an additional license is not required if one has been or is issued under Utah Code Annotated section 59-12-106. However, nothing in this subsection shall be deemed to require substitution of the name of the town for the word "state" when that word is used as part of the title of the state tax commission, or of the constitution of Utah, nor shall the name of the town be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the town, or any agency thereof, rather than by or against the state tax commission in performing the functions incidental to the administration or operation of this article.
- E. Exemption For Tax Ordinances Of Other Municipalities: The sale, storage, use or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than Wasatch County, or city or town in this state, shall be exempt from the tax due under this article.
- F. State Tax Not Included In Purchase Price: There shall be excluded from the purchase price paid or charged by which the tax is measured the amount of any sales or use tax imposed by the state under Utah Code Annotated title 59, chapter 12, part 1, tax collection, upon a retailer or consumer.
- G. Exemption From Wasatch County Sales And Use Tax: Any person subject to the provisions of the sales and use tax provided for in this article shall be exempt from the Wasatch County sales and use tax.

3-3B-1: DEFINITIONS:

As used in this article:

COMMISSION: The state tax commission.

CUSTOMER: A. Subject to subsections B and C of this definition, "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

B. For purposes of this article, "customer" means:

1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
2. If the end user is not the person described in subsection B1 of this definition, the end user of telecommunications service.

C. "Customer" does not include a reseller:

1. Of telecommunications service; or
2. For mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

END USER: The person who uses a telecommunications service.

A. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

GROSS RECEIPTS ATTRIBUTED TO THE MUNICIPALITY: Those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah code title 59, chapter 12, sales and use tax act and determined in accordance with Utah code section 59-12-207.

GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE: The revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

A. A tax, fee, or charge:

1. Imposed by a government entity;
2. Separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
3. Imposed only on a telecommunications provider;

B. Sales and use taxes collected by the telecommunications provider from a customer under title 59, chapter 12, sales and use tax act; or

C. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

MOBILE TELECOMMUNICATIONS SERVICE: Is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

MUNICIPALITY: The town of Daniel.

PLACE OF PRIMARY USE: A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

1. The residential street address of the customer; or
2. The primary business street address of the customer; or

B. For mobile telecommunications service, is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

SERVICE ADDRESS: Notwithstanding where a call is billed or paid, "service address" means:

A. If the location described in this subsection is known, the location of the telecommunications equipment:

1. To which a call is charged; and
2. From which the call originates or terminates;

B. If the location described in subsection A of this definition is not known but the location described in this subsection is known, the location of the origination point of the signal of the telecommunications service first identified by:

1. The telecommunications system of the telecommunications provider; or
2. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

C. If the locations described in subsection A or B of this definition are not known, the location of a customer's place of primary use.

TELECOMMUNICATIONS PROVIDER: A. Subject to subsections B and C of this definition, "telecommunications provider" means a person that:

1. Owns, controls, operates, or manages a telecommunications service; or
2. Engages in an activity described in subsection A1 of this definition for the shared use with or resale to any person of the telecommunications service.

B. A person described in subsection A of this definition is a telecommunications provider whether or not the public service commission of Utah regulates:

1. That person; or
 2. The telecommunications service that the person owns, controls, operates, or manages.
- C. "Telecommunications provider" does not include an aggregator as defined in Utah code section 54-8b-2.

TELECOMMUNICATIONS SERVICE: A. Telephone service, as defined in Utah code section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and

B. Mobile telecommunications service, as defined in Utah code section 59-12-102:

1. That originates and terminates within the boundaries of one state; and
2. Only to the extent permitted by the mobile telecommunications sourcing act, 4 USC section 116 et seq. (Ord. 2004-03, 5-12-2004)

3-3B-2: LEVY OF TAX:

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

3-3B-3: TAX RATE:

The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality subject to the following:

If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be the lower of: a) the rate imposed by the taxing jurisdiction in which the transaction is located or b) the rate for nonmobile telecommunication services shall be the rate imposed by the municipality in which the customer's service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use.

3-3B-4: RATE LIMITATION AND EXEMPTION:

This rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in this municipality that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election.

3-3B-5: EFFECTIVE DATE:

This tax shall be levied beginning the earlier of January 1, 2007, or the first day of any calendar quarter after a seventy five (75) day period beginning on the date the commission received notice pursuant to Utah Code 10-1-403 that this municipality has enacted this article.

3-3B-6: INTERLOCAL AGREEMENT:

On or before the effective date hereof, the municipality shall enter into the uniform interlocal agreement with the commission as described in Utah code section 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

3-3B-7: REPEAL OF INCONSISTENT TAXES AND FEES:

Ordinance 01-02, adopted May 1, 2001, and any other tax or fee previously enacted by this municipality under authority of Utah code 10-1-203 or Utah code title 11, chapter 26, local taxation of utilities limitation is hereby repealed.

Nothing in this article shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights of way of the municipality, if the fee is imposed in accordance with Utah code section 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right of way nor does this article limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this article and locate telecommunications facilities, as defined in Utah code section 72-7-108, in this municipality.

**TITLE 3
CHAPTER 4
OF THE DANIEL MUNICIPAL CODE
RESIDENTIAL SOLICITATION**

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3-4-1 Purpose.

Residents of the municipality have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The municipality has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The municipality also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the municipality and its citizens, and the effect of the regulations in this chapter on the rights of those who are regulated. Based on the collective experiences of municipality officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the municipality adopts this chapter to promote the municipality’s substantial interests in:

- (1) respecting citizen’s decisions regarding privacy in their residences;
- (2) protecting persons from criminal conduct;
- (3) providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
- (4) permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.

The municipality finds that the procedures, rules and regulations set forth in this chapter are narrowly tailored to preserve and protect the Municipal interests referred to herein while at the same time balancing the rights of those regulated.

3-4-2 No Other Municipal License or Approval Required.

(1) Registered solicitors and persons exempt from Registration need not apply for, nor obtain, any other license, permit, or registration from the Municipality to engage in door-to-door solicitation.

(2) Any business licensed by the municipality under another municipal ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.

(3) Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the municipality, provided they do not

establish a temporary or fixed place of business in the municipality.

(4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a Registered Solicitor is otherwise required to have or maintain.

3-4-3 Definitions. For the purposes of this Chapter, the following definitions shall apply:

(1) Advocating means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

(2) Appeals officer means the municipal council or designee of the municipality responsible for receiving the information from the Municipality and Appellant regarding the denial or suspension of a certificate and issuing a decision as required by this chapter.

(3) Appellant means the person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

(4) Applicant means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.

(5) Application form means a standardized form provided by the municipality to an applicant to be completed and submitted as part of registration.

(6) B.C.I. means an original or copy, dated no older than 180 days prior to the date of the application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

(7) Business means a commercial enterprise licensed by the municipality as a person or entity under this title, having a fixed or temporary physical location within the municipality.

(8) Certificate means a temporary, annual, or renewal certificate permitting door-to-door solicitation in the municipality applied for or issued pursuant to the terms of this chapter.

(9) Charitable activities means advocating by persons or entities that either are, or support, a charitable organization.

(10) Charitable organization includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

A. that is:

(i) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(ii) for the benefit of a public safety, law enforcement, or firefighter fraternal association;

(iii) established for any charitable purpose; and

B. that is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions

from the public for charitable purposes.

C. Charitable organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the municipality or State of Utah.¹

(11) Competent Individual means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

(12) Completed Application means a fully completed application form, a B.C.I, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of Fees.

(13) Criminally convicted means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

(14) Disqualifying status means anything specifically defined in this chapter as requiring the denial or suspension of a certificate, and any of the following:

- A. The applicant or registered solicitor has been criminally convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- B. Criminal charges currently pending against the applicant or registered solicitor for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- C. The applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years;
- D. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years;
- E. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property.
- F. A final civil judgment been entered against the applicant or registered solicitor within the last five (5) years indicating that: (i) the applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant or registered solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. Sec. 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

¹Charitable Solicitation Act UCA Sec. 13-22-2(1)(a) & (b)

- H. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

I. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(15) Door-to-door solicitation means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and/or services.

(16) Entity includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

(17) Fees means the cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification badge.

(18) Final civil judgment means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) Goods means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) Home solicitation sale means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of

A. the means of payment or consideration used for the purchase;

B. the time of delivery of the goods or services; or

C. the previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

(21) Licensing officer means the municipal employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate.

(22) No solicitation sign means a reasonably visible and legible sign that states "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.

(23) Political position means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(24) Registered solicitor means any person who has been issued a current certificate by the municipality.

(25) Registration means the process used by the municipality licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

(26) Religious belief means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(27) Residence means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the municipality, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights-of-way.

(28) Responsible person or entity means that person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

- A. maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
- B. facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
- C. refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

(29) Sale of goods or services means the conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

(30) Services means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

(31) Soliciting or solicit or solicitation means any of the following activities:

- A. Seeking to obtain Sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
- D. Seeking to obtain orders or prospective customers for goods or services.
- E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale.
- F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

(32) Solicitor or solicitors means a person(s) engaged in door-to-door solicitation.

(33) Submitted in writing means the information for an appeal of a denial or suspension of a certificate, submitted in any type of written statement to the municipality offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(34) Substantiated report means an oral, written, or electronic report:

- A. That is submitted to and documented by the municipality;
- B. By any of the following:
 - 1. A competent individual who is willing to provide law enforcement or other municipal employees with publicly available identification of their name, address, and any other reliable means of contact;

2. Municipal law enforcement or licensing officer; or
3. Any other regularly established law enforcement agency at any level of government;

C. That provides any of the following information regarding a registered solicitor:

1. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
2. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
3. Documented, eye-witness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this chapter; or
4. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the municipality.

(35) Waiver means the written form provided to applicant by the municipality wherein applicant agrees that the municipality may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this chapter, and which contains applicant's notarized signature.

3-4-4 Exemptions From Chapter. The following are exempt from Registration under this Chapter:

(1) Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;

(2) Persons whose license, permit, certificate or registration with the state of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;

(3) Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;

(4) Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

(5) Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 3-4-17, 3-4-18 and 3-4-19 while advocating or soliciting.

3-4-5 Solicitation Prohibited.

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, the practice of being in and upon a private residence within the municipality by solicitors, for

the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this chapter.

3-4-6 Registration of Solicitors.

Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the municipality, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate.

3-4-7 Application Form.

The licensing officer shall provide a standard application Form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and fee:

(1) Review of Written Disclosures. An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.

(2) Contact Information.

A. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

B. Applicant's telephone number, home address and mailing address, if different;

C. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and

D. The address by which all notices to the applicant required under this chapter are to be sent.

(3) Proof of Identity. An in-person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:

A. A valid driver's license issued by any state;

B. A valid passport issued by the United States;

C. A valid identification card issued by any state;

D. A valid identification issued by a branch of the United States military. Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

(4) Proof of Registration with Department of Commerce. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce;

(5) Special Events Sales Tax Number. The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting;

(6) Marketing Information.

A. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;

- B. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

(7) BCI Background Check. The applicant shall provide:

- A. An original or a copy of a BCI background check as defined in 3-4-3; and
- B. A signed copy of a waiver whereby applicant agrees to allow the municipality to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter.²

(8) Responses to Questions Regarding Disqualifying Status. The applicant shall be required to affirm or deny each of the following statements on the application form:

- A. Has the applicant been criminally convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- B. Are any criminal charges currently pending against the applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- C. Has the applicant been criminally convicted of a felony within the last ten (10) years;
- D. Has the applicant been incarcerated in a federal or state prison within the past five (5) years;
- E. Has the applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property.
- F. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that: (i) the applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. Sec. 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- H. Does the applicant have an outstanding arrest warrant from any jurisdiction; or
- I. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(9) Fee. The applicant shall pay such fees as determined applicable by the municipality, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.

(10) Execution of Application. The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the

²See UCA Sec. 53-10-108(1)(b)

applicant, the information provided is complete, truthful and accurate.

3-4-8 Written Disclosures.

The application form shall be accompanied by written disclosures notifying the applicant of the following:

- (1) The applicant's submission of the application authorizes the municipality to verify information submitted with the completed application including:
 - A. the applicant's address;
 - B. the applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any;
 - C. the validity of the applicant's proof of identity;
- (2) The municipality may consult any publicly available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
- (3) Establishing proof of identity is required before registration is allowed;
- (4) Identification of the fee amount that must be submitted by applicant with a completed application;
- (5) The applicant must submit a BCI background check with a completed application;
- (6) To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;
- (7) The municipality will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the municipality offices whether or not a certificate is denied, granted, or renewed.
- (8) The criteria for disqualifying status, denial, or suspension of a certificate under the provisions of this chapter.
- (9) That a request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

3-4-9 When Registration Begins.

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original B.C.I. background check is submitted by the applicant, the licensing officer shall make a copy of the B.C.I. and return the original to the applicant.

3-4-10 Issuance of Certificates.

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

- (1) Temporary Certificate.
 - A. A temporary certificate shall issue allowing the applicant to immediately begin door-to-door solicitation upon the following conditions:

- (i) Applicant's submission of a completed application;
- (ii) Applicant's submission of the required fee;
- (iii) Applicant establishes proof of identity;
- (iv) Applicant's representations on the application form do not affirmatively show a disqualifying status;
- (v) the B.C.I. does not affirmatively show a disqualifying status; and
- (vi) the applicant has not previously been denied a certificate by the municipality, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

B. A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.

(2) Annual Certificate. Within twenty-five (25) calendar days of the issuance of a temporary certificate the municipality shall:

- A. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to those disclosed with the application form.
- B. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
 - (i) will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
 - (ii) will not be issued an annual certificate for reasons cited in Section 3-4-14 of this chapter.

(3) Renewal Certificate. An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in Section 3-4-14, or a disqualifying status is present.

3-4-11 Form of Certificate and Identification Badge.

(1) Certificate Form. Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the licensing officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the municipality.

(2) Identification Badge. With both the temporary and annual certificates, the municipality shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the municipality. The identification badge shall bear the name of the municipality and shall contain: (a) the name of the registered solicitor; (b) address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is

provided; a recent photograph of the registered solicitor; and (d) the date on which the certificate expires.

3-4-12 Maintenance of Registry.

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the municipality. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the municipality's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

3-4-13 Non-Transferability of Certificates.

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different: (a) goods or services; or (b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the municipality, after payment of the fee for the identification badge.

3-4-14 Denial, Suspension or Revocation of a Certificate of Registration.

(1) Denial. Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

A. Denial of Temporary Certificate.

- (i) the application form is not complete;
- (ii) the applicant fails to (1) establish proof of identity, (2) provide a B.C.I. or (3) pay the fees;
- (iii) the completed application or B.C.I. indicates that the applicant has a disqualifying status; or
- (iv) the applicant has previously been denied a certificate by the municipality, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

B. Denial of Annual Certificate.

- (i) the information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect;
- (ii) since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
- (iii) failure to complete payment of the fees;
- (iv) since the submission of the application, the municipality has received a substantiated report regarding the past or present conduct of the applicant;
- (v) since the submission of the application, the municipality or other governmental entity has either criminally convicted or obtained a civil

injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

- (vi) since the submission of the application, a final civil judgment has been entered against the applicant indicating that: (i) the applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. Sec. 523(a)(2), (a)(4), (a)(6), or (a)(19).

C. Denial of Annual Certificate Renewal.

- (i) the information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;
- (ii) since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
- (iii) failure to complete payment of the fees;
- (iv) since the submission of the application or granting of a certificate, the municipality has received a substantiated report regarding the past or present conduct of the solicitor;
- (v) the municipality or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
- (vi) since the submission of the application, a final civil judgment has been entered against the applicant indicating that: (i) the applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. Sec. 523(a)(2), (a)(4), (a)(6), or (a)(19).

(2) Suspension or Revocation. The municipality shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

(3) Notice of Denial or Suspension. Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the municipality shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the municipality relied on to make the decision, the availability of the documentation for review by applicant upon one (1) business day notice to the municipality, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 3-4-3(34)(C)(4), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

3-4-15 Appeal.

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the municipality council or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (a) documents the relationship with the applicant or responsible person or entity; or (b) is licensed or authorized by the state of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be submitted in writing to the municipality recorder with a copy to the licensing officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

(2) Upon request of the applicant or registered solicitor, within one business day, the municipality will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

(3) The appeals officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the municipality, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.

(4) The appeals officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 3-4-15(3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

A. The denial or suspension of the certificate shall be reversed by the appeals officer if upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

B. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

C. The decision of the appeals officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed upon when the appeal was filed.

(5) After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the municipality.

(6) Nothing herein shall impede or interfere with the applicant's, solicitor's, or the municipality's right to seek relief in a court of competent jurisdiction.

3-4-16 Deceptive Soliciting Practices Prohibited.

(1) No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

(2) A solicitor shall immediately disclose to the consumer during face-to-face solicitation; (i) the name of the solicitor; (ii) the name and address of the entity with whom the solicitor is associated; and (iii) the purpose of the solicitor's contact with the person and/or competent Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.

(3) No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the municipality of the solicitor's goods or services or of the individual solicitor.

3-4-17 "No Solicitation" Notice.

(1) Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a No Solicitation sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

(2) The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.

(3) It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

(4) The provisions of this section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this chapter.

3-4-18 Duties of Solicitors.

(1) Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted, such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

(2) It is a violation of this chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a No Solicitation sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.

(3) It is a violation of this chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

(4) Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

(5) The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;

(6) The solicitor shall not follow a person into a residence without their explicit consent;

(7) The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor;

(8) The solicitor shall not use obscene language or gestures.

3-4-19 Time of Day Restrictions.

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the solicitor has express prior permission from the resident to do so.

3-4-20 Buyer's Right to Cancel.

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by Sec. 70C-5-103 of the Utah Code Annotated, 1953, or a current version thereof, or any state or federal law modifying or amending such provision.

3-4-21 Penalties.

Any person who violates any term or provision of this chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.

4-1: OMITTED.

4-2-1: PROHIBITED; INCLUDED BUSINESSES:

A. Prohibited: No person shall commence or change the location of any offensive business or establishment in this town.

B. Included Businesses: Offensive businesses, within the meaning of this chapter, shall include, but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases, light or noises, or which creates any materially harmful emissions of any kind. (2006-06 Municipal Code)

4-2-2: CONTROL OF ANIMAL AND FOWL FACILITIES:

A. Location And Management: The town council shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the town and may compel the owner of any pigsty, privy, barn, corral, fur-bearing animal farm, feed yard, poultry farm or other unwholesome or nauseous house or place to cleanse, abate or remove the same.

B. Examination Of Operation: The town council may, on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved, abated or otherwise restricted.

- C. Notification Of Abatement: In the event that the town council decides that the business or facility should be abated, removed or controlled, it shall notify the owner or operator of the business or facility of such fact.
- D. Hearing; Limited License: After a hearing, the town council may issue a limited license wherein it may prescribe the specifications and standards which must be followed by the business or facility in order to be permitted to continue in operation.
- E. Abatement Or Removal: Upon a determination by the town council that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the town council shall have power to bring all necessary legal proceedings to force removal, abatement or adherence to standards. (Ord. 2-97, 4-30-1997)

4-2-3: EXISTING OFFENSIVE BUSINESSES AND FACILITIES:

- A. Investigation: The town council may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the town limits. If the town council determines that the continuation of the business or facility has become a nuisance to persons situated within the town limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, light or noise or other offensive emissions, it shall notify the owner or operator thereof that the town council is considering revoking or modifying the operator's license.
- B. Standards And Specifications For Modification: If the town council decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity. (Ord. 2-97, 4-30-1997)

4-3-1: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

AUTHOR OF NUISANCE: Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

NUISANCE: The term "nuisance" shall have the meaning(s) ascribed to it as set forth in Section 1-3-2 of the Daniel Municipal Code.

4-3-2: DECLARATION OF NUISANCE:

- A. Statement: Every act or condition made, permitted, allowed or continued in violation of this Chapter 4-3 is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.

B. Specified: Nuisances include, but are not limited to:

1. Befouling Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
2. Privies, Cesspools: Allowing any privy vault or cesspool, or other individual wastewater disposal system, to become a menace to health or a source of odors or contamination to air or water.
3. Garbage Accumulation: Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area, except when it is temporarily deposited for immediate removal.
4. Manure Accumulation: Permitting the accumulation of excess manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept.
5. Slaughterhouses, Feed Yards: Permitting any slaughterhouse, market, meat shop, stable, feed yard or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.
6. Discharging Offensive Water, Liquid Waste or Solid Waste: Discharging or placing any offensive water, chemical spray, liquid or solid waste, refuse or material of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any property or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so.
7. Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter.
8. Flies and Mosquitos: Having or permitting upon any premises any fly- or mosquito-producing condition.
9. Public Drinking Vessels: Keeping any drinking vessel for public use without providing a method of decontamination between uses.
10. Ablutions Near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.
11. Boarding House Or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.
12. Cleaning Privy Vaults: Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from any enforcement officer or official of the town.
13. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.

14. Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the town council.

C. Unlimited Scope: The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter. (2006-06 Municipal Code)

4-3-3: TOILET OR SEWER FACILITIES:

All toilet or sewer facilities shall be constructed and maintained in accordance with state law and town ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed. (2006-06 Municipal Code)

4-3-4: RESTRICTIONS ON BLOCKING WATER:

A. It shall be unlawful for any person to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary. Obstructions created by collection of refuse or debris during storms shall be cleared as soon as reasonably possible, preferably before an overflow or backup occurs.

B. Failure to maintain any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement. (2006-06 Municipal Code)

4-3-5: NUISANCES ON PROPERTY:

A. Definition: For the purpose of this section, the term "nuisance" is defined to include any condition or use of premises or of building exteriors which are deleterious, injurious or noxious, which includes, but is not limited to, keeping or depositing on or scattering over the premises any of the following:

1. Lumber, junk, trash or debris.

2. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers or other discarded items not currently in use.

B. Duty Of Maintenance: No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

C. Storage Of Personal Property: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment, non-operational vehicles or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured within this town is hereby declared to be a nuisance and dangerous to the public safety.

D. Abatement By Owners: The owner, owners, tenants, lessees or occupants of any lot within the town on which such "storage", as defined in subsection C of this section, is made, and also the owner,

owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the town.

4-3-6: ABATEMENT PROCEDURE:

A. Nuisance Inspector:

1. Established: There is hereby established the position of nuisance inspector, whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the town law enforcement officer shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.
2. Duties: The nuisance inspector is authorized to:
 - a. Perform all functions necessary to enforce the provisions of this chapter.
 - b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.
3. Existence Of Objectionable Condition: If the nuisance inspector concludes there exists an objectionable condition in violation of this chapter, the nuisance inspector shall:
 - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.
 - b. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office address as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such time as the nuisance inspector may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the nuisance inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:
 - (1) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
 - (2) Inform the owner, occupant or other person that in the event he disagrees with the determination of the nuisance inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the town council at a time and place to be set by the town council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.
 - (3) Inform the person that in the event he fails or neglects to correct the objectionable condition, the town will correct the objectionable condition and will collect the costs of so

correcting the objectionable condition by either a court action, in which case he will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax. (Ord. 2-97, 4-30-1997)

c. In the event the owner or occupant makes such request for a hearing, the town council may set the time and place for hearing objections and the town clerk shall notify the owner, occupant or other persons having an interest in said property of the condition thereof, in writing, of the time and place at which they may appear and be heard. The hearing shall be held not less than five (5) days from the date of service or mailing of the notice of hearing.

B. Hearing:

1. Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, or objectionable recurring actions on the property, the town council may conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter. The town council shall also permit the presentation of evidence and argument by the nuisance inspector and/or other interested parties. Thereafter, within a period of not less than five (5) nor more than ten (10) days, the town council shall, over the signature of the mayor, or such other member of the town council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the nuisance inspector.

2. Notice Of Decision; Abatement By Owner Or Occupant: In the event the decision of the town council upholds the determination of the nuisance inspector, the notice originally given by the nuisance inspector as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the nuisance inspector.

3. Time Period For Compliance: In the event that the decision of the town council either overrules or modifies the determination of the nuisance inspector, the written decision of the town council shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the town council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the nuisance inspector, unless additional time is authorized by the town council.

C. Failure To Comply; Abatement By Town: If any owner, occupant or other person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the nuisance inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the town, which will be reimbursed to the town as provided in this section.

D. Itemized Statement: The nuisance inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, or to persons having an interest in the property, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant or person having an interest in the property.

E. Failure To Make Payment: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the town treasurer within the twenty (20) days, the nuisance inspector may either cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this section.

F. Collection:

1. Lawsuit: In the event collection of expenses of destruction and removal are pursued through the courts, the town may sue and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

2. Taxes: In the event that the nuisance inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Utah Code Annotated section 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

G. Criminal Proceedings: The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

4-3-7: PENALTY FOR FAILURE TO COMPLY:

A. Class C Misdemeanor: Any owner, occupant or person having an interest in property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a class C misdemeanor for each offense and shall be subject to a fine for each and every day such failure to comply continues beyond the date fixed for compliance, as provided in section 1-4-1 of this code.

B. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

4-3-8: PRESUMPTIONS OF LAW:

- A. Limitation of Defenses: Unless otherwise proscribed by law, the following defenses shall not apply to an action in nuisance under this chapter:
1. That the nuisance has existed and/or has been tolerated for a long period of time;
 2. That any party had moved into the area knowing about the nuisance; and/or
 3. That the neighborhood has other continuing or unabated nuisances.
- B. Presumption of Law: If the objectionable conditions or objects from the property or objectionable recurring actions on the property are determined to be a nuisance under the provisions of this chapter, and if (a) the complainants as to the action in nuisance are greater than or equal to three (3) in number or the complainant is the town (by affirmative vote of the town legislative body), or (b) the nuisance reasonably may be determined by the town legislative body to adversely affect such complainants' or the public's health or safety, then the nuisance shall be presumed by law to substantially and adversely affect public health or safety.
- C. Incorporation by Reference: All provisions in the Daniel Municipal Code referring to a nuisance are hereby incorporated by reference into this chapter, and the provisions of this chapter also are incorporated therein.

4-4-1: 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. The vegetation defined as noxious weeds hereunder include, but are not limited to, the following:

A. Noxious Weeds:

1. Musk Thistle
2. Scotch Thistle
3. Canada Thistle
4. White Top (Hoary Cress)
5. Tall White Top (Perennial Pepper Weed)
6. Leafy Spurge
7. Field Bind Weed (Morning Glory)
8. Dyers Woad
9. Spotted Knapweed
10. Russian Knapweed
11. Diffuse Knapweed
12. Yellow Starthistle
13. Bermuda Grass
14. Johnson Grass (Perennial Sorghum)
15. Quack Grass
16. Medusa Head
17. Purple Loosestrife
18. Yellow Toadflax

19. Dalmatian Toadflax
20. Houndstongue

4-4-2: STANDARD OF WEED CONTROL:

It is hereby declared that the above stated weeds constitute a nuisance when they create a fire hazard, a source of contamination or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or their surroundings.

4-4-3: PENALTY:

It shall be an infraction, subject to penalty as provided in section 1-4-1 of this code, for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this chapter or not to remove from such property any cuttings of such weeds or any refuse or deleterious objects after having been given notice from the nuisance inspector as provided in chapter 3 of this title. (Ord. 2-97, 4-30-1997; amd. 2001 Code)

4-5-1: DEFINITIONS:

For the purpose of this chapter:

AUTHORIZED RECEPTACLE: A public or private litter storage and collection receptacle.

COMMERCIAL HANDBILL: Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature:

- A. Which advertises for sale any merchandise, product, commodity or thing;
- B. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof; or
- C. Which, while containing reading matter other than advertising matter is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

DISTRICT: The Wasatch County special service district no. 1.

GARBAGE: Waste from the preparation, cooking or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked or consumed.

LITTER: "Garbage", "refuse" and "rubbish", as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, welfare or appearance of the town.

NEWSPAPER: Any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NONCOMMERCIAL HANDBILL: Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

PARK: A park, reservation, playground, beach, recreation center or any other public area in the town, owned or used by the town.

REFUSE: Putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.

RUBBISH: Nonputrescible solid wastes consisting of both combustible and noncombustible waste, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

VEHICLE: Every device in, on or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

4-5-2: LITTER REGULATIONS:

A. Public Places: No person shall throw or deposit litter in or on any street, sidewalk or other public place except:

1. In authorized receptacles for collection or in official garbage dumps; or
2. For collection as authorized by the town council or district.

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

C. Sweeping Into Gutters Prohibited: No person shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

D. Merchants' Duty To Keep Sidewalks Clear: No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business shall keep the sidewalk in front of their business premises free of litter.

E. Thrown By Person In Vehicle: No person, while a driver or passenger in a vehicle, shall throw or deposit litter on any street or other public place, or on private property.

- F. Truck Loads Causing Litter: No person shall drive or move any truck or other vehicle unless such vehicle's load is covered, tied-down, enclosed or secured so as to prevent any load, contents or litter from being blown or deposited on any street, alley or other public place.
- G. Parks: No person shall throw or deposit litter in any park, except in authorized receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.
- H. Lakes And Fountains: No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the town.
- I. Occupied Private Property: No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.
- J. Vacant Lots: No person shall throw or deposit litter on any open or vacant private property, whether or not owned by such person. (Ord. 2-97, 4-30-1997)

4-5-3: HANDBILL REGULATIONS:

- A. Throwing Or Distributing In Public Places; Penalty: No person shall throw or deposit any commercial or noncommercial handbill in or on any sidewalk, street or other public place. Unless otherwise authorized by the town council, it is an infraction, subject to penalty as provided in section 1-4-1 of this code, for any person to hand out, distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (Ord. 2-97, 4-30-1997; amd. 2001 Code)
- B. Placing On Vehicles: Unless otherwise authorized by the town council, no person shall throw or deposit any commercial or noncommercial handbill in or on any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- C. Depositing On Uninhabited Or Vacant Premises: No person shall throw or deposit any commercial or noncommercial handbill in or on any private premises which is temporarily or continuously uninhabited or vacant.
- D. Prohibiting Distribution Where Properly Posted: No person shall throw, deposit or distribute any commercial or noncommercial handbill on any private premises, if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words "no trespassing", "no peddlers or agents", "no advertisements", or any similar notice, indicating in any manner that the occupants of the premises do not desire to be

molested or to have their right of privacy disturbed or to have any such handbills left on such premises.

- E. Distributing At Inhabited Private Premises: No person shall throw, deposit or distribute any commercial or noncommercial handbill in or on private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or on such private premises. However, in case of inhabited private premises which are not posted, as provided in this section, such person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.
- F. Exception For Mail And Newspapers: The provisions of this chapter shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner so as to prevent their being carried or deposited by the elements on any street, sidewalk or other public place or on private property.
- G. Posting Notice Prohibited: No person shall post or affix any commercial handbill to any lamppost, public utility pole or shade tree, or on any public structure or building, except as may be authorized or required by law.

5-1-2: QUALIFICATIONS OF CHIEF OF POLICE:

The chief of police shall possess the following attributes and qualifications:

- A. Be a United States citizen;
- B. Be at least twenty one (21) years old at the time of appointment;
- C. Be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;
- D. Have not been convicted of a crime for which the appointee could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;
- E. Have demonstrated good moral character as determined by a background investigation;
- F. Be free of any physical, emotional or mental condition that might adversely affect the performance of his duties as chief of police;
- G. Have successfully completed peace officer certification and training as prescribed by Utah Code Annotated section 53-6-201 et seq., as amended, and provide evidence of successful completion;
- H. Complete forty (40) hours of annual certified training in peace officer administration or similar law enforcement training; and

- I. Attain or complete such other attributes or qualifications as the mayor and town council may from time to time impose.

5-1-3: APPOINTMENT OF CHIEF OF POLICE:

The office of chief of police or any vacancy therein shall be filled by appointment of the mayor, with the advice and consent of the town council. The chief of police shall act under the direction, supervision and control of the mayor. The chief of police shall serve at the pleasure of and may be removed by the mayor and town council.

5-1-4: CLASSIFICATION OF POSITION OF CHIEF OF POLICE:

The position of chief of police shall be classified as an exempt position with at-will status, pursuant to all guidelines identified in the fair labor standards act, as well as other applicable laws and guidelines. The chief of police shall receive compensation at the rate and in a form to be determined by the town council and as outlined by contract.

5-1-5: POWERS AND DUTIES OF CHIEF OF POLICE:

The chief of police shall have and exercise such powers and perform such duties as specified in this section, or such other ordinances or resolutions as specified by the town council. Specifically, the powers and duties of the chief of police shall be:

- A. **Execute And Enforce Laws:** To faithfully execute and enforce all applicable laws, ordinances, rules and regulations of the town; to prevent crime, and to suppress riots, disturbances and breaches of the peace; to remove nuisances existing in public streets, roads or highways and other public places; to apprehend all persons violating state laws or town ordinances; to diligently discharge his duties and enforce all ordinances of the town to preserve the peace, good order and protection of the rights and property of all persons; and without process, to arrest and take into custody any person who shall commit, threaten or attempt to commit in the presence of the chief of police, or within his or her view, any breach of the peace, or any offense directly prohibited by the laws of this state or by ordinance.
- B. **Head Of Department:** As head of the town's public safety department, the chief of police shall supervise and have charge of those providing public safety services to the town, including, but not limited to, police officers, animal control officers, the fire department, ambulance services and crossing guards unless one or more of these public safety services are provided by way of a contract with another local government entity, in which case the chief of police shall act as liaison with such service provider in respect to the service.
- C. **Court:** To attend the municipal justice court when required and obey its orders and directions.
- D. **Execute Warrants:** To execute and serve all warrants, processes, commitments and writs.
- E. **Other Required Duties:** To discharge any other duties specified by statute or imposed by the mayor and town council. The duties enumerated in this section shall not act as a limitation on the police chief's statewide authority as otherwise provided by law.

5-1-6: POLICE OFFICER QUALIFICATIONS:

Police officers shall be appointed by the mayor in consultation with the chief of police, and shall serve under the direction of the chief of police. Police officers shall possess the following attributes and qualifications:

- A. Be a United States citizen;
- B. Be at least twenty one (21) years old at the time of appointment;
- C. Be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;
- D. Have not been convicted of a crime for which the appointee could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;
- E. Have demonstrated good moral character as determined by a background investigation;
- F. Be free of any physical, emotional or mental condition that might adversely affect the performance of his duties as police officer;
- G. Have successfully completed peace officer certification and training as prescribed by Utah Code Annotated section 53-6-201 et seq., as amended, and provide evidence of successful completion;
- H. Complete forty (40) hours of annual certified training in peace officer administration or similar law enforcement training; and
- I. Attain or complete such other attributes or qualifications as the chief of police, mayor and town council may from time to time impose.

5-1-7: POLICE OFFICERS DUTIES:

Police officers shall act under the direction of the chief of police, and shall at all times have the authority to execute and serve all warrants, processes, commitments and writs, and to preserve the public peace, including at public meetings, prevent crime, detect and arrest offenders, suppress riots, protect persons and property, remove nuisances existing in the public streets, roads and highways, enforce every law relating to the suppression of offenses, and perform all duties required of them by ordinance, resolution or the direction of the chief of police, mayor and town council. The duties enumerated in this section shall not act as a limitation of a police officer's statewide authority as otherwise provided by law.

5-1-8: REGISTER OF ARREST:

The chief of police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.

5-1-9: PROPERTY TAKEN FROM PERSON ARRESTED:

When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must at the time issue triplicate receipts therefor specifying particularly the amount of money or kind of property taken. One of the receipts he must deliver to the person arrested. Another he must forthwith file with the clerk of the court to which the complaint and other papers in the case are required by law to be sent. The third receipt must be sent at once to the office of the public safety department.

5-1-10: REGISTER OF PROPERTY TO BE KEPT:

The chief of police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into his office or taken from the person of the prisoner, and must attach a number to each article and make a corresponding entry thereof.

5-1-11: STOLEN PROPERTY DISPOSITION:

It shall be the duty of the chief of police to keep all lost or stolen property that comes into the possession of the public safety department or any of its members. He shall make all reasonable efforts to discover the owners thereof and to return said property, in accordance with the directions, stipulations and orders of the court. (Modified to reflect interlocal agreement with Wasatch County animal control)

5-2-1: DEFINITIONS:

As used in this chapter, unless the context otherwise indicates, the following words shall mean:

ANIMAL CONTROL OFFICER: The custodian selected by the town council to be responsible for the operation of the dog pound.

AT LARGE: Shall be intended to mean that every person who has in his/her possession or under his/her control any animal within this town shall keep any such animal securely penned, leashed or under voice command at all times.

DOG: Any male, female or spayed female dog of any age.

IMPOUNDED: Having been received into the custody of the town pound or into the custody of any authorized agent or representative of the town.

OWNER: When applied to the proprietorship of a dog, shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.

POUND: An animal shelter, lot, premises or building maintained by or authorized or employed by the town for the confinement or care of dogs seized either under the provisions of this chapter or otherwise.

VICIOUS DOG: A dog that has bitten a person without provocation or a dog that has a known propensity to attack or bite human beings or other animals.

5-2-2: ANIMAL CONTROL OFFICER:

- A. Created; Appointment: The position of town animal control officer is hereby created. The mayor shall appoint the animal control officer with the advice and consent of the mayor and town council. The animal control officer shall be empowered to designate assistants, with the approval of the mayor, to administer and enforce the provisions of this chapter. (Ord. 2-93, 2-4-1993; amd. 2001 Code)
- B. Duties: The animal control officer shall perform the following duties:
1. Carry out and enforce the provisions of this chapter.
 2. File complaints in the courts against any person failing to comply with the provisions of this chapter and obtain licenses when required thereunder.
 3. Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstance under which received or impounded by the pound, and a description thereof sufficient to provide identification, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animals.
- C. Shall Charge Fees For Services: The animal control officer shall charge, and the owners of animals taken into his possession for impound disposal or other services shall pay, such fees and charges for services performed by the pound or animal control officer as the town council shall establish from time to time by resolution. All fees received by the animal control officer shall be paid over to the town treasurer.
- D. Interference With Animal Control Officer Prohibited: It shall be unlawful for any person to interfere, molest, hinder or obstruct the animal control officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

5-2-3: DOG POUND:

The town council may contract with some humane person as animal control officer, with an adjoining municipality or with the county for the purpose of providing suitable premises and facilities to be used by the town as the dog pound. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the dogs from injury.

5-2-5: CRUELTY TO ANIMALS PROHIBITED:

It shall be unlawful for any person to:

- A. Treat In Cruel And Inhumane Manner: torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal or cause any of these acts to be done.
- B. Abandon: Abandon or turn out at large any sick, diseased or disabled animal, but such animal shall, when rendered useless by reason of sickness or other disability, be killed by the owner thereof and its carcass disposed of in such manner as to create no nuisance or hazard to health.

- C. Kill Or Poison: Willfully kill any domestic animal, or to administer poison to any such animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.
- D. Fail To Provide Care: Fail to provide any animal in his charge or custody with necessary sustenance, drink and protection from the elements, or cause any of these acts to be done.

5-2-6: DANGEROUS OR VICIOUS ANIMALS:

- A. Unlawful To Own And Possess: It shall be unlawful for any person to own and possess a vicious dog within the town. Whenever a prosecution for this offense is commenced under this section, the dog so involved may not be redeemed, pursuant to the provisions of this chapter, while awaiting final decision of the court as to the disposition to be made of such dog.
- B. Disposition After Conviction Of Offense: Upon the trial of any offense under this section, the court may, upon conviction and in addition to the usual judgment of conviction, order the animal control officer or other authorized personnel of the town to put the dog to death or may order such other disposition of the dog as will protect the inhabitants of the town.

5-2-7: CONTROL OF RABIES AND RABID ANIMALS; VACCINATIONS:

- A. Vaccinations Required: Every owner of any domestic animal shall be required to have such animal vaccinated, including rabies vaccination.
- B. Rabies Vaccination Required: It shall be unlawful for the owner of any dog to suffer, allow or permit such dog to be or go upon any sidewalk, street, alley, public place or square within the town without first having had such dog vaccinated against rabies as provided in subsection C of this section within the past two (2) years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.
- C. Vaccination By Licensed Veterinarian; Exception: Every owner of any dog over the age of six (6) months within the town shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness, which such person is hereby required to place upon the dog, a tag showing that such vaccination has been done; provided, that the town council may, by resolution, provide that the owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the conditions with which the owner must comply to obtain the tag herein required.
- D. Reporting Of Rabid Animals: Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the animal control officer. The animal control officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.
- E. Biting Animal Quarantined: Any dog or other animal of a species subject to rabies which is known to have bitten or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the town pound and shall not be killed or released until at least fourteen (14) days after the biting or injury has occurred in order to determine

whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the state health laboratory to be examined for rabies.

- F. Bitten Animal Quarantined: Any animal of a species subject to rabies which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal shall be isolated in a suitable place approved by the animal control officer for a period of one hundred twenty (120) days or destroyed.

5-2-8: ANIMALS AT LARGE:

No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of the town, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside the town limits to any enclosure within the town limits or from any enclosure in the town to a place outside the town or from one enclosure to another within limits of the town.

5-2-9: DOGS AT LARGE; NUISANCE DECLARED:

- A. Unlawful Acts: It shall be unlawful:

1. For the owner or keeper of any dog to permit such dog to run at large.
2. For an owner of a dog to permit such dog to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.

- B. Violation Regardless Of Precautions: The owner of any dog running at large shall be deemed in violation of this section, regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large.

- C. Declared Nuisance: Any dog running at large in violation of the provisions of this section is hereby declared to be a nuisance and a menace to the public health and safety, and the dog shall be taken up and impounded as provided in this chapter. (2006-06 Municipal Code)

5-2-10: PROHIBITED ACTS AND CONDITIONS:

- A. Disposition Of Dead Animals; Violation: The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal within ten (10) hours after its death; provided that any such burial shall not be allowed within 100 feet of a well or other water source.. A violation of this section is a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code.
- B. Diseased Animals: It is a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to bring into the town for sale or have in his possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.

- C. Diseased Animals For Human Consumption: It is a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to bring into the town for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl or poultry which is diseased, unsound and unwholesome or which for any other reason is unfit for human food.
- D. Female Dogs In Heat: The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance.
- E. Unlawful To Harbor Stray Dogs: It shall be unlawful for any person to harbor or keep within the town any lost or strayed dog without notifying the animal control officer. Whenever any dog shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the town clerk or animal control officer, who shall impound for running at large contrary to the terms of this chapter. If there shall be attached to such dog a license tag for the then current fiscal year, the animal control officer shall notify the person to whom such license was issued, at the address given on the license.
- F. Loud Or Offensive Animals: No person, persons, firm or corporation shall own, keep or harbor any dog which by loud, continued or frequent barking, howling, yelping, or by noxious or offensive odors, or in any other manner, shall annoy, disturb or endanger the health and welfare of any person or neighborhood. The animal control officer may order the impounding of any such nuisance dog pending the resolution of the situation to the satisfaction of the aggrieved party or the courts. A violation of this subsection shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, and such is hereby declared to be a nuisance, and each day a violation is permitted to exist or continue shall constitute a separate offense. This subsection shall not apply to the town dog pound, veterinary hospitals or medical laboratories.

5-2-11: TRESPASSING DOGS; DAMAGE TO PREMISES:

If any dog shall trespass or do damage upon the premises of any person, the party aggrieved, whether he be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing dog or by distraining and impounding the dog in the manner provided.

5-2-12: IMPOUNDING:

- A. Duty Of Official To Impound: It shall be the duty of every police officer or other designated official to apprehend any dog found running at large or which is in violation of this chapter and to impound such dog in the pound or other suitable place. The animal control officer, or some other designated official, upon receiving any dog, shall make a complete registry, entering the breed, color and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and number of the license.
- B. Interference With Impounding Prohibited: It shall be unlawful for any person to hinder, delay, interfere with or obstruct the animal control officer or any of his assistants while engaging in capturing, securing or taking to the dog pound any dog or dogs liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any dog pound or ambulance, wagon or other vehicle used for the collecting or conveying of dogs to the dog pound.

- C. Records Maintained By Animal Control Officer: The animal control officer shall keep a record of each animal impounded by him, the date of receipt of such animal, the date and manner of its disposal and if redeemed, reclaimed or sold, the name of the person by whom redeemed, reclaimed or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.
- D. Redemption Of Impounded Dogs: Any dog impounded may be redeemed and taken from such pound by the owner or any authorized person upon paying the person in charge of the pound an impounding fee in such amount as established by resolution of the town council for each and every day such dog shall have been impounded. All impounded dogs not redeemed within five (5) days shall be delivered to the humane society.

5-3-1: UTAH CRIMINAL CODE ADOPTED BY REFERENCE:

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah criminal code (title 76), as amended, are hereby adopted by the town. Any and all violations thereof shall be considered violations of this chapter and each such violation shall subject the violator thereof to penalty provisions under this chapter if proceeded hereunder.

6-1-1: UTAH TRAFFIC RULES AND REGULATIONS ADOPTED:

The town does hereby adopt all relevant provisions of the Utah traffic rules and regulations as described in Utah Code title 41, chapter 6, as the same may be amended from time to time.

6-1-2: DEFINITIONS:

Unless the context otherwise requires, all references in the traffic code to:

- A. The state road commission or state department of transportation shall mean this town and its officers, departments, agencies and agents.
- B. Local authorities shall mean the town council or its representative.
- C. The department of public safety of the state of Utah shall mean the town's law enforcement official or his agent.
- D. Magistrate shall mean the justice of the peace or judge of the town.

6-1-3: TRAFFIC CONTROL:

A. Prima Facie Speed; Designated Streets:

1. Streets With Signs: When appropriate street signs giving notice of the maximum permitted speed thereon are erected, the prima facie speed limit designated upon said signs shall apply to the appropriate streets or portions of streets so posted.

2. Streets Not Posted: Unless otherwise provided in this chapter or in any other ordinance of the town, the prima facie speed limit on the streets of the town shall be twenty-five (25) miles per hour.

- B. Through Streets Designated; Stop And Yield Intersections: When appropriate traffic-control or regulatory signs are posted at entrances to intersections identifying them as stop or yield entrances, such streets are hereby declared to be stop entrances and yield entrances as designated by said signs.
- C. Authority To Erect Stop Or Yield Signs: Whenever any ordinance of this town designates and describes a through street, it shall be the duty of the town law enforcement officer or the street supervisor to place and maintain a stop sign or, where safety and efficiency require at any intersection, a yield sign, on each and every street intersecting such through street, unless traffic at such intersection is controlled at all times by traffic-control signals. However, at the intersection of two (2) through streets or at the intersection of a through street and a heavily-traveled street, stop signs shall be erected at approaches to either street as determined by the town law enforcement officer on the basis of an engineering and traffic study.
- D. Angle Parking: When appropriate traffic-control or regulatory signs are posted permitting angle parking, angle parking shall be permitted on the streets or parts of streets so posted at the angle designated by the sign.
- E. Penalty: Any person violating, causing or permitting violation of any provision of this section shall be subject to penalty as provided in Utah Code.

6-1-4: PARKING REGULATIONS:

- A. Signs; Erection: The town council may authorize or direct any person employed by the town to erect or install any sign or traffic-control or safety device required to enforce the provisions of this chapter. (Ord. 4-94, 3-3-1994)
- B. Properly Posted Areas: It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to park or leave standing at any time a motor vehicle, except when necessary to avoid interference with other traffic or in compliance with the directions of a police officer or traffic-control device.
- C. Blocking Streets Or Highways: In addition to the parking provisions, it shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to: (Ord. 4-94, 3-3-1994; amd. 2001 Code)
 - 1. Remain standing, lying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon.
 - 2. Wilfully remain standing, lying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer.

3. Wilfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.

D. Unlawful Parking:

1. Vehicles For Sale: It shall be unlawful to park any vehicle on any street for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.

2. Time Limit; Impoundment: It shall be an infraction, subject to penalty as provided in section 1-4-1 of this code, for any person to park or leave standing on any public road, street, alley or town property any motor vehicle for forty eight (48) or more consecutive hours, and any vehicle so parked or left standing may be impounded or removed by the town's law enforcement official. For purposes of impoundment and removal, the town's law enforcement official may impound and remove any motor vehicle which reasonably appears to have remained unmoved for forty eight (48) consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle.

3. Emergency Vehicles; Personnel: It shall be unlawful for any person, except physicians on emergency calls or designated emergency vehicles when properly posted, to park any motor vehicle on any street in violation of the posted restrictions.

7-1-2: OBSTRUCTIONS IN STREETS:

It shall be unlawful for any person owning, occupying or having control of any premises to place or permit to be placed upon or in the sidewalk, parking area, gutter or on the half of the street next to such premises any material that would obstruct the public way. (Ord. 4-94, 3-3-1994; amd. 2001 Code)

7-2-4: BUILDING MATERIALS IN STREET; PERMIT:

It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the street department a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the town council. Any such permit may be revoked by the town council at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the town council, the public interest requires such revocation. (Ord. 4-94, 3-3-1994; amd. 2001 Code)

7-2-6: OVERFLOWING OF WATER:

It shall be unlawful for any person to allow water to overflow from any ditch, canal, well or irrigation stream onto the streets, sidewalks or property of the town. (Ord. 4-94, 3-3-1994)

7-4-1: UNLAWFUL USE:

Unless authorized by permit or other written authorization issued by the town, or unless authority is granted by provisions of this code or other ordinance of the town now or hereafter enacted, it shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to:

- A. Property Controlled By Town: Construct, lay, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by the town, any utility, canal, ditch, construction or building.
- B. Restricted Areas: Enter upon any property of the town contrary to any posting or marking restricting or prohibiting use of the area.
- C. Damage To Property: Intentionally use or perform acts upon property of the town which materially impairs, alters or damages the property.

7-4-2: REPAIR AFTER UNLAWFUL USE:

The town council, in addition to any other penalty which may be imposed, may order any person who has damaged, altered or changed any property of the town to repair or restore the property to its original condition prior to the damage, alteration or change.

7-4-3: FRANCHISE; EASEMENT:

- A. Provisions: The town council may grant to any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for other use of the property of the town, and the provisions of sections 7-4-1 and 7-4-2 of this chapter shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.
- B. In Writing: Any franchise or easement granted by the town shall be in writing and any franchise or easement not in writing shall be void.

7-4-4: ACTS EXEMPTED:

It shall not be a violation of this chapter where any person uses the public property of the town in the manner or for the purpose for which such property has been made available for public use.

Title 8

LAND USE AND DEVELOPMENT CODE

Chapters:

- 8.01** **GENERAL PROVISIONS**
- 8.02** **ADMINISTRATION PROCEDURES**
- 8.03** **GENERAL PLAN ADMINISTRATION**
- 8.04** **DEFINITIONS**

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|--------|---|
| 8.05 | P-160 PRESERVATION ZONE |
| 8.06 | {Repealed.} |
| 8.07 | (RA-5) RESIDENTIAL-AGRICULTURAL ZONE |
| 8.08 | (RA-1) RESIDENTIAL-AGRICULTURAL ZONE (Amended 3-3-2008) |
| 8.09 | (M) MOUNTAIN ZONE |
| 8.10 | (C) COMMERCIAL ZONE |
| 8.11 | (HS) HIGHWAY SERVICES ZONE |
| 8.12 | (OBP) OFFICE AND BUSINESS PARK ZONE |
| 8.13 | (I) INDUSTRIAL ZONE |
| 8.14 | (PF) PUBLIC FACILITIES ZONE |
| 8.15 | {Repealed.} |
| 8.16 | {Repealed.} |
| 8.17 | (GHOZ) GEOLOGIC HAZARDS OVERLAY ZONE |
| 8.18 | {Repealed.} |
| 8.19 | {Repealed.} |
| 8.20 | GENERAL PARKING STANDARDS |
| 8.21 | SUPPLEMENTARY DEVELOPMENT STANDARDS |
| 8.22 | NON-CONFORMING USES AND STRUCTURES |
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| 8.30 | AFFORDABLE HOUSING REQUIREMENTS |
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| 8.AP.1 | APPENDIX 1 TOWN OF DANIEL LAND USE CLASSIFICATIONS |
| 8.AP.2 | APPENDIX 2 ILLUSTRATIONS |
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| 8.AP.6 | APPENDIX 6 RSPA |
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Chapter 8.01

GENERAL PROVISIONS.

Sections:

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| 8.01.01 | Purpose. |
| 8.01.02 | Intent. |
| 8.01.03 | Short Title. |
| 8.01.04 | Code Numbering. |
| 8.01.05 | Authority Provisions. |
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| 8.01.07 | Building Permits Required. |
| 8.01.08 | Building Permits - Plot Plan Required. |
| 8.01.09 | Permits to Comply with Land Use Regulations. |
| 8.01.10 | Land Use Verification Certificates. |
| 8.01.11 | Certificate of Occupancy and Land Use Compliance. |
| 8.01.12 | Nuisance. |
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| 8.01.21 | Severability. |
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Section 8.01.01 Purpose.

This Title and the regulations and restrictions contained herein are adopted and enacted for the purpose of promoting the health, safety, welfare, prosperity, improved morals, peace, good order, comfort, convenience and aesthetics of the present and future inhabitants of Daniel and to:

- (1) Guide the future growth and development of the Town of Daniel, also known as Daniel herein, in accordance with the Town of Daniel General Plan (as defined in Section 8.02.03 below);
- (2) Provide for adequate open space, light, air, air quality, privacy, safety from fire, flood, landslides and other geologic hazards, and other dangers and to try to prevent overcrowding of the land, and to lessen traffic congestion;
- (3) Protect and conserve the character and stability of the Town of Daniel, and to encourage the orderly development of the land;
- (4) Protect and conserve Town of Daniel property values and minimize conflicts among uses of the land and structures;
- (5) Establish public and private policy that encourages action to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public facilities;
- (6) Establish reasonable standards of design and procedures for development;
- (7) Create an atmosphere attractive to visitors and attractive and livable to residents;
- (8) Fully exercise all of the powers granted to the Town of Daniel by the provisions of the Utah Code Annotated (Title 10), and all other powers granted by statute or by common law for the regulation of land uses and improvements;
- (9) Protect and enhance the quality of life in general for Town of Daniel residents;
- (10) Allow development in a manner that encourages the preservation of scenic values, historic structures, agricultural uses and minimizes the impact on natural resources in the Town of Daniel;
- (11) Provide for well-planned commercial and residential centers, efficient traffic circulation, and efficient use of Municipal services;
- (12) Regulate development that may add to existing geologic hazards, erosion, flooding or other conditions that create potential dangers to life and safety in the community or detract from the quality of life in the community;
- (13) Require new development to be fiscally responsible by providing all required improvements and adequately mitigating any impacts to the Town of Daniel;
- (14) Establish Zone Districts within which the Legislative Body may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings and structures and the uses of land; and
- (15) Provide methods of administration and enforcement of this Title and provide penalties for the violation thereof.

Section 8.01.02 Intent.

It is hereby declared to be the intent of the Town of Daniel Legislative Body that this Title and the regulations set forth herein shall be so construed as to further the purpose of this Title and promote the objectives and characteristics of the respective zones.

Section 8.01.03 Short Title.

This Title shall be known as the Town of Daniel Land Use and Development Code or the Daniel Land Use Code, and may be so cited and pleaded. Whenever a reference is made to this code as the Town of Daniel Land Use and Development Code or the Daniel Land Use Code, or to any portion thereof, or to any ordinance of Town of Daniel, Utah, codified herein the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

Section 8.01.04 Code Numbering.

The chapter numbering and designation of this code is adopted as the official chapter numbering and designation for the Town of Daniel Land Use and Development Code. The title, chapter and section headings or numbers contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this title.

Section 8.01.05 Authority Provisions.

It is hereby declared to be within the authority of the Town of Daniel to approve the subdivision and development of land, amendment of plats, or adjustment of lot lines, rezoning of property, amendments to the General Plan, and approval of site plans pursuant to the guidance of the General Plan and Daniel Land Use Code, for the orderly, planned, efficient and economic development of the Town of Daniel.

Section 8.01.06 Licenses to Conform.

All departments, officials, and employees of The Town of Daniel that are vested with a duty or authority to issue permits and licenses shall do so, or shall delegate or assign the authority to do so, in conformance with the provisions of this title. No permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this title. A permit or license, if issued in conflict with the provisions of this title, shall be null and void.

Section 8.01.07 Building Permits Required.

No building or structure shall be constructed, reconstructed, altered or moved, except after the issuance of a permit for the same by the Building Official, unless exempted by State Law.

Section 8.01.08 Building Permits - Plot Plan Required.

(1) All applications for building permits for new construction (and not interior remodels) shall be accompanied by:

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

(b) When property boundaries are unclear or undetermined, a complete and accurate legal description of the property, which is the subject of the application, together with a certified survey of the property showing any conflict with adjoining property, overlaps or discrepancies between the legal description, and any existing fence lines.

Section 8.01.09 Permits to Comply with Land Use Regulations.

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

(2) No sewer service line and/or wastewater treatment facility, no water service line and/or water facility, or electrical utilities shall be installed to serve such premises if such use violates this Title.

Section 8.01.10 Land Use Verification Certificates.

At the request of an applicant, after payment of the appropriate fee, the Planning Staff may issue a Land Use Verification Certificate which determines the current standing of the property as to zoning, whether a requested use is permitted in the zone as of the date of the issuance of the Land Use Verification Certificate, and any known issues that relate to the potential for building on the property. Land Use Verification Certificates are based on the current ordinance and may be subject to change with future amendments to the Daniel Land Use Code.

Section 8.01.11 Certificate of Occupancy and Land Use Compliance.

(1) Unlawful to Occupy. It shall be unlawful to use or occupy, or to permit the use or occupancy of any building or premises until a Certificate of Occupancy and Land Use Compliance shall have been issued for the premises and/or building by the Town of Daniel. It shall also be unlawful to occupy any building which has greater intensity of use or different occupancy than provided for specifically in the Certificate of Occupancy and Land Use Compliance.

(2) Issuance of Certificates. A Certificate of Occupancy and Land Use Compliance, is required to be issued by the Town of Daniel, or by its delegatee, Planning Staff at the time a building is completed and final inspection granted by the Building Official. In addition, a new certificate shall be required at any time the occupancy of the building changes to a more intensive use or that the number of occupants in an apartment building or multiple residential building increases more than five (5) percent above the number declared in the previously-issued certificate.

(3) Information Required on Certificates. The following information shall be made a part of any application for a Certificate of Occupancy and Land Use Compliance issued by the Town of Daniel or its delegatee.

(a) Residential Certificates.

- (i) The number of residential units in the building or buildings. (If there is more than one building, the number of units should be listed separately for each building).
- (ii) Number of families residing or anticipated to live in the building.
- (iii) The number of legal off-street parking spaces, sized to conform to this Title and being provided on the premises.
- (iv) A signed certification of the property owner of the building or premises, or his authorized agent, stating that the information contained in the application is accurate and that the stated conditions will be maintained on the premises.
- (v) A notice directed to the owner of the building or premises that any change in the intensity of use of the building or premises, or an increase of more than five (5) percent in the number of occupants in an apartment building or multiple residential building, will require the issuance of a new certificate.

(b) Commercial, Industrial, and Institutional Certificates.

- (i) The proposed maximum number of employees on the premises.
- (ii) The number of off-street parking spaces sized to conform to this Title and provided for employees on the site.
- (iii) The number of off-street parking spaces sized to conform to this Title and provided for customers or visitors.
- (iv) The number and type of restroom facilities provided.
- (v) The square foot area within the building used for each separate type of occupancy.
- (vi) A signed certificate by the owner of the building or premises or his authorized agent stating that the information and conditions set forth in the application are true and will be maintained upon the site in this condition.
- (vii) A notice directed to the owner of the premises that a change in intensity of use of more than five (5) percent increase in the intended occupancy of the building will require the issuance of a new certificate.

Section 8.01.12 Nuisance.

The Town of Daniel may avail itself of all remedies available at law or in equity to abate any nuisance or public nuisance. In addition to the nuisances otherwise defined and declared under the Daniel Municipal Code, each of the following acts is hereby declared to be a nuisance and may be abated in as such:

- (1) Any act which constitutes a nuisance or public nuisance under state law;
- (2) Engaging in a use or activity that is not permitted in the zone where the use or activity is located;
- (3) The occupation of any building or structure for which a Certificate of Occupancy and Land Use Compliance has not been issued; and

(4) The occupation or use of a building or structure with a greater density or intensity of use than is permitted in the Certificate of Occupancy and Land Use Compliance.

Section 8.01.13 Construction and Use to Conform to Plans.

Building permits or Certificates of Occupancy and Land Use Compliance, issued on the basis of plans and specifications approved by the building official, authorizes only the use, arrangement, and construction set forth in the approved application, plans and specifications and no other use, arrangement, or construction. The use, arrangement, or construction at variance with that authorized in said plans and specifications shall be deemed a violation of this Title and shall be punishable as provided in Section 8.01.15 Town of Daniel Land Use and Development Code.

Section 8.01.14 Enforcement Actions.

The provisions of this title shall be administered by the Planning and Zoning Department under the supervision of the Town of Daniel Legislative Body. The provisions of this title also may be administered directly by the Town of Daniel Legislative Body. The planning director or his/her representative shall investigate alleged violations of this title, and initiate enforcement actions if violations are found to exist. The failure of the Town of Daniel to enforce the requirements of this Title shall not operate to waive or stop the Town of Daniel from pursuing subsequent enforcement actions. Permits issued in violation of this Title shall have no force or effect.

Section 8.01.15 Penalties.

It shall be unlawful for any person to violate any of the provisions of this title. Any person, firm, partnership, corporation, or other entity, whether as principal, agent, employee or otherwise, violating or causing the violation of the provisions of this title shall be guilty of a Class "C" Misdemeanor, and upon conviction thereof may be punished by a fine of not more than seven hundred and fifty (\$750.00) dollars per offense, or by imprisonment in the County jail for a period not more than ninety (90) days or by a combination of said fine and imprisonment. Each and every day a violation occurs shall constitute a separate offense.

Section 8.01.16 Expiration of Approvals.

(1) Building Permits. A building permit shall expire if construction is not begun within one hundred eighty (180) days from the date the building permit was issued. A building permit shall expire if construction is not completed and a Certificate of Occupancy and Land Use Compliance obtained within two (2) years from the date the building permit was issued. The building official may, for good cause shown, extend the expiration date for a period of time not to exceed one (1) additional year.

(2) Administrative Approvals. The planning commission may delegate to the planning staff or development review committee specific authority to act on certain administrative matters. In the event that the development is one of the types of development where authority has been so delegated, any approvals granted by the planning staff or development review committee shall expire

one hundred and eighty (180) days after such approval is given. The approving body may grant one extension of up to ninety (90) additional days on a finding of good cause by the approving body.

(3) Preliminary Approvals of Developments. Preliminary approvals of developments shall expire if application for final approval has not been submitted for consideration within one (1) year from the date of receiving preliminary approval. An extension not to exceed one (1) additional year upon a finding of good cause.

(4) Final Development Approvals. Final approval of developments shall expire if the plat is not recorded within one (1) year from the date of receipt of final approval by the planning commission. The planning commission may grant a one (1) year extension upon a showing of good cause.

Section 8.01.17 Effect of CC&Rs.

Enforcement of private covenants, conditions and restrictions shall not be the responsibility of the Town of Daniel.

Section 8.01.18 Effect of Prior Ordinance.

Uses which were commenced legally prior to the adoption of this title, or for which permits were properly issued and are acted upon in a timely manner, shall, to the extent they do not conform to this title, be considered as non-conforming uses, and shall not be affected hereby. Uses, which were unlawful prior to the enactment of this title, shall not become legal by the enactment of this title.

Section 8.01.19: Omitted.

Section 8.01.20 Payment of Fees.

Any application for approval by the planning staff or planning commission shall not be considered complete or accepted until the applicant has submitted a complete application, including payment of all fees as required by title. Fees paid shall be non-refundable. Payment of the appropriate fee is no guarantee that the proposal will be approved.

Section 8.01.21 Severability.

Should any section, paragraph, sentence, clause, or phrase of this title be declared unconstitutional or invalid for any reason, the remainder of this title shall not be affected thereby.

Section 8.01.22 Conflicting Provisions.

The provisions of this title are in addition to all other municipal ordinances, the laws of the state of Utah, and the laws of the United States. This title shall not supersede any private land use regulations in deeds

or covenants, which are more restrictive than this title. Whenever a conflict exists between this title and state or federal laws or private land use regulations in deeds or covenants, the more restrictive provision shall apply to the extent allowed by law. The more specific provisions of this title, dealing with specific zones, subdivision types and types of uses shall prevail over general provisions.

Section 8.01.23 Codification, Inclusion in Code, and Scrivener's Errors.

It is the intent of the Town of Daniel Legislative Body that the provisions of this title may become and be made part of the Town of Daniel Municipal Code as adopted, and as may be amended from time to time (also known as the Municipal Code); and that sections of this title may be re-numbered or re-lettered and the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Municipal Code is accomplished, sections of the title may be re-numbered or re-lettered and typographical errors which do not affect the intent may be authorized by the Legislative Body of the Town of Daniel without need of public hearing by filing a corrected or re-codified copy of the same with the Town of Daniel recorder's office.

Chapter 8.02

ADMINISTRATION PROCEDURES

Sections:

- 8.02.01 Purpose.**
- 8.02.02 Notice of Public Hearings.**
- 8.02.03 Zone Establishment.**
- 8.02.04 Zoning Maps Adopted.**
- 8.02.05 Procedure to Amend the Title, Code or Zoning Map.**
- 8.02.06 Plat Amendments**
- 8.02.07 Boundary Line Adjustments**
- 8.02.08 Variances - Procedure**
- 8.02.09 Appeals - Procedure**
- 8.02.10 Land Use Classification Reference**
- 8.02.11 Proposed Uses Substantially Similar to Permitted Uses but not permitted in the Zoning District**
- 8.02.12 Adoption of Local Street Plan**

Section 8.02.01 Purpose.

The purpose of this chapter is to establish the administrative procedures for land use policy decisions in the Town of Daniel.

Section 8.02.02 Notice of Public Hearings.

(1) The Town of Daniel shall give reasonable notice of any public hearing mandated by this title, which notice shall be given in a manner consistent with the requirements of state law. Notices of public hearings, required, by this title, shall be published once in a newspaper of general circulation at least fourteen (14) calendar days before the hearing. Such notice shall state the time and place of such hearing and shall include a general explanation of the matter to be considered and a general description of the area affected.

(2) This section is not intended to preclude the giving of additional notice that may be deemed necessary by the planning staff.

(3) If notice given under authority of this section is not challenged as provided by state law within thirty (30) days from the date of the meeting for which notice was given, the notice is considered adequate and proper.

Section 8.02.03 Zone Establishment.

In order to accomplish the purposes of this title, the Town of Daniel hereby divides the town into zones in accordance with the General Plan of the Town of Daniel and the Daniel Land Use and Development Code enacted in 2006. This General Plan shall be known as the Town of Daniel General Plan or the "General Plan", and may be so cited and pleaded. Whenever a reference is made to this code as the Town of Daniel General Plan or the General Plan, or to any portion thereof, or to any ordinance of Town of Daniel, Utah, codified herein the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. In the preparation of this Title, due and careful consideration was given, among other things, to the relative quantities of the land needed for particular uses and to the suitability of such uses, to existing and probable future conditions within the Town and its surrounding environs, and to the character of each of the several zones, with a view to conserving property values and encouraging the most appropriate use of land throughout the town. (Amended eff. 3-3-2008)

Section 8.02.04 Zoning Maps Adopted.

(1) Zoning Maps. The zoning maps for the Town of Daniel as approved by the Legislative Body of the Town of Daniel and signed by the mayor thereof are the official zoning maps of the Town of Daniel. The zoning maps show the town is divided into zoning districts as shown on each map entitled, "Zoning Map of the Town of Daniel", also collectively known as the "Zoning Map"; the zoning map and boundaries, notations, references and other information shown thereon shall be as much a part of this title as if the information and matters set forth by the zoning map were fully described herein. The zoning map may be formally amended by the Legislative Body of the Town of Daniel and signed by the mayor thereof and will reflect any amendments granted thereto. If a new zoning map is adopted, the town recorder and/or the Wasatch County GIS Department shall retain a digital copy of the previous zoning maps.

(2) Current Controlling Map. Regardless of the existence of purported copies of the official zoning district map, which may from time to time be made, amended or published, the official zoning district

map, which shall be located in the office of the planning staff, evidencing the signature of the mayor of the Town of Daniel, shall be the final authority as to the current status of zoning districts.

(3) Uncertainty of Zone Line. Where uncertainty exists with respect to the exact boundaries of various zones, the following rules shall apply:

- (a) Where the indicated boundaries on the official zoning district map appear to be approximately street or alley lines, the centerline of the streets or alleys shall be construed to be the zone boundaries;
- (b) Where the indicated boundaries appear to be approximately lot lines, the lot lines shall be construed to be the zone boundaries;
- (c) Where indicated boundaries appear to be canals, ditches or rivers the centerline of the canals, ditches or rivers shall be construed as the zone boundaries;
- (d) Where land has not been subdivided into lots, and the zone boundary does not appear to follow canals, ditches or rivers, the zone boundaries shall be determined by property lines or section lines which are closest to what appears on the zoning map;
- (e) Where other uncertainty exists, the planning commission shall interpret the official zoning district map. If a lot is divided by a zone line, the planning commission shall determine which zone shall apply to the entirety of the lot, or any other determination the planning commission deems fit and proper under the circumstances; and
- (f) Zone boundaries may follow portions of a parcel that have been historically irrigated.

Section 8.02.05 Procedure to Amend the Title, Code or Zoning Map.

(1) Application. This title, including the zoning map, may be amended by the Town of Daniel Legislative Body in accordance with the requirements of Title 10 of the Utah Code Annotated. For the purpose of establishing and maintaining sound, stable, and desirable development within the Town of Daniel, amendments shall not be made to this title or the adopted zoning map except to promote more fully the objectives and purposes of the General Plan and this title. Any person seeking an amendment to this title or the adopted Zoning Map shall submit to the planning staff a written petition containing the following information:

- (a) Designation of the specific zone change or title amendment desired;
- (b) The reason and justification for such zone change or title amendment, and a statement setting forth the manner in which a proposed amendment or zone would further promote the objectives of the General Plan and the purposes of this title;
- (c) A complete and accurate legal description of the area proposed to be rezoned; or a draft of the proposed title amendment;
- (d) An accurate development plan, drawn to scale, showing all areas to be included within the proposed rezoning, designating the present zoning of the property, and properties immediately adjacent thereto;
- (e) A slope map showing categories of slopes at 0-10%, 11-20% 21-30% and over 30% slopes; and
- (f) The filing fee as established by ordinance.

(2) Public Hearing. The planning commission and Town of Daniel Legislative Body shall hold a public hearing wherein it must be shown that such amendment is in the interest of the public, and is consistent with the goals and policies of the General Plan:

(a) The Town of Daniel Legislative Body may amend the number, shape, boundaries, or area of any zoning district, or any regulation of or within a zoning district, or any other provision of this title. Such amendments shall either be proposed by the planning commission or first submitted to the planning commission for its approval, disapproval, or recommendations.

(b) The Town of Daniel Legislative Body shall hold a public hearing on all proposed amendments and rezonings as defined in this section. Notice of the public hearing shall be given in a manner consistent with state law.

(c) Except as otherwise provided in this title, the Town of Daniel Legislative Body shall consider amendments to either the Daniel Land Use Code of the General Plan only once in any given year and rezones as defined in this section annually in November. The deadline for such amendments and rezone applications shall be submitted to the planning commission by July 15th of any given year for the recommendation by the planning commission. After July 15th, the item may not be heard until the following year unless initiated by the planning commission or town council.

(Amended eff. 11-5-2007)

(3) Exceptions. The Town of Daniel Legislative Body shall have authority to amend Title 8 at any time when the Town of Daniel Legislative Body finds that immediate enactment of an ordinance is necessary for the preservation of the peace, health, safety or welfare of the Town of Daniel and its inhabitants.

Section 8.02.06 Plat Amendments.

Plat amendments that do not qualify for treatment as a Boundary Line Adjustment, shall be processed in accordance with the requirements of Utah State Statute. An application including a copy of the proposed amended plat shall be submitted to the planning commission.

Section 8.02.07 Boundary Line Adjustments.

(1) Application. An application must be completed and the application fees paid. A complete application may be required to include a draft copy of the proposed plat as adjusted by the proposed boundary line adjustment. A determination of whether a new plat will be required will be made by the Town Planning Commission or its appointee, depending upon the adjustments to be made to the property.

(2) Processing. The Planning Staff shall review the application in accordance with Utah State Statute. If complete, the Boundary Line Adjustment may be processed.

Section 8.02.08 Variances – Procedure.

(1) Applications. Applications for variance shall be filed with the planning office. Applications shall contain the following information:

(a) A description of the requested variance together with a designation of that section of the Town of Daniel Land Use and Development Code from which relief is being requested;

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

(c) A filing fee as established by ordinance.

(2) Public Hearing. Upon receipt of a complete application as determined by the planning staff, a public hearing shall be set with the Board of Adjustment for the next available meeting date.

(3) Burden of Proof. The applicant for a variance shall bear the burden of proving that all of the foregoing conditions are satisfied as determined by the planning department.

(4) Findings Required. The Board of Adjustment may authorize variances from the requirements of this title, only when those variances serve the public interest, and are consistent with State law. In addition the Board of Adjustment may not grant use variances. The concurring vote of not less than four (4) members of the Board of Adjustment shall be necessary to grant a variance.

(5) Requirements for Granting a Variance. The Board of Adjustment may grant a variance only if all of the following conditions are met:

(a) Literal enforcement of the Land Use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use ordinance;

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

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

(d) The variance will not substantially affect the General Plan and will not be contrary to the public interest; and

(e) The spirit of the Land Use ordinance is observed and substantial justice done.

(6) Unreasonable Hardship. In determining whether or not enforcement of the Land Use ordinance would cause unreasonable hardship under Subsection Five (5)(a), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship:

(a) Is located on or associated with the property for which the variance is sought; and

(b) Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(i) In determining whether or not enforcement of the Land Use ordinance would cause unreasonable hardship under Subsection Five (5)(a), the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

(ii) In determining whether or not there are special circumstances attached to the property under Subsection Five (5)(a), the Board of Adjustment may find that special circumstances exist only if the special circumstances:

(A) Relate to the hardship complained of; and

(B) Deprive the property of privileges granted to other properties in the same district.

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

(8) Variance Applicability. Variances run with the land.

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

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

- (a) Mitigate any harmful effects of the variance; or
- (b) Serve the purpose of the standard or requirement that is waived or modified.

Section 8.02.09 Appeals – Procedure.

Appeals to the Board of Adjustment shall be made as follows:

(1) Standing to Appeal. Any person or entity (including a Town of Daniel department or elected official) affected by an administrative decision applying the Land Use ordinance may appeal that decision to the Board of Adjustment by alleging that there is an error in any order, requirement, decision, or determination by an official.

(2) Deadline for Filing Notice of Appeal. Notice of Appeal and all supporting documents shall be filed within thirty (30) days of decision or action taken by the official. Notice of Appeal shall be filed with the planning staff.

(3) Contents. Notice of Appeals shall state the administrative order, requirement, decision or determination from which the person or entity appeals, and shall specify the grounds for the appeal and circumstances related thereto. Any filings shall include copies of any documentary evidence or written arguments intended to be presented to the Board of Adjustment. A written appeal failing to specify grounds of appeal may be summarily dismissed by the Board of Adjustment, with or without prejudice. The brief should address all issues to be brought before the Board of Adjustment. Any new issues not addressed in the brief that are put forth at the hearing, shall be grounds to continue the matter to allow for adequate time to respond to the new issues.

(4) Determination of Hearing Date. Within five (5) business days of receipt of a Notice of Appeal, the applicant will be informed of a date for the hearing before the Board of Adjustment, which shall be no sooner than thirty (30) days thereafter, and no later than seventy five (75) days thereafter.

(5) Record Sent to Board of Adjustment. The official responsible for the administrative decision being appealed shall refer to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken, at least seven (7) days prior to the hearing.

(6) Appeal Stays Action. An appeal stays all proceedings unless the Planning Staff certifies to the Board of Adjustment that a stay would cause imminent peril to life or property, or irreparable harm.

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

(8) Actions of Board of Adjustment. In exercising its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, condition, decision or determination as ought to be made. The concurring vote of not less than four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination applying the Land Use ordinance.

(9) Appeal of Decision of Board of Adjustment. Any person or entity aggrieved by a decision of the Board of Adjustment may petition the district court for a review of the decision as permitted by Utah State law.

Section 8.02.10 Land Use Classification Reference.

The planning commission has prepared, and shall hereafter maintain, a Land Use classification, which is included as an appendix to this document and is incorporated by reference herein. The Land Use classification, contains a list of the use numbers and use classifications used in this title, and explanations concerning the same. The Land Use classification shall be used to assist in interpreting the meaning of any use number or use classification used in this title.

Section 8.02.11 Proposed Uses Substantially Similar to Permitted Uses but not permitted in the Zoning District .

Any use proposed in a zoning district that does not specifically permit such use may be considered by the planning commission after a determination by the planning staff that the proposed use is substantially similar in type and impact to a permitted use in the zoning district. The Town of Daniel Legislative Body shall process and consider such proposed uses in the same manner as any amendment to the Land Use ordinance, except that such proposed uses may be considered at any time during the calendar year. The application for such a proposed use may be processed in conjunction with and at the same time as the proposed amendment to the Land Use ordinance.

Section 8.02.12 Adoption of Local Street Plan.

The Town of Daniel planning commission shall adopt and maintain a local street plan, which will provide long-range planning for local neighborhood streets. This process is intended to ensure that property within a given area can be adequately developed and serviced. Elements of this plan shall show the proposed streets layout, lots, and other features including existing utilities and water courses in relation to the existing and planned street within the development. The plan shall be prepared at a scale of not smaller than one inch equals four hundred feet. Upon recommendation by the planning commission, local street plan shall be submitted to the Legislative Body for adoption. The land developer shall coordinate with the planning staff in developing the local street plan.

Chapter 8.03

GENERAL PLAN ADMINISTRATION

Sections:

8.03.01 Purpose

| | |
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| 8.03.02 | Scope |
| 8.03.03 | General Plan Interpretation |
| 8.03.04 | General Plan Amendment |
| 8.03.05 | Application Procedures |
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| 8.03.09 | Town of Daniel Legislative Body Action |
| 8.03.10 | General Plan Consistency |

Section 8.03.01 Purpose.

The purpose of this chapter is to establish guidelines and procedures for amendment, maintenance and administration of a comprehensive, long-term General Plan and for the conservation and development of the land of the Town of Daniel. The plan and procedures are to be consistent with State planning statutes.

(1) The purpose of the General Plan is to set policies to guide future growth and development in a manner consistent with the goals and quality of life desired by citizens of the Town of Daniel. The General Plan is intended to be an integrated and internally consistent statement of policies to serve as a clear and useful guide for land use planning for public agencies and private citizens. The General Plan forms the basis for the Town's zoning, subdivision and other land use regulations and for such implementation measures as capital improvement programs, housing programs, and growth management programs.

(2) The General Plan is based on community values and an understanding of existing and projected conditions and needs, all of which are subject to change. The General Plan amendment process established by Utah State law and this chapter therefore enables the General Plan map designations and/or written policy statements to be changed. The General Plan is a policy document for the entire Town of Daniel and may be amended only if the amendment is in the best interest of the residents, property owners and visitors of the municipality. Every General Plan amendment must be consistent with the rest of the General Plan or appropriate changes must be made to maintain internal consistency.

Section 8.03.02 Scope.

This chapter requires the Town of Daniel to maintain a comprehensive General Plan consistent with state statutes and establishes procedures for interpretation and amendment of the General Plan. Administrative procedures are also provided for an annual review of the General Plan and a review of public works projects.

Section 8.03.03 General Plan Interpretation.

The General Plan shall be applied and interpreted under the direction of the planning director. Where disputes arise over the interpretation of General Plan policies or mapping designations, such interpretation shall be resolved by a majority vote of the planning commission based on a report by the planning staff and a public hearing. Planning commission determinations may be appealed to the Board of Adjustment and the Town of Daniel Legislative Body in accordance with the appeal procedures.

Section 8.03.04 General Plan Amendment.

(1) Amendment Initiation. A General Plan Amendment may be initiated by:

- (a) A Resolution of Intention by the Town of Daniel Legislative Body or the planning commission;
- (b) An application by a property owner, an interested party having the owner's authorization, or any member of the general public.

(2) Amendment Frequency. Proposed amendments to the General Plan will be considered by the Town of Daniel Legislative Body once each calendar year in November.

(3) Consistency of the Land Use. When a General Plan amendment is approved by the Town of Daniel Legislative Body and the amendment affects the land use designation of specific properties, those properties shall be concurrently rezoned to a zoning district(s) as necessary to maintain consistency with the General Plan.

Section 8.03.05 Application Procedures.

(1) Application. Application to amend the General Plan shall be accompanied by a written description of the proposed amendment, the reasons for the request, and any supporting information as may be available, appropriate or requested by the Planning Director to process the application. General Plan amendments for specific properties shall be accompanied by an application to rezone the property to a zoning district consistent with the proposed amendment.

(2) Fees. Applications for General Plan amendments shall be processed on a full cost recovery basis, in accordance with the Town of Daniel ordinance setting fees.

(3) Processing Agency. General Plan Amendments shall be processed by planning staff and/or by a consultant working under contract with the planning staff and/or planning commission.

(4) Physical Constraints Analysis. A General Plan amendment shall require a Physical Constraints Analysis to be submitted with the application. The planning staff may waive this requirement if the requested changes are minor and have no significant environmental impact.

Section 8.03.06 Notification Process.

Notice of a proposed amendment to the General Plan shall be consistent with the requirements of state law.

Section 8.03.07 Planning Commission Action.

The planning commission shall review the proposed General Plan amendment. The recommendation of the planning commission for or against the proposed amendment shall include the following:

- (1) The reasons for the recommendation;
- (2) A statement of the consistency of the proposal to the other parts of the adopted General Plan;
- (3) A statement of findings regarding any environmental impacts.

Section 8.03.08 Appeal of Planning Commission Action.

(1) If a proposed amendment to the General Plan is initiated by resolution of the planning commission or by application of a property owner, interested party, or member of the general public, and the planning commission fails to approve the proposed amendment, that decision is final unless appealed to the Town of Daniel Legislative Body within thirty (30) days of the date of the planning commission's decision.

(2) If a proposed amendment to the General Plan is initiated by resolution of the Town of Daniel Legislative Body, the planning commission will review the proposed amendment and recommend approval or denial to the Town of Daniel Legislative Body for a final decision.

Section 8.03.09 Town of Daniel Legislative Body Action.

(1) Public Hearing. After receiving the planning commission recommendation, the Town of Daniel Legislative Body shall hold a public hearing on the proposed amendment after giving notice as required by state law. The public hearing shall be set for the November public hearing of the General Plan amendments.

(2) Action on Planning Commission Recommendation. The Town of Daniel Legislative Body may approve, modify, or disapprove the planning commission's recommendation, provided that any substantial modification, not previously considered by the planning commission, shall be referred to the planning commission for a report and recommendation.

(3) Referral. If the Town of Daniel Legislative Body initiates an amendment to the General Plan, the proposed amendment shall first be referred to the planning commission for a report. The planning commission shall hold a public hearing after giving notice as required by state law and shall submit a report to the Town of Daniel Legislative Body.

Section 8.03.10 General Plan Consistency.

(1) Land Use Regulation. All land use regulations including building, zoning, subdivision and environmental protection regulations shall be consistent with the adopted General Plan. No land use project, public or private, shall be approved by the Town of Daniel unless it is found to be consistent with the adopted General Plan.

(2) Reviewing Department. The planning staff is designated as the department authorized to review discretionary land use projects, public or private, and to make findings regarding whether such projects are consistent with the General Plan.

Chapter 8.04

DEFINITIONS

Sections:

8.04.01 Purpose

8.04.02 Definitions. The following words shall have the described meaning when used in this ordinance, unless a contrary meaning is apparent from the context of the word:

Section 8.04.01 Purpose.

For the purposes of this title, the following terms and words and their derivations shall have the meaning as given herein. When inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, and the plural the singular. Shall is always mandatory. Words not included herein, but which are defined in the Uniform Building Code shall be construed as defined therein. Words which are not included herein or in the Uniform Building Code shall be given their usual meaning as found in an English dictionary, unless the context of the words clearly indicates a different meaning. Definitions of words applicable particularly to certain chapters may be included in those chapters. All terms used in this Title which are not specifically defined herein are to be given their usual and standard definition. Disputes as to the definition of a term not specifically defined herein shall be referred to the Board of Adjustment for resolution.

Section 8.04.02 Definitions. The following words shall have the described meaning when used in this ordinance, unless a contrary meaning is apparent from the context of the word:

(1) Accessory Building. A building or structure, the use of which is incidental and subordinate to the main building and more than ten feet away from any main building or structure.

(2) Accessory, Residential Dwelling for Non-Residential Uses. A dwelling unit accessory to a non-residential use located on the same premises, to be used solely for persons employed on the premises.

(3) Accessory, Residential Unit. A secondary dwelling unit attached to the existing single family dwelling with accessibility between the unit and main dwelling solely for the housing of a blood relative, which shall not be a rented unit.

(4) Accessory Use. A use that:

- (a) is customarily incidental to and found in connection with a principal or main use;
- (b) is subordinate to and serves a principal or main use;
- (c) is subordinate in extent, area, or purpose to the principal or main use;
- (d) is located on the same lot as the principal or main use; and

(e) contributes to the comfort, convenience, or necessity of occupants, business, or industry of the principal or main use.

(5) Agriculture. The act or science of cultivating the ground, the act or science of the production of plants and animals useful to man or beast; and includes gardening or horticultural fruit growing, storage and marketing.

(6) Agricultural Land for Agricultural Purposes. A tract of land which has been approved by the planning commission as a tract of agricultural land for agricultural purposes.

(7) Alteration. Any change or rearrangement in the supporting members of an existing structure, such as bearing walls, columns, beams, girders, or interior partitions, or any change in the dimensions or configurations of the roof or exterior walls, as well as any change in doors, windows, means of ingress or egress, or any expansion or diminution of a building or structure.

(8) Altered. Any change in the construction or addition to a building that increases the capacity or changes the use.

(9) Arena. An indoor or outdoor, public or private, commercial or non-commercial facility which is set aside for showing, training or exercising livestock.

(10) Athletic, Tennis, or Racquet Club. An establishment providing facilities for physical development, exercise, sports, or recreation. Facilities may include exercise equipment, indoor and/or outdoor racquetball or tennis courts, jogging track, swimming pools, skating rink, indoor bathing, restaurant or snack bar, and sales of athletic equipment. Facilities may be open to the public for a fee, or available only to persons holding membership.

(11) Auto Repair. A building or premises used for the repair of any passenger auto, pick-up truck, semi-tractor, recreational vehicle or similar vehicles where the repair includes but is not limited to the rebuilding of engines, transmissions or differentials.

(12) Auto Wrecking, Salvage Yard. See also junkyard. Any lot, portion of lot or tract of land used for the storage and keeping of salvage, including scrap metals or other scrap material, or for dismantling or demolition of automobiles or equipment, machinery or parts thereof; provided that this definition shall not be deemed to include such uses which are clearly accessory and incidental to any agricultural use permitted in the district.

(13) Average Slope. The average slope of a parcel of land or any portion thereof shall be computed by applying the formula:

$$S = \frac{0.00229 IL}{A}$$

A = to the natural slope of the land before any grading is commenced, as determined from a topography map having a scale of not less than one inch equaling one hundred (100) feet and a contour interval of not less than five (5) feet, where:

S = Average percent slope

0.00229 = A conversion factor of sq. feet to acres

I = Contour interval, in feet

L = Summation of the length of contour lines, in feet within the subject parcel

A = Area in acres of the parcel or any portion thereof.

(14) Barn / Agricultural Building. An accessory structure upon a lot customarily used for the housing of animals/livestock, storage of crops or feed, and/or machinery used in bona fide agricultural activities.

(15) Batching Apartment. A dwelling unit occupied by three (3) or more batching singles who are jointly utilizing the kitchen facilities of the dwelling unit.

(16) Batching Singles. Three (3) or more unrelated persons who are occupying a dwelling unit.

(17) Bed and Breakfast. A single-family residence Occupied by an owner-operator, with no more than eight (8) bedrooms located in the main residence, providing temporary accommodations (for compensation) on a nightly basis, not to exceed thirty days.

(18) Big Box Retail. Any single retail store with a gross main floor area of over forty thousand (40,000) square feet.

(19) Block. An area of land entirely bounded by streets.

(20) Bond: A document that complies with the standards contained in this Title and the state code, and which binds the parties thereto to take certain action if particular conditions are not met.

(21) Buildable Envelope. A three dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats in areas of thirty (30) percent slope or less.

(22) Building, Detached. A freestanding building that has open space on all four sides.

(23) Building Height. The vertical distance measured from the natural grade at each face of the building wall to the highest point of the roof.

(24) Building Inspector. A building inspector or building official shall mean an individual licensed by the state to provide inspection services under applicable building codes in the municipality, who has been nominated or recommended by the planning staff and appointed by resolution of the municipal legislative body. (Amended eff. 4-7-2008)

(25) Building, Main. The building or buildings on a site which house(s) the main use.

(26) Building Official. The Town of Daniel Building official, as approved and appointed by the legislative body of the Town of Daniel under an agreement with a term not to exceed two (2) years. The building official shall enforce the provisions of the Building Code and perform other duties appurtenant to such enforcement.

(27) Building, Public. A building owned and operated or owned and intended to be operated by a public agency of the United States of America, or the state of Utah or any of its subdivisions including county and municipality in connection with a public use.

(28) Building Site. The total area covered, or proposed to be covered, by a building, plus a twenty (20) foot strip around the exterior of the building, and, if a septic tank is to serve the building, such area as is required for normal functioning of a septic tank drain field as determined in accordance with state and Wasatch County standards.

(29) Caliper. A standard for trunk measurement of nursery stock, determined by measuring the diameter of the trunk six (6) inches above the ground for up to and including five (5) inch caliper size, and twelve (12) inches above the ground for larger trees.

(30) Carport. A covered automobile parking space that is not completely enclosed by walls or doors.

(31) Child-Care, Center. A childcare facility that regularly provides custodial care for six (6) or more children during the part of any day.

(32) Child-Care, Home. A childcare facility operated on residential premises.

(33) Children's Justice Center. (6729 of the Protective Functions and Related Activities) The Children's Justice Center is a center established and operated pursuant to Utah Code Title 67, chapter 5b. The purposes of the center are fully set forth in Utah Code Section 67-5b-102. Some of these purposes are to conduct interviews of abused children and their families, coordinate the evaluation and treatment of abused children, protect the interest of abused children and the community and enhance community understanding of sexual and serious physical abuse of children. The Children's Justice Center does not operate as a "Safe Haven" for children or adults. No overnight lodging is allowed.

(34) Church or Temple. A building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body.

(35) Civil Engineer. A professional engineer registered in the state of Utah to practice in the field of civil engineering.

(36) Clinic, Dental and Medical. A building in which a group of physicians, dentists, and allied professional assistants are associated for the carrying on of their professions including a dental or medical laboratory. Clinic does not include inpatient care or operating rooms for major surgery.

(37) Club, Limited Membership. A building or other structures constructed in accordance with a properly approved plan and used as an integral part of a park or large scale development and operated by an organized association of persons for social, fraternal, religious, or patriotic purposes for the benefit of the members and guests and not for the general public, and may include eating facilities, club administrative offices, off-street parking and retail establishments for the sale of goods and services consumed on the premises. It may also include auxiliary recreational facilities such as swimming pools, gymnasiums, tennis courts and hunting preserves, but a limited membership club shall not include sleeping accommodations nor facilities which are open to use by the general public.

(38) Clustering. A subdivision or development design technique that concentrates the buildings or lots on a part of the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive areas.

(39) College. An independent institution of higher learning offering a course of general study.

(40) Common area. An area of common ownership designed to serve the recreational, open space or other similar needs of two or more lots or dwelling units in separate ownership.

(41) Community Use. The uses that have the primary purpose of serving the educational, recreational, religious or governmental needs of the community in general. Such uses may include churches, public and private educational institutions, private non-profit recreation grounds, public parks, public buildings, public facilities, cemeteries and other similar uses. This definition shall not include such uses as detention facilities, half way houses, alcohol rehabilitation centers, and other similar uses.

(42) Conditional Use. A land use that because of its unique characteristics, or potential impact on the Town of Daniel and/or surrounding neighbors or adjacent land uses, may be allowed, allowed with conditions, or denied in designated zoning districts, based on compliance with standards and criteria set forth in this Land Use Ordinance for those uses.

(43) Condominium. The ownership of a single unit in a multi-unit project or structure which may be combined with an undivided interest in the common areas and facilities of the property and meeting all requirements of the Condominium Ownership Act of the State of Utah.

(44) Condominium Project. A project planned in accordance with the Utah Condominium Ownership Act, including, without limitation, all units, limited common area, and common area within the project.

(45) Conservation Easements. An easement voluntarily placed on property to ensure that no future development will occur. The easement will be held by a third party and maintained in perpetuity.

(46) Convenience Store. A building that contains less than five thousand (5,000) square feet and is primarily engaged in the provision of frequently needed, day-to-day retail goods including gasoline, food and non-food products.

(47) Corral. A primary enclosure for confining livestock.

(48) Dairy. A farming operation for the production of milk in commercial quantities and which is regularly inspected by the State Department of Agriculture or its cooperating agencies. It includes the raising of the natural increase to the dairy herd but does not include the feeding and fattening of livestock for slaughter in conjunction therewith.

(49) Density. The number of Equivalent Residential Units per acre.

(50) Developer. Any person or entity proposing to divide land for the purposes of selling smaller parcels, or any person or entity proposing to change or increase the use of a tract of land in the Town of Daniel.

(51) Developable Area. The portion of a site or building lot that is not within any areas considered to be physical constraints or within required setbacks. In the case of raw ground developable would mean areas that can be serviced by required infrastructure including roads, sewer and water.

(52) Development. The total area of the parcel of land on which a building permit is to be issued, or the total area of property being improved.

(53) Drainage Ditch. Any system of canal(s) or ditch(es) naturally existing or constructed to carry surface and/or subsurface water to a natural stream, whether or not the ditch(es) or canal(s) carry water filed upon by individual(s) to be used for irrigation purposes.

(54) Driveway. A private roadway for access of vehicles to a residence, parking space, garage or other structure.

(55) Dwelling. A building or portion thereof designed or used for residential occupancy, including one-family, two-family, multi-family, and apartment structure; but shall not include boarding, rooming, or lodging houses, tents, trailers, mobile home parks, motels, motor courts, motor lodges, cottage camps, or similar structures designed or used primarily for transient residential uses.

(56) Dwelling, Multiple Family Unit. A building arrangement designed for and/or occupied by three or more families.

(57) Dwelling, Single Family Attached. A dwelling unit sharing a common wall or walls, but located on an individual lot.

(58) Dwelling, Single Family Detached. A building designed for and occupied exclusively by one family on a separate lot and not sharing any common wall.

(59) Dwelling, Two Family. Two dwellings sharing a common wall or walls and located on one lot.

(60) Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.

(61) Engineering Geologist / Geotechnical Engineer. These terms shall have the meaning set forth in the Sensitive Land Overlay Zone in chapter 8.17 of this title.

(62) Environment. The sum total of the surroundings, which includes both natural and man-made elements.

(63) Equivalent Residential Units. The number of residential equivalents to determine density based on sewer, water and square footage of a structure.

(64) Excavation. The mechanical removal of earth material.

(65) Expansion. An increase in the size of an existing structure or use, including physical size of the property, building, parking and other improvements.

(66) Family. An individual or two or more persons related by law, blood, marriage, or adoption or up to two unrelated persons, living together in a single dwelling unit and maintaining a common household.

(67) Family Care Home. A dwelling wherein room, board, care, and supervision are provided by the resident family in a home setting to persons who are handicapped, mentally ill, or mentally retarded and who are provided with a program of services including training in vocational and recreational activities. To qualify, the dwelling must be approved or operated by an agency of the Utah state government.

(68) Family Day-Care Center. A dwelling or place of business wherein a resident family provides ordinary care and supervision during customary daytime periods to non-related persons. To qualify for a day-care center, an agency of Utah state government must approve the dwelling or place of business

(69) Family Food Production. The production of food through gardening or horticulture, for the sole use of the family occupying the premises. The raising of animals or fowl is not included in this definition.

(70) Farm. A business enterprise in which land is used for the production of food, feed, or fiber.

(71) Farm Animals. Animals and fowl such as commonly used for food or fiber production or as a beast of burden, for commercial purposes or for pleasure.

(72) Farm Industry. The keeping and raising of farm animals and/or fowl for domestic or commercial use such as fur farms, livestock feed yards, pig farms, dairy farms, stables, ranches, and similar uses, and accessory uses thereto.

(73) Fast Food Eating Establishment. Any establishment where foods or beverages are prepared for consumption and consumption occurs in either the building, on the premises or within a motor vehicle parked thereon, or off-premises and whose operation includes one or more of the following characteristics:

(a) Food or beverages are served to the occupants of a motor vehicle while seated therein (e.g., drive-through window or drive-in); and

(b) Food and beverages are usually served over a general service counter for the customer to carry to a seating area within the restaurant, to a motor vehicle, or off-premises.

(74) FEMA. An acronym for the Federal Emergency Management Agency.

(75) Fence. A structure erected to provide privacy or security that defines a private space or is used to constrain domestic animals.

(76) Fence, Sight-Obscuring. A fence that is three (3) feet or more in height that is constructed or planted in such a fashion that causes fifty (50) percent or more opaqueness at any angle of view through such fence.

(77) Fill. Earth material that has been deposited by artificial means.

(78) Final Plan. A plan of development showing the layout and dimensions of the streets, easements, common areas and other features of a development in accurate detail, prepared in accordance with Wasatch County Design and Construction Standards Handbook.

(79) Final Plat. A plat or plats of a development that has been prepared for recording purposes in accordance with Town of Daniel standards.

(80) Flood, Base - 100 Year Flood. The flood from whatever source having a one (1) percent chance of being equaled or exceeded in any given year, otherwise commonly referred to as the one hundred (100) year flood.

(81) Flood Channel. A natural or artificial water course with definite bed and banks to confine and conduct flood water.

(82) Flood Plain. Zone a hundred (100) year flood area as defined in FEMA's Federal Insurance Rate Map of Wasatch County.

(83) Floor Area. The sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior faces of the exterior walls.

(84) Foster Home. A dwelling unit where minor children, not related by blood, marriage or adoption, are cared for and furnished board and room with or without compensation on a continuing basis.

(85) Fraternal & Benevolent Society. A chartered, nonprofit social club or lodge with or without dining facilities and cocktail lounges composing a branch of a fraternal order, or society such as Elks, Masons, American Legion, Eagles, Optimists, Odd Fellows, Kiwanis, Rotary, and other similar nonprofit fellowship organizations which are open only to members and their duly authorized guests.

(86) French Drain. A sump or trench filled with crushed rock or gravel intended to receive storm water discharge.

(87) Frontage. The distance between the two side lot lines of a parcel measured along the street, or streets of a corner lot, which the parcel is allowed to access. For purposes of this title, temporary turn-arounds, dead ends of roadways, or emergency accesses shall not be used as frontage.

(88) Garage, Private. An attached or detached building accessory to a dwelling on the premises designed or used for the storage of private passenger automobiles owned and used by the occupants of the building to which it is accessory.

(89) Garage, Public. A building or portion thereof, other than a private garage, designed or used for the storing, servicing, repairing, equipping, hiring, or selling of motor-driven vehicles.

(90) Garage, Yard Sale. The sale of personal belongings in a residential zone, which sale is conducted by a legal resident of the premises.

(91) Gasoline, Retail. A building or premises used for the sale of gasoline and limited amounts of other oil products. Such premises may also include the sale of food products.

(92) General Plan. A coordinated plan which has been prepared and adopted by the Town of Daniel for the purpose of identifying present and future needs of the Town of Daniel and guiding the growth and development of land within the Town of Daniel or any part of the Town of Daniel, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes.

(93) Grade, Natural. A measurement of the degree of slope on the undisturbed, natural surface of the ground.

(94) Grade, Finish. A measurement of the degree of slope on the disturbed surface of the ground.

(95) Grading Plan. A topographic development plan prepared by a registered civil engineer showing contours for before and after grading.

(96) Grouping of Residential Lots. A development design technique that concentrates the lots in specific areas on a site to allow remaining land to be used for recreation, common spaces, or the preservation of historically or environmentally sensitive features.

(97) Gross Floor Area. The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, but not including interior or exterior parking spaces, or loading space for motor vehicles.

(98) Guest. A person or persons staying or receiving services for compensation at a hotel, motel, rooming house, rest home, timeshares or similar use.

(99) Handicapped Person. A person who has a severe, chronic disability attributable to a mental or physical impairment or to a combination of mental and physical impairments, which is likely to continue indefinitely, and which results in a substantial functional limitation in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and who requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that are individually planned or coordinated to allow the person to function in, and contribute to, a residential neighborhood.

(100) Hard Surface. An impermeable, dust-free surface such as concrete or asphalt. Road base does not qualify.

(101) High Water Table. A condition where the ground water is less than six (6) feet below the ground surface.

(102) Hog Farm. A tract of land and the facilities for raising and feeding swine.

(103) Home Occupation. A nonresidential activity, conducted entirely within a dwelling unit, which is clearly incidental and secondary to the use of the dwelling for residential purposes.

(104) Homeowners Association. An incorporated nonprofit organization operating under recorded land agreements through which: (a) each lot/home owner is automatically a member; and (b) each lot is automatically subject to a proportionate share of the expenses for the organization's activities and interest, such as maintaining and operating open spaces, landscaping, common property or facilities.

(105) Hospital. An institution licensed by the State of Utah providing inpatient health services for human beings for inpatients, and primarily medical or surgical care of the sick or injured, and such other services and accessory uses as normally provided for its administration and operation.

(106) Hotel. A building containing guest rooms in which lodging is provided for compensation to transient or permanent guests or both, and where no provision is made for cooking in the guest rooms, and in which commercial services may be provided for guests.

(107) Household Pets. Animals or fowl ordinarily permitted in the house and kept for company or pleasure and not for profit, such as dogs, cats, and canaries, but not including a sufficient number of dogs to constitute a kennel. Household pets shall not include chickens or any animals that are capable of inflicting harm or discomfort or endangering the health, safety, or welfare of any person or property. The number of household pets shall be limited to that allowed by the provisions of each respective zone as set forth in this title.

(108) Illegal Lot. An illegal lot is any lot or parcel of land which was not created in conformance with the Wasatch County or Town of Daniel ordinance in effect at the time the lot was recorded.

(109) Junk. Any scrap, waste, reclaimable material or debris whether or not stored or used in conjunction with dismantling, processing, salvage, storage, disposal or other use or disposition. Junk includes but is not limited to, tires, furniture, tools, paper, rags, plastics, cordage, scrap iron or other metal, glass, building materials, machinery and appliances or parts thereof, brush, wood and lumber, solid waste, and vehicles and parts thereof.

(110) Junkyard. An open area where junk, used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. An automobile wrecking yard or a salvage yard is also considered a junkyard. The use of buildings used in conjunction with an operation does not exclude the operation from the definition unless the operation is wholly within the buildings and there is no outside storage.

(111) Kennel. An establishment having five (5) or more dogs, cats or other household pets for the purpose of boarding, breeding, buying, letting for hire, training for fee or selling. (Amended eff. 3-3-2008)

(112) Landscaping. The installation of plant materials (i.e., lawn, ground covers, annuals and perennial flowering plants, vines, shrubs, and trees), planted directly on the property.

(113) Limits of Disturbance. The area(s) in which construction and development activity must be contained, including development and construction of the principal building and permitted accessory structures, play areas, and on-site septic tanks, utilities, drainage, and other services.

(114) Livestock Corral. A place or pen where livestock are kept as part of an agricultural or livestock operation as distinguished from a livestock feed lot.

(115) Livestock Feed Lot. A feeding operation on a parcel of land where livestock are conditioned for market on a year-round basis and where the feed is brought to the yard, as contrasted to feed obtained through grazing the animals on the premises.

(116) Lot, Area. The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

(117) Lot, Building. A parcel of land which is of such dimensions as to comply with the minimum requirements of this Title for area, width, and depth applicable to the zone in which it is located, and having frontage on a public or approved private street.

(118) Lot, Corner. A building lot situated within a corner created by the intersecting lines of a street or streets that has frontage on two (2) sides.

(119) Lot, Flag. A lot that does not have the required frontage on a Town of Daniel road or private road built to Town of Daniel standards. Access to the buildable portion of the lot is through a narrow private access that is contiguous and part of the lot.

(120) Lot, Inside Gore-Shaped. A lot where side lot lines converge towards the rear to a point or the rear lot line width is less than half the required width for the lot in the applicable zone.

(121) Lot, Interior. Any building lot other than a corner lot.

(122) Lot Line, Front. Any street right-of-way line of record or established by use, which forms one or more boundaries of a lot.

(123) Lot Line, Rear, For Corner Lots. The interior lot line which has been designated as the rear lot line determined by the direction the house faces.

(124) Lot Line, Side, For Corner Lot. All interior lot lines for multi-frontage lots; for other corner lots, that interior lot line which the lot owner has designated as the side lot line.

(125) Lot Line, Side, For Interior Lots. Those interior lines lying opposite each other, running between the front and rear lot lines, or in the case of a multi-frontage lot, those interior lines which run between the two front lot lines

(126) Lot, Multi-Frontage. Any building lot, the centerline of which intersects two front lot lines and which has no rear lot line.

(127) Lot, Double Frontage. Any building lot which has both the front and rear yard line bounded by a street. This does not normally include corner lots.

(128) Lot Width, For Corner Lots. The width of the lot as measured along both street frontages at the required setback.

(129) Lot Width, For Interior Lots. The horizontal distance between the side lot lines measured along a line lying at right angles to the centerline of the lot at the point of the required setback.

(130) Manufactured Home. A home or other building of new construction without attached axles or wheels which has been assembled fully, or in part, upon another site, or in a factory, and moved to the site upon which it is to be permanently assembled by truck, timber, dolly or similar conveyance; and which is placed upon a permanent foundation in compliance with the provisions of the Uniform Building Code.

(131) Manufacturing. The assembling, altering, converting, fabricating, finishing, processing, or treatment of a product or good.

(132) Masonry. Stucco, brick, or rock.

(133) Metes and Bounds. The description of a lot or parcel of land by courses and distances.

(134) Mobile Home. A detached dwelling designed for long-term occupancy and to be transported on its own wheels, or on a flatbed or other trailers or detachable wheels, and arriving at the site where it is to be occupied as a complete dwelling unit ready for occupancy except for connections to utilities and other minor work. Removal of such wheels or placing such dwelling unit on a foundation shall not remove such unit from classification as a mobile home.

(135) Motel. A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

(136) Nonconforming Lot of Record. A parcel of land that was legally created prior to the adoption of this title.

(137) Nuisance Strip. A parcel of property that does not meet the lot requirement for the zone where it is located and was created for the purpose of preventing access and utility extension to the adjacent property.

(138) Off-Site. Pertaining to the territory outside the boundaries of a particular project.

(139) On-Site. Pertaining to the territory within the boundaries of a particular project.

(140) Open Space. Land which is not covered by dwellings or by pavement or other impervious material which has common ownership and is dedicated to be used perpetually by the owners or the public for some other purpose besides development.

(141) Over-Size Facilities. Facilities with added capacity designed to serve other property, in addition to the land within the boundaries of a residential or nonresidential development site.

(142) Parking Lot. An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

(143) Pasture. An enclosure for animals in which no feed is provided except that which the animals obtain by grazing.

(144) Physical Constraints Inventory. An inventory and analysis of environmental factors which may affect the potential of land development along with the identifying of critical and sensitive lands which need to be protected.

(145) Planned Dwelling Group. A method of developing property that allows the concentration of development to an area of the property. This allows for large amounts of open space to remain undeveloped in perpetuity.

(146) Planning Director. For purposes of this title the term “planning director” shall mean the chair of the planning commission, or his delegate as approved by the Legislative Body of the Town of Daniel.

(147) Planting Plan. A plan showing the location and dimensions of irrigation equipment and curbs and other protective features around the edge of the planting beds, and the location, dimensions, and species of plants to be planted.

(148) Plot Plan. A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing structures and structures to be erected in the future, and showing the location of the lot in relation to abutting streets, and other such information.

(149) Premises Occupation. An occupation conducted on any premises, outside of the main dwelling, by persons residing on those premises and subject to conditional use approval from the planning commission.

(150) Pre-School, Home. An educational facility operated on residential premises, which regularly provide an educational program for not more than twelve (12) children (including the operator’s natural, adopted, or foster children under six (6) years of age) at any one time.

(151) Radio/Tele-Communications Tower. A structure intended for transmitting or receiving television, radio, or telephone communications that is primarily supported by its own foundation.

(152) Record of Survey Map. A final plat prepared by a professional land surveyor that re-establishes land survey controls, boundaries, location of improvements or the alignment of right-of-ways for recording.

(153) Recreational Vehicle. A trailer, camper, or motor home designed or used for sleeping by persons while traveling, but not intended as a permanent dwelling, and not constructed for permanent attachment to public utilities.

(154) Residential Facility for Elderly Persons. A single family or multiple family dwelling unit that is not a business and offers primary care to a limited number of non-related elderly persons.

(155) Restaurant. Any establishment which provides as a principal use, foods and beverages prepared for consumption within the establishment and whose operation includes both of the following characteristics:

(a) Customers are provided with an individual menu and are served their food or beverage by a restaurant employee at the same table or counter at which said items are consumed; and

(b) The food and beverages are served on non-disposable plates or containers and non-disposable eating utensils are provided. A restaurant employee clears the table of trash.

(c) Notwithstanding the above, a cafeteria where food and beverages are:

(i) generally consumed within the establishment; and

(ii) served on non-disposable plates or containers with non-disposable utensils shall be included in this definition.

(d) A restaurant may provide take-out service, provided such service is clearly not the principal business of the restaurant and the take-out function is totally conducted inside of the building.

(156) Rest Home. A building for the care and keeping of elderly or infirm people affected with infirmities or chronic illness.

(157) Retail Drive-In. Any form of merchandising, serving, or dispensing of goods or services in which the customer is serviced while in his automobile.

(158)(a) Retaining Wall. A wall designed and constructed to resist the lateral displacement and erosion of soils or other materials. (Amended eff. 4-7-2008)

(158)(b) Rezoning. Any amendment or change, other than clerical corrections, to the zoning map as defined in this title. (Amended eff. 4-7-2008)

(159) Ridgeline. A ridge location that is visible from a major arterial, secondary or collector road that is seen as a distinct edge against a backdrop of sky or land.

(160) Ridgeline, Secondary. A ridge below the primary ridgeline that may or may not have a backdrop of sky.

(161) Road, Fire Apparatus (secondary). A road built to the fire apparatus standards as directed by the international fire code and the fire marshal.

(162) Road, Primary. The main access road into a development.

(163) Road, Private. A road that is on private property and maintained by the property owners and not a public entity.

(164) Road, Public. A road that is dedicated to a public entity and maintained by a public entity.

(165) Satellite Dish. An antenna intended to receive signals from satellites and other sources.

(166) School, Commercial. An establishment for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately and do not offer a complete educational curriculum.

(167) School, College, University Private or Quasi-Public. A school operated by a private or quasi-public organization, or individual, which has a program similar to that provided in any public school in the state of Utah, except that such curriculum may include religious instruction. A private school may be a for-profit or nonprofit organization. This definition shall not include commercial schools.

(168) School, Public. An educational facility operated by the Wasatch County School District or other public agency of the state of Utah.

(169) Secondary Residential Unit. A living unit subordinate and accessory to the main structure with living space found within the main dwelling unit for family of the occupants of the main structure only.

(170) Septic Tank. A watertight receptacle that receives the discharge of sewage and is designed and constructed to permit the deposition of settled solids, the digestion of the matter deposited, and the discharge of the liquid portion into a leaching system.

(171) Septic Tank Drainfield. A specified tract or parcel of land in which the sewage that flows from a septic tank is oxidized.

(172) Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

(173) Service Station. A building or premises used for the sale of gasoline and oil products including the servicing of motor vehicles and the retail sale and installation of tires, replacement parts and accessories in and upon such vehicles; but not including paint, body and frame repair, or rebuilding of engines, transmissions, or differentials. Such premises may also include the sale of food products.

(174) Sign. Any device for visual communication that is used for the purpose of advertising a product thereof to the attention of the public, but not including a flag pole which is used for the display of the state or national flag.

(175) Skateboard Ramp. An outdoor structure designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

(176) Slope. The ratio of the vertical distance moved to the horizontal distance moved, expressed in percentage or degrees, when traversing along the surface of land.

(177) Soil Engineer. A civil engineer registered in the State of Utah with training and experience in soil engineering.

(178) Solid Waste. Any discarded material that does not flow under stress.

(179) Stable. A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire, or sale.

(180) Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor or next ceiling above.

(181) Street. Is defined as follows.

(a) Minor Local. A road that has been designated to carry average daily trips of (0 to 150), with a minimum of fifty (50) feet right-of-way.

(b) Local. A road that has been designated to carry average daily trips of (151-1500), with a minimum of fifty (50) feet right-of-way.

(c) Major Local. A road that has been designated to carry average daily trips of (1501 to 2000), with a minimum of sixty (60) feet right-of-way.

(d) Minor Collector. A road that has been designated to carry average daily trips of (2001 to 8000), with a minimum of sixty (60) feet right-of-way.

(e) Major Collector. A road that provides for movement between arterial and local streets and limited access to abutting property, with a minimum of seventy-two (72) feet right-of-way.

(f) High Density Development Road. A road that is designated to carry traffic for commercial project, condominium project, single family lots and/or other residential project with an average lot frontage less than two hundred (200) feet.

(182) Street, Stub. A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or developments on adjacent lands.

(183) Street, Through. Streets that extend continuously between other major streets in the community.

(184) Structure. That which is framed, erected, constructed or placed upon the ground; but not including fences that are six (6) feet or less in height.

(185) Subdivision. The term “subdivision” shall have the meaning set forth in the Utah Code Annotated (10-9a-103).

(186) Surface Drainage. That amount of water run-off caused as a result of precipitation or irrigation.

(187) Swimming Pool. A portable or permanent structure above or below grade, designed to hold water eighteen (18) inches deep or greater and/or two-hundred fifty (250) square feet or greater surface area and intended for therapeutic or recreational purposes. This definition does not include an ornamental reflecting pool, fish pond or other type of pool not used for swimming and/or wading and must be located and designed so as not to create a hazard.

(188) Vacation Vehicle Court. An area or tract of land used to accommodate two or more vacation vehicles or camper units for a period of less than thirty (30) days.

(189) Variance. A variation of, or deviation from the regulations or standards adopted by ordinance, which the Board of Adjustment is permitted to grant.

(190) Vocational School. A school that specifically trains people for a skill or trade to be pursued as a trade.

(191) Yard. A space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided in this title.

(192) Yard, Front. Any yard between the front lot line and the setback line of a main building and extending for the full width of the lot.

(193) Yard, Rear. A yard between the rear lot line and the setback line of a main building, extending across the full width of inside lots and for corner lots a yard between the rear lot line and the setback line of the building and extending between the side lot line and the front yard lying opposite

(194) Yard, Side. Any yard between the side lot line and the setback line of a main building, extending from the front yard to the rear yard.

(195) Yard, Street Side. On corner lots, the yard determined by the owner to be the side yard on the street and running from the front setback line to the rear property line.

(196) Youth Group Home. A dwelling unit wherein room, board, ordinary care, and supervision are provided in a family environment by the resident family or group home parents to persons who are unrelated to the resident family or group home parents and who are under the age of eighteen (18) years. To qualify, the dwelling unit must be approved by an agency of Utah state government.

(197) Zero Lot Line Development. Single family dwellings arranged on lots with one common wall of the building located on the property line.

Chapter 8.05

P-160 PRESERVATION ZONE.

Sections:

| | |
|----------------|--------------------------------------|
| 8.05.01 | Purpose. |
| 8.05.02 | Permitted Principal Uses. |
| 8.05.03 | Conditional Uses. |
| 8.05.04 | Lot Area. |
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| 8.05.06 | Lot Frontage. |
| 8.05.07 | Lot Area Per Dwelling. |
| 8.05.08 | Setback Requirements. |
| 8.05.09 | Building Height. |
| 8.05.10 | Distance Between Buildings. |
| 8.05.11 | Site Plan Provisions. |
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| 8.05.13 | Parking, Loading, and Access. |
| 8.05.14 | Other Requirements. |
| 8.05.15 | Gravel Pit Standards. |

Section 8.05.01 Purpose.

The purpose of the (P-160) Preservation Zone is to establish areas (or future areas) in the Town of Daniel where development may be limited due to the remoteness of services, topography, and other sensitive

environmental issues. Furthermore, the specific intent in establishing the (P-160) Preservation Zone is for the following purposes:

- (1) Protect the present and future water supply of the Town of Daniel and surrounding areas;
- (2) Protect natural features and sensitive environmental areas;
- (3) Protect the Town of Daniel's grazing and forestry land;
- (4) Avoid excessive costs for public services which result from excessive scattering of residential dwellings in remote areas;
- (5) Prevent excessive soil erosion and water pollution;
- (6) Promote the raising and keeping of domestic and wild animals and fowl in keeping with optimum intensity of use, consistent with recognized range management practices;
- (7) Prevent the necessity of having to pay excessive taxes on grazing lands;
- (8) Preserve and protect recreational opportunities;
- (9) Allow residential development on a limited basis when services are not readily available but are appropriately addressed by the developer to the satisfaction of the Town of Daniel; and
- (10) Residents of the proposed development would have essential services provided at a level that would not impact their health, safety, and welfare and to provide these services would not be fiscally irresponsible for the Town of Daniel.

Section 8.05.02 Permitted Principal Uses.

Those principal uses or categories of uses as listed herein, and no others, are permitted in the (P-160) Preservation Zone.

(1) All uses contained herein are listed by number as designated in the Town of Daniel Land Use classifications, which is published and maintained by the Town of Daniel planning commission, and is attached, as Appendix 1. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one or two digits are zeros, and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Town of Daniel Land Use classification will be permitted in the (P-160) Preservation Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (P-160) Preservation Zone | |
|---|------------------------|
| Use Number | Use Classification |
| 1111 | Single Family Dwelling |

| | |
|------|--|
| 4500 | Highway and Street Rights-of-Way |
| 4835 | Irrigation Distribution Channels |
| 4836 | Water Pressure Control Stations and Pumping Plants |
| 4839 | Other Water Utilities or Irrigation, NEC |
| 4841 | Underground Sewage Pipeline Right-of-Way |
| 7190 | Historic and Monument Sites |
| 8141 | Beef Cattle (Raising for purposes other than dairying - excluding feed lots) |
| 8142 | Horses (Raising, breeding, and /or training) |
| 8145 | Paddock - small fenced area for livestock, non-commercial |
| 8149 | Livestock operation, NEC. (Includes goat and sheep production) |
| 8162 | Range Land |
| 8180 | Fallow |
| 8300 | Forestry Activities and Related Services |

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (P-160) Preservation Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

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

(b) Swimming pools and incidental bath houses.

(c) Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site, and provided further, that such use shall be for only the period of construction and thirty (30) days thereafter. Approval is subject to a bond and site plan approval from planning staff.

(d) Barns, corrals, and arenas.

Section 8.05.03 Conditional Uses.

The following uses and structures are permitted in the (P-160) Preservation Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

| Conditional Uses in the (P-160) Preservation Zone | |
|--|------------------------------|
| Use Number | Use Classification |
| 1906 | Grouping of Residential Lots |

| | |
|------|--|
| 4712 | Telephone, Relay Towers, Microwave or Others, Mix 1 Dwellings |
| 4810 | Electric Utilities (Except 4813) |
| 4824 | Gas Pressure Control Stations |
| 4833 | Water Storage |
| 4834 | Water Storage Covered |
| 4910 | Underground Pipeline Right-of-Way and Pressure Control Stations, |
| 7520 | Group or Organized Camps |
| 8510 | Metal Ore Mining |
| 8530 | Crude Petroleum and Natural Gas |
| 8405 | Fishing Activities for Personal Use Only |
| 8542 | Crushed and Broken Stone Quarrying |
| 8543 | Sand and Gravel Quarrying |

Section 8.05.04 Lot Area.

The minimum lot area or parcel size in the (P-160) Preservation Zone shall be one hundred sixty (160) acres per single-family dwelling. Grouping of residential development lots may be allowed provided that services are available and density is not increased more than base density, i.e., one (1) unit per one hundred and sixty (160) acres. The approval process for grouping of residential lots is outlined in Chapter 8.27, Development Standards. No density bonuses will be granted for development in the (P-160) Preservation Zone.

Section 8.05.05 Lot Width.

Each lot or parcel of land in the (P-160) Preservation Zone shall have a lot width of at least three hundred and twenty (320) feet measured at the front setback. This requirement is also applicable to projects that group residential lots unless a sewer system is provided in which case lot widths may be two hundred (200) feet.

Section 8.05.06 Lot Frontage.

Each lot or parcel of land in the (P-160) Preservation Zone shall abut a public road or a road built to Town of Daniel standards for a minimum distance of three hundred (300) feet on a line parallel to the centerline of the road. The lot frontage shall be measured along the street right-of-way.

Section 8.05.07 Lot Area Per Dwelling.

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the (P-160) Preservation Zone.

Section 8.05.08 Setback Requirements.

The setback requirements for this zone shall be as follows:

(1) Front Setback. Residential Structures or Accessory Buildings That Will Not House Animals. The front setback shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located on a state or federal Highway, the setbacks shall be a minimum of one hundred fifty (150) feet from the edge of the right-of-way. Corner lots shall have two front setbacks on the street sides.

(2) Barns, Coops or Other Structures That Will House Animals. The front setback for such structures shall be a minimum of one hundred (100) feet from the edge of the right-of-way, providing however, all such structures must also be located a distance of one hundred (100) feet from any existing residential structure on the same lot or an adjacent lot, and a minimum of fifty (50) feet side setback, from any adjoining undeveloped property line. If located on a state or federal highway, accessory structures shall be behind the main structure.

(3) Side Setbacks. All permitted structures shall be set back from the side property line a minimum of twelve (12) feet. Buildings that will house animals shall have a side setback of not less than fifty (50) feet and be at least one hundred (100) feet from any dwelling on or off-site.

(4) Rear Setbacks. All permitted structures shall be set back from the rear property line a minimum of thirty (30) feet. Buildings that will house animals shall have a setback of at least fifty (50) feet and be at least one hundred (100) feet from any dwelling on or off-site.

(5) Railroad Setbacks. The setback of all residential dwellings shall be a minimum of seventy-five (75) feet from the railroad right-of-way.

Section 8.05.09 Building Height.

Height of all dwellings, accessory buildings, and/or structures shall not exceed thirty five (35) feet above natural grade.

Section 8.05.10 Distance Between Buildings.

The distance between any accessory building and the main building that does not house animals, shall be not less than twenty (20) feet.

Section 8.05.11 Site Plan Provisions.

Before the issuance of a building permit for a dwelling or any other permitted or conditional use, a site plan must be submitted to the planning staff showing the location of any existing conditions, structures, irrigation, culinary or fire-prevention waterlines, topography or any environmentally sensitive lands located on the lot.

Section 8.05.12 Permissible Lot Coverage.

See Chapter 8.28.07(13).

Section 8.05.13 Parking, Loading, and Access.

Parking, Loading and Access requirements are discussed in detail in Chapter 8.20. Please refer to that section for further details applying to this zone.

Section 8.05.14 Other Requirements.

(1) Signs. Please refer to Section 8.26 for specific sign regulations. Generally the following regulations apply to this zone.

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

(b) Home occupation signs. Signs advertising the sale of products lawfully produced on the premises.

(2) Landscaping. There are no landscaping requirements in the (P-160) Preservation Zone, unless approved for grouping of residential lots.

(3) Walls and Fences. Fences in the (P-160) Preservation Zone shall be minimal, and shall only fence in a small area not over one (1) acre in size to protect the dwelling and landscaping around the dwelling. Any other fencing will only be permitted if the design does not inhibit the movement of deer, elk or other wildlife on the property.

(4) Water Requirements.

(a) Each dwelling shall be considered a full-time residence and must have sufficient culinary water available as required by the State Division of Drinking Water and Division of Water Rights and/or governing water district.

(b) Each dwelling must have sufficient water for outside irrigation to provide water for any landscaped area, plus any water required for irrigation of any agricultural use intended. The amount of water required for outside irrigation will be determined by the Town of Daniel water resources director, based upon the appropriate needs of the property, after taking into consideration the existing irrigation patterns and any landscaping or agricultural plans of the owner. The director will also be guided by the policies of the Division of Water Rights.

(5) Compliance with Land Use Restrictions not a Guarantee of Building Permit. All applicable requirements for issuance of a building permit from all Departments must be met before the permit may be issued.

(6) Additional Regulations. In the event of a conflict between this section and any other Town of Daniel regulations, the regulations of this section shall control. See also Chapter 8.27 for additional regulations that apply to this zone. In the event of a conflict between that section and the regulations contained in this section, the regulations of this section would control.

(7) Division of Property. Prior to consideration for development in the Wasatch Mountain planning area, in conformance with the General Plan, the following shall be required:

- (a) Preparation of a physical constraints inventory;
- (b) Preparation of a site master plan;
- (c) An amendment to the General Plan; and
- (d) An amendment to the zoning map.

Section 8.05.15 Gravel Pit Standards.

- (1) Gravel Pits are only allowed in the (P-160) Preservation Zone as a conditional use.
- (2) Before a conditional use application is considered by the planning commission, the applicant shall submit the following items for their review and consideration:
 - (a) Mining plan which shows the limits of disturbance for the entire property and the surface area for each phase that can be disturbed at one time;
 - (b) Bonding is required to assure that each phase is restored and complies with the restoration plan;
 - (c) Dust control plan;
 - (d) Noise control plan;
 - (e) Lighting plan;
 - (f) Time of operation plan;
 - (g) Provide restoration plan for each of the phases and the entire property; and
 - (h) Any information or plan that the Town of Daniel planning commission may require.

Chapter 8.06

{Repealed.}

Chapter 8.07

(RA-5) RESIDENTIAL-AGRICULTURAL ZONE.

Sections:

8.07.01 Purpose.

| | |
|----------------|--------------------------------------|
| 8.07.02 | Permitted Principal Uses. |
| 8.07.03 | Conditional Uses. |
| 8.07.04 | Lot Area. |
| 8.07.05 | Lot Width. |
| 8.07.06 | Lot Frontage. |
| 8.07.07 | Lot Area Per Dwelling. |
| 8.07.08 | Setback Requirements. |
| 8.07.09 | Building Height. |
| 8.07.10 | Distance Between Buildings. |
| 8.07.11 | Site Plan Provisions. |
| 8.07.12 | Permissible Lot Coverage. |
| 8.07.13 | Parking, Loading, and Access. |
| 8.07.14 | Other Requirements. |

Section 8.07.01 Purpose.

The Residential Agricultural Zone (RA-5) is established to maintain the rural atmosphere and high quality of life desired by the citizens of the Town of Daniel by establishing a residential area that is mixed with agricultural uses.

The specific intent in establishing this (RA-5) Residential Agricultural Zone is for the following purposes:

- (1) Provide a place in the Town of Daniel where residential dwellings may be constructed in harmony with agricultural uses.
- (2) Provide for the protection of the ground water resources by requiring larger lots when septic tank drainfields are used.
- (3) Facilitate providing services to residential development for street maintenance, fire and police protection, and health and sanitation services, and other available services.
- (4) Provide a zone where residents can have farm animals in reasonable numbers and conduct agricultural activities.

Section 8.07.02 Permitted Principal Uses.

Those principal uses or categories of uses listed herein, and no others are permitted in the (RA-5) Residential Agricultural Zone.

- (1) All uses contained herein are listed by number as designated in the Town of Daniel Land Use classification, which is published and maintained by the Planning Staff, and are attached, as Appendix 1. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one or two digits are zeros, and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would

be 8110 and a subcategory of 8110 would 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Town of Daniel Land Use classification will be permitted in the (RA-5) Residential Agricultural Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (RA-5) Residential Agricultural Zone | |
|---|---|
| Use Number | Use Classification |
| 1111 | Single Family Dwellings, Detached, On One Parcel |
| 1292 | Residential Facility for Handicapped Persons |
| 4111 | Railroad Right-of-Way |
| 4500 | Highway and Street Right-of-Way |
| 4811 | Underground Electric Transmission Right-of-Way Under 38 KVA and Under thirty five (35) feet in Height |
| 4821 | Underground Gas Pipeline Right-of-Way |
| 4831 | Underground Water Pipeline Right-of-Way |
| 4835 | Irrigation Distribution Channels |
| 4836 | Water Pressure Control Stations and Pumping Stations |
| 4841 | Underground Sewage Pipeline Right-of-Way |
| 4844 | Sewer Pumping Station |
| 4873 | Storm Drain Right-of-Way |
| 7420 | Playgrounds and Athletic Areas |
| 7600 | Parks and Trails |
| 8110 | Field and Seed Crops |
| 8130 | Orchards and Vineyards |
| 8140 | Large Animals For Personal Use (Limited To 2 Per Acre of Ground), (Except 8143) |
| 8150 | Animal Specialties For Personal Use Only Except Apiaries |
| 8160 | Pasture and Rangeland |
| 8170 | Horticulture Specialties |
| 8220 | Animal Husbandry Services (Except 8222, 8223, and 8224) |
| 9300 | Water Areas |

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (RA-5) Residential Agricultural Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

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

(b) Swimming pools and incidental bath-houses.

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

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

(e) Barns, corrals, machine sheds, and outdoor arenas that are noncommercial.

Section 8.07.03 Conditional Uses.

The following uses and structures are permitted in the (RA-5) Residential-Agricultural Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

| Conditional Uses in the (RA-5) Residential Agricultural Zone | |
|---|--|
| Use Number | Use Classification |
| 1293 | Residential Facility for Elderly |
| 1516 | Bed and Breakfast |
| 1903 | Accessory Residential Unit |
| 4712 | Telephone Relay Towers, Microwave or Other |
| 4811 | Electric Transmission Right-of-Way over 35' and/or over 38 KVA |
| 4814 | Electric Substations |
| 4824 | Gas Pressure Control Stations |
| 4834 | Water Storage |
| 4836 | Water Pressure Control Stations and Pumping Stations |
| 4844 | Sewer Pumping Station or Pressure control Stations |
| 4864 | Combination Utility Rights-of-Way |
| 4911 | Petroleum Pipeline Right-of-Way-Underground |
| 6240 | Cemeteries, Mausoleum (Except 6243) |

| | |
|------|--|
| 6810 | Nursery, Primary and Secondary Education |
| 6910 | Religious Activities |
| 7123 | Botanical Gardens and Arboretums |
| 7400 | Recreational Activities-Non-Commercial (Except 7414, 7415, 7417) |
| 7911 | Sleigh Ride, Wagon Ride, and Farm Experience Activities. |
| 8146 | Indoor Arenas (noncommercial) |
| 8224 | Animal Kennels, Boarding, Grooming |

Section 8.07.04 Lot Area.

Lots must be a minimum of five (5) acres as measured prior to any dedication or deed-back to the Town; lots must be a minimum of 4.6 acres as measured after any dedication or deed-back to the Town.

Section 8.07.05 Lot Width.

Each lot or parcel of land in the Residential Agricultural Zone (RA-5) shall have a lot width of at least two hundred fifty (250) feet at the required building setback.

Section 8.07.06 Access Requirement.

Each lot or parcel of land in the (RA-5) Residential Agricultural Zone shall abut (i) a publicly-maintained road for a minimum distance of one hundred (100) feet or (ii) a road built to Town of Daniel standards that also is acceptable to the town planning commission and the town attorney's office..

Section 8.07.07 Lot Area Per Dwelling.

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the (RA-5) Residential-Agricultural Zone. If a conditional use is obtained, an accessory residential unit may be built within the main structure.

Section 8.07.08 Setback Requirements.

The setback requirements for this zone shall be as follows:

(1) Front Setback. Each lot or parcel in the (RA-5) Residential Agricultural Zone shall have a front yard setback of not less than sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located along a State or Federal Highway, the setbacks shall be one hundred fifty (150) feet from the edge of the right-of way.

(a) Accessory Buildings that will Not House Animals. The front setback shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way,

whichever is greater. If the property is located on a State or Federal Highway, the setback must be a minimum of one hundred fifty (150) feet from the right-of-way.

(b) Structures that will House Animals. Shall be a minimum of one hundred (100) feet from the road right-of-way, providing however, all such structures must also be located a distance of one hundred (100) feet from any existing residential structure on the same lot or an adjacent lot.

(c) Major Town of Daniel Collector Roads. For buildings abutting upon a Town of Daniel street that is designated as a major collector road in the Town of Daniel Master Transportation Plan, the setback shall be eighty-five (85) feet from the centerline of any street, or fifty feet (50) from the right-of-way, whichever is greater.

(2) Side Setbacks. All structures not intended to house animals shall be set back from the side property line a minimum of ten (10) feet. The sum of the two side setbacks shall be at least twenty-four (24) feet. Side setbacks on buildings that will house animals must be a minimum of fifty (50) feet and one hundred (100) from any dwelling on or off-site.

(3) Corner Lots. For corner lots the side setback for the main structure on the street side shall be the same setback as that required for the front.

(4) Rear Setbacks. Structures not intended to house animals shall be set back from the rear property line a minimum of thirty (30) feet. Buildings that will house animals must have a rear setback of not less than fifty (50) feet and at least one hundred (100) feet from any dwelling on or off-site.

(5) Railroad Setbacks. The setback of all residential dwellings shall be a minimum of seventy-five (75) feet from the railroad right-of-way.

Section 8.07.09 Building Height.

Height of all dwellings, accessory buildings, and/or structures shall not exceed thirty five (35) feet above any point representing the natural grade surrounding the structure.

Section 8.07.10 Distance Between Buildings.

The distance between any accessory building that does not house animals and the main building shall be not less than twenty (20) feet.

Section 8.07.11 Site Plan Provisions.

To obtain a building permit for a dwelling or any other permitted or conditional use, a site plan must be submitted to the Planning Staff showing any existing conditions, structures, irrigation, culinary or fire-prevention waterlines, topography, or any sensitive lands located on the lot.

Section 8.07.12 Permissible Lot Coverage.

In the (RA-5) Residential Agricultural Zone, all buildings, including accessory buildings and structures, shall cover not more than twenty (20) percent of the area of the lot or parcel of land.

Section 8.07.13 Parking, Loading, and Access.

Parking, Loading and Access requirements are discussed in detail in Chapter 8.20. Please refer to that section for further details applying to this zone.

Section 8.07.14 Other Requirements.

(1) Signs. Please refer to Chapter 8.26 for specific sign regulations. Generally the following regulations apply to this zone.

(a) Signs or name plates not exceeding ten (10) square feet in area and displaying only the name and address of the occupant.

(b) Home occupational signs not exceeding ten (10) square feet in area. (Amended eff. 4-7-2008)

(2) Landscaping. See Section 8.21.10 for a detailed discussion of landscaping requirements for general development within this zone.

(3) Trails. See Section 8.21.18 regarding trail requirements in this zone.

(4) Walls and Fences. Sight-obscuring fences or visual obstructions, that exceed thirty six (36) inches in height, may not be placed within the front setback or the side setback on a corner lot. Fences may not extend into the road right-of-way area. If a sight-obscuring fence or visual obstruction is desired it may not protrude into a twenty-five (25) foot visibility triangle on the street sides of a corner lot, or near a driveway used for ingress and egress on all lots. (See Figure 6 of Appendix 2.)

(5) Water Requirements.

(a) Each dwelling shall be considered a fulltime residence and must have sufficient culinary water available as required by the state water engineer and/or governing water district for residential use only.

(b) Other Requirements. Each dwelling must have sufficient water for outside irrigation to provide water for a minimum of one-quarter (0.25) acres of landscaped area, plus any water required for irrigation of any agricultural use intended. All lots must prove sufficient water to irrigate any land, which has been historically irrigated. An appropriate reduction of acreage may be given for: 1) water which is converted to provide culinary water service for the dwelling, and 2) certain surface areas that do not require irrigation and that may be created in association with the development of the land. These areas include, but are not limited to, building pads, sidewalks, roadways, driveways and parking areas. The amount of water required for outside irrigation will be determined by the water resources director, based upon the needs of the property after taking into consideration the existing irrigation patterns and any landscaping or agricultural plans of the owner. The director will also be guided by the policies of the irrigation company involved as well as the state engineer.

(c) The water requirements for any other use in this zone will be determined as part of the Conditional Use approval process.

(6) Septic Drainfields. Septic Tank Drainfields shall be separated by a minimum of two hundred (200) feet.

(7) Compliance with Land Use Restrictions not a Guarantee of Building Permit. All applicable requirements for issuance of a building permit from all Departments must be met before the permit may be issued.

(8) Additional Regulations. See also Chapter 8.27 (Development Standards) for regulations that apply to this zone. In the event of a conflict between that chapter and the regulations contained in this chapter, the regulations of this chapter would control.

Chapter 8.08

(RA-1) RESIDENTIAL-AGRICULTURAL ZONE.

(Amended 3-3-2008)

Sections:

- 8.08.01 Purpose.**
- 8.08.02 Permitted Principal Uses.**
- 8.08.03 Conditional Uses.**
- 8.08.04 Lot Area.**
- 8.08.05 Lot Width.**
- 8.08.06 Lot Frontage.**
- 8.08.07 Lot Area Per Dwelling.**
- 8.08.08 Setback Requirements.**
- 8.08.09 Building Height.**
- 8.08.10 Distance Between Buildings.**
- 8.08.11 Site Plan Provisions.**
- 8.08.12 Permissible Lot Coverage.**
- 8.08.13 Parking, Loading, and Access.**
- 8.08.14 Other Requirements.**
- 8.08.15 Exemptions for Specific Uses.**

Section 8.08.01 Purpose.

The (RA-1) Residential Agricultural Zone is established to preserve the high quality of life for the citizens of the Town of Daniel by providing for this type of residential development in certain incorporated areas, while striving to maintain the rural atmosphere of the Town of Daniel.

The specific intent in establishing this (RA-1) Residential Agricultural Zone is to accommodate the previously existing (RA-1) Zone that was annexed into the municipality as part of the Storm Haven Annexation, the survey for which was recorded with the Wasatch County Recorder's office on February 8, 2008.

(1) Provide services to residential development for street maintenance, fire and police protection, and health and sanitation services, and other available services.

(3) Provide a zone where residents can have farm animals in reasonable numbers and conduct limited agricultural activities.

Section 8.08.02 Permitted Principal Uses.

Those principal uses or categories of uses listed herein, and no others are permitted in the (RA-1) Residential Agricultural Zone.

(1) All uses contained herein are listed by number as designated in the Town of Daniel Land Use classification, which is published and maintained by the planning staff, and are attached as Appendix 1 to this title. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one or two digits are zeros, and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Town of Daniel Land Use classification will be permitted in the (RA-1) Residential Agricultural Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (RA-1) Residential Agricultural Zone | |
|--|---|
| Use Number | Use Classification |
| 1111 | Single Family Dwellings, Detached, On One Parcel |
| 4500 | Highway and Street Right-of-Way |
| 4811 | Underground Electric Transmission Right-of-Way Under 38 KVA |
| 4821 | Underground Gas Pipeline Right-of-Way |
| 4831 | Underground Water Pipeline Right-of-Way |
| 4835 | Irrigation Distribution Channels |
| 4841 | Underground Sewage Pipeline Right-of-Way |
| 4873 | Storm Drain Right-of-Way |
| 7420 | Playgrounds and Athletic Areas |

| | |
|------|--|
| 7600 | Parks and Trails |
| 8110 | Field and Seed Crops |
| 8120 | Truck Crops |
| 8130 | Orchards and Vineyards |
| 8140 | Large Animals For Personal Use (Limited To 2 Per Acre of Ground), (Except 8143) |
| 8150 | Animal Specialties For Personal Use |
| 8160 | Pasture and Rangeland |
| 8170 | Horticulture Specialties |
| 8220 | Animal Husbandry Services (Large Animals Limited To 4 Per Acre), (Except 8222, 8223, and 8224) |
| 9300 | Water Areas |

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (RA-1) Residential Agricultural Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

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

(b) Swimming pools and incidental bath houses.

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

(d) Barns, corrals, machine sheds, and outdoor arenas that are noncommercial.

Section 8.08.03 Conditional Uses.

The following uses and structures are permitted in the (RA-1) Residential-Agricultural Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

| Conditional Uses in the (RA-1) Residential Agricultural Zone | |
|--|--|
| Use Number | Use Classification |
| 1292 | Residential Facility for Handicapped Persons |
| 1293 | Residential Facility for Elderly |
| 1516 | Bed and Breakfast |
| 1903 | Accessory Residential Unit |

| | |
|------|--|
| 4811 | Electric Transmission Right-of-Way over thirty five (35) feet and/or over 38 KVA |
| 4814 | Electric Substations |
| 4824 | Gas Pressure Control Stations |
| 4834 | Water Storage |
| 4836 | Water Pressure Control Stations and Pumping Stations |
| 4844 | Sewer Pumping Station or Pressure control Stations |
| 4864 | Combination Utility Rights-of-Way |
| 4911 | Petroleum Pipeline Right-of-Way-Underground |
| 6240 | Cemeteries, Mausoleum (Except 6243) |
| 6721 | Police Protection and Related Activities |
| 6723 | Fire Protection and Related Activities |
| 6929 | Protective Functions and Related Activities |
| 6810 | Nursery, Primary and Secondary Education |
| 6910 | Religious Activities |
| 7123 | Botanical Gardens and Arboretums |
| 7400 | Recreational Activities-Non-Commercial (Except 7414, 7415, 7417) |
| 7411 | Golf Course (Public) |
| 7412 | Golf Course (Private) |
| 7911 | Sleigh Ride, Wagon Ride, and Farm Experience Activities. |
| 8146 | Indoor Arenas (noncommercial) |
| 8221 | Veterinary Services |
| 8222 | Animal Hospital Services |
| 8224 | Animal Kennels, Boarding, Grooming |

[Section 8.08.04 Lot Area and Maximum Density.

(1) Small Scale Subdivisions. For small scale subdivisions, each lot or parcel must be a minimum of one (1) acre.

(2) Large Scale Subdivisions. Any large scale subdivision or development in the RA-1 zone shall comply with all applicable Daniel Municipal ordinances including Section 8.27.10 of this title. The maximum density allowed in this zone for large scale subdivisions is one unit per developable acre. Developable acres are calculated by multiplying the total number of acres in a parcel by three-fourths (.75).

(3) Further Development. Any subdivision or development which uses clustering, variable lot sizes, or other development procedures and that creates common area parcels, open space parcels or which creates building lots greater than one (1) acre, must include notes on the plat, conservation easements and any other appropriate land use controls deemed necessary by the Land Use Authority to prohibit further development of any lot or parcel within the subdivision.

Section 8.08.05 Lot Width.

Each lot or parcel of land in the (RA-1) Residential Agricultural Zone shall have a lot width of at least two hundred (200) feet at the required building setback.

Section 8.08.06 Lot Frontage.

Each lot or parcel of land in the (RA-1) Residential-Agricultural Zone shall abut a public road or road built to Town of Daniel standards for a minimum distance of one hundred (100) feet on a line parallel to the centerline of the road. Corner lots shall have a minimum frontage of two hundred (200) feet on both roads.

Section 8.08.07 Lot Area Per Dwelling.

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the (RA-1) Residential-Agricultural Zone. If a conditional use is obtained, an accessory residential unit may be built within the main structure.

Section 8.08.08 Setback Requirements.

The setback requirements for this zone shall be as follows:

(1) Front Setback. Each lot or parcel in the Residential Agricultural (RA-1) Zone shall have a front yard setback of not less than sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located along a state or federal highway, the setbacks shall be one hundred fifty (150) feet from the edge of the right-of way. See 8.21.07 (2) for setbacks on major collectors.

(a) Accessory Buildings that will Not House Animals. The front setback shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located on a state or federal highway, the setback must be a minimum of one hundred fifty (150) feet from the right-of way.

(b) Structures that will House Animals. Shall be a minimum of one hundred (100) feet from the road right-of-way, providing however, all such structures must also be set back from any existing residential structure on the same lot or an adjacent lot at least one hundred (100) feet.

(c) Major Town of Daniel Collector Roads. For buildings abutting upon a Town of Daniel street that is designated as a major collector road in the Town of Daniel Master Plan or Transportation Plan, the setback shall be eighty-five (85) feet from the centerline of any street, or fifty feet (50) from the right of way, whichever is greater.

(2) Side Setbacks. All structures not intended to house animals shall be set back from the side property line a minimum of ten (10) feet. The sum of the two side setbacks shall be at least twenty-four (24) feet. Side setbacks on buildings that will house animals must be a minimum of fifty (50) feet and one hundred (100) from any dwelling on or off-site.

(3) Corner Lots. For corner lots the side setback on the street side shall be the same setback as that required for the front.

(4) Rear Setbacks. Structures not intended to house animals shall be set back from the rear property line a minimum of thirty (30) feet. Buildings that will house animals must have a rear setback of not less than fifty (50) feet and at least one hundred (100) feet from any dwelling on or off-site.

(5) Railroad Setbacks. The setback of all residential dwellings shall be a minimum of seventy-five (75) feet from the railroad right-of-way.

Section 8.08.09 Building Height.

Height of all dwellings, accessory buildings, and/or structures shall not exceed thirty five (35) feet above natural grade.

Section 8.08.10 Distance Between Buildings.

The distance between any accessory building and the main building that does not house animals, shall be not less than twenty (20) feet.

Section 8.08.11 Site Plan Provisions.

To obtain a building permit for a dwelling or any other permitted or conditional use, a site plan must be submitted to the planning staff any existing conditions, structures, topography or any sensitive lands located on the lot.

Section 8.08.12 Permissible Lot Coverage.

In the (RA-1) Residential-Agricultural Zone, all buildings, including accessory buildings and structures, shall cover not more than forty (40) percent of the area of the lot or parcel of land.

Section 8.08.13 Parking, Loading, and Access.

Parking, Loading and Access requirements are discussed in detail in Chapter 8.20. Please refer to that section for further details applying to this zone.

Section 8.08.14 Other Requirements.

(1) Signs. Please refer to Chapter 8.26 for specific sign regulations. Generally the following regulations apply to this zone.

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

(b) Home occupation signs not exceeding two (2) square feet in area.

(2) Landscaping. See Section 8.21.10 for a detailed discussion of landscaping requirements for general development within this zone.

(3) Trails. See Section 8.21.18 regarding trail requirements in this zone.

(4) Walls and Fences. Non sight-obscuring fences, that exceed thirty-six (36) inches in height, may be placed within the front setback or the side setback on a corner lot. Fences may not extend into the road right-of-way area. If a sight-obscuring fence is desired it may not protrude into a twenty-five (25) foot visibility triangle on the street sides of a corner lot, or near a driveway used for ingress and egress on all lots. (See Figure 6 of Appendix 2).

(5) Water Requirements.

(a) Each dwelling shall be considered a fulltime residence and must have sufficient culinary water available as required by the state water engineer and/or governing water district for residential use only.

(b) Other Requirements. Each dwelling must have sufficient water for outside irrigation to provide water for a minimum of one-quarter (0.25) acres of landscaped area, plus any water required for irrigation of any agricultural use intended. All lots must prove sufficient water to irrigate any land, which has been historically irrigated. An appropriate reduction of acreage may be given for: 1) water which is converted to provide culinary water service for the dwelling, and 2) certain surface areas that do not require irrigation and that may be created in association with the development of the land. These areas include, but are not limited to, building pads, sidewalks, roadways, driveways and parking areas. The amount of water required for outside irrigation will be determined by the water resources director based upon the needs of the property after taking into consideration the existing irrigation patterns and any landscaping or agricultural plans of the owner. The director will also be guided by the policies of the irrigation company involved as well as the state engineer.

(c) The water requirements for any other use in this zone will be determined as part of the Conditional Use approval process.

(6) Compliance with Land Use Restrictions not a Guarantee of Building Permit. All applicable requirements for issuance of a building permit from all departments must be met before this permit may be issued.

(7) Additional Regulations. See also Chapter 8.27 (Development Standards) for regulations that apply to this zone. In the event of a conflict between that chapter and the regulations contained in this chapter, the regulations of this chapter would control.

Section 8.08.15 Exemptions for Specific Uses.

The following land uses as identified in the Land Use classification appendix may be exempt from specific code requirements: (6721) Police protection and related activities, (6723) Fire protection and related activities, (6729) Other Protective functions and their related activities, NEC. (Includes customs inspection, immigration offices, FBI offices).

(1) Fire Protection and related service are exempt from certain land use requirements if it is determined by the planning commission that the health, safety and general welfare of the citizens of the Town of Daniel is further protected.

(2) Exempting the above noted uses from land use requirements means exemptions may be for some or all of the following: Frontage, Access, Acreage or Sewer, Fees, etc.

Chapter 8.09

(M) MOUNTAIN ZONE.

Sections:

| | |
|----------------|----------------------------------|
| 8.09.01 | Purpose |
| 8.09.02 | Permitted Principal Uses: |
| 8.09.03 | Conditional Uses. |
| 8.09.04 | Lot Area. |
| 8.09.05 | Lot Width. |
| 8.09.06 | Lot Frontage. |
| 8.09.07 | Prior Created Lots. |
| 8.09.08 | Lot Area Per Dwelling. |
| 8.09.09 | Setback Requirements. |

| | |
|----------------|---|
| 8.09.10 | Building Height. |
| 8.09.11 | Distance Between Buildings. |
| 8.09.12 | Site Plan Provisions. |
| 8.09.13 | Permissible Lot Coverage. |
| 8.09.14 | Parking, Loading, and Access. |
| 8.09.15 | Other Requirements. |
| 8.09.16 | Minimum Open Space Requirements. |
| 8.09.17 | Additional Regulations. |

Section 8.09.01 Purpose.

The (M) Mountain Zone is established for development in mountainous areas of the Town of Daniel that may or may not have services readily available. Development should be in harmony with mountain settings and adverse impacts shall be mitigated. The specific intent in establishing the Mountain Zone is for the following purposes:

- (1) Provide an appropriate location within the most rural areas (and future areas) of the Town of Daniel for the development of resort and mountain residential dwellings in clusters.
- (2) Prevent excessive scattering of mountain dwellings, accompanied by excessively long streets, and infrastructure.
- (3) Facilitate payment for services rendered by the Town of Daniel for streets, fire, police, health, sanitation and other services.
- (4) Prevent soil erosion generated from excessive streets and soil displacement.
- (5) Protect the vegetation and aesthetic characteristics of the Town of Daniel's canyons and mountains.
- (6) Encourage the protection of wildlife, plant life and ground water.
- (7) Protect the health, safety and welfare of the residents of the Town of Daniel by only allowing development that will have appropriate access to and from the development and provide appropriate fire and emergency access.
- (8) Discourages developments in isolated areas of the Town of Daniel where essential services are not readily available and would be fiscally irresponsible and/or burdensome for the Town of Daniel to provide such services.

Section 8.09.02 Permitted Principal Uses.

Those principal uses or categories of uses as listed herein, and no others, are allowed as a permitted use in the (M) Mountain Zone.

- (1) All uses contained herein are listed by number as designated in the Town of Daniel Land Use classification, which is published and maintained by the planning staff, and are attached, as Appendix

1. Classes or groupings of uses permitted in the zone are identified by a four digit number in which the last one or two digits are zeros, and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Town of Daniel Land Use classification will be permitted in the (M) Mountain Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (M) Mountain Zone | |
|--|--|
| Use Number | Use Classification |
| 1111 | Single Family Dwellings (Detached) |
| 4500 | Highway and Street Right-of-Way |
| 4821 | Underground Gas Pipeline Right-of-Way |
| 4831 | Underground Water Pipeline Right-of-Way |
| 4835 | Irrigation Distribution Channels |
| 4836 | Water Pressure Control Stations and Pumping Plants |
| 4839 | Other Water Utilities or Irrigation, NEC |
| 4841 | Underground Sewage Pipeline Right-of-Way |
| 7411 | Recreational Activities Golf Courses (Open to Public) |
| 7412 | Recreational Activities Golf Course (private membership) |
| 7600 | Parks |

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (M) Mountain Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

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

(b) Swimming pools and incidental bath houses.

(c) Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site, and provided further, that such use shall be for only the period of construction and thirty (30) days thereafter. Approval is subject to a bond and site plan approval from planning staff.

(d) Barns, corrals, machine sheds, and arenas.

Section 8.09.03 Conditional Uses.

The following table shows the uses and structures that are permitted in the (M) Mountain Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

| Conditional Uses in the (M) Mountain Zone | |
|--|---|
| Use Number | Use Classification |
| 1112 | Single Family (attached) as part of a Planned Performance Development |
| 1250 | Religious quarters as part of a Planned Performance Development |
| 1511 | Hotels / Lodges as part of a Planned Performance Development, ski resorts, equestrian facilities (commercial uses see Chapter 8.29. |
| 1905 | Ranch or Employer Caretaker |
| 4712 | Telephone Relay Towers, Microwave or Other |
| 4810 | Electric Utility (except 4813) |
| 4824 | Gas Pressure Control Stations |
| 4832 | Water Treatment Plants |
| 4833 | Water Storage |
| 4834 | Water Storage Covered |
| 4910 | Underground Pipeline Right-of-Way And Pressure Control Stations, NEC |
| 7520 | Group Camps |

Section 8.09.04 Lot Area.

Unless approved as part of a Planned Performance Development, the minimum lot size shall be one hundred and sixty (160) acres per dwelling unit. If approved as part of a Planned Performance Development, lot sizes and density shall be in accordance with the approval thereof. Any development with a proposed density greater than one (1) unit per one hundred (160) acres shall be done as a Planned Performance Development.

Section 8.09.05 Lot Width.

Each lot or parcel of land in the (M) Mountain Zone shall have a lot width of at least three hundred and twenty (320) feet at the required setback unless approved as part of a Planned Performance Development.

Section 8.09.06 Lot Frontage.

Each lot or parcel of land in the (M) Mountain Zone shall abut a Town of Daniel road or road built to Town of Daniel standards for a minimum distance of three hundred (300) feet. Corner lots shall have a minimum frontage of three hundred (300) feet on both roads. Deviation of this standard may be allowed by the planning commission if the proposed development is a Planned Performance Development.

Section 8.09.07 Prior Created Lots.

Lots or parcels of land which were legally created prior to the enactment of the requirements of the (M) Mountain Zone shall not be denied a building permit solely for reasons of nonconformance with the parcel requirements of this chapter.

Section 8.09.08 Lot Area Per Dwelling.

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the (M) Mountain Zone unless approved as a Planned Performance Development. If a conditional use is obtained, an accessory residential unit may be built within the structure.

Section 8.09.09 Setback Requirements.

The setback requirements for this zone shall be as follows:

(1) Front Setback. The front setbacks for dwellings shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located on a State or Federal Highway, the setbacks shall be a minimum of one hundred fifty (150) feet from the right-of way. See 8.21.07(2) for setbacks on major collector roads.

(a) Commercial Structures. If any commercial structures are granted, the setbacks will be set as part of the Conditional Use approval.

(b) Structures that will house animals. These structures shall be a minimum of one hundred (100) feet from the road right-of-way, providing however, all such structures must be located a distance of one hundred (100) feet from any existing residential structure on the same lot or an adjacent lot.

(c) Major Town of Daniel Collector Roads. For buildings abutting upon a Town of Daniel street that is designated as a major collector road in the Town of Daniel Master Transportation Plan, the setback shall be eighty-five (85) feet from the center line of any street, or fifty (50) feet from the right-of-way, whichever is greater.

(2) Side Setbacks. All permitted structures shall be set back from the side property line a minimum of thirty (30) feet. Side setbacks for buildings that will house animals must be a minimum of fifty (50) feet and one hundred (100) feet from any dwelling on or off-site.

(3) Corner Lots. For corner lots, the side setback on the street side shall be the same setback as that required for the front.

(4) Rear Setbacks. All permitted structures shall be set back from the rear property line a minimum of thirty (30) feet. Rear setbacks for buildings that will house animals must be a minimum of fifty (50) feet and one hundred (100) feet from any dwelling on or off-site.

(5) Planned Performance Developments. Setbacks shall be approved by the planning commission on a case-by-case basis during the plan approval process.

Section 8.09.10 Building Height.

Height of all dwellings, accessory buildings, and/or structures shall not exceed thirty five (35) feet above natural grade.

Section 8.09.11 Distance Between Buildings.

The distance between any accessory building and the main building shall be twenty (20) feet.

Section 8.09.12 Site Plan Provisions.

To obtain a building permit for a dwelling or any other permitted or conditional use, a site plan must be submitted to the Planning Staff showing existing conditions, structures, irrigation, culinary or fire-prevention waterlines, topography or any sensitive lands located on the lot.

Section 8.09.13 Permissible Lot Coverage.

See Section 8.28.07(13).

Section 8.09.14 Parking, Loading, and Access.

Parking, Loading and Access requirements are discussed in detail in Chapter 8.20. Please refer to that chapter for further details applying to this zone.

Section 8.09.15 Other Requirements.

(1) Signs. Sign regulations are discussed in detail at Chapter 8.26. Please refer to that chapter for specific regulations. Generally the following regulations apply to this zone:

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

(b) Home occupation signs not exceeding two square feet in area.

(2) Landscaping. For any new lots or previously created lots in the (M) Mountain Zone, non-combustible landscaping shall be required for a minimum distance of thirty five (35) feet around the structure. The 35' area is intended to create defensible space, which does not mean that the area is required to be clear-cut but that dead fuel shall be removed, and highly combustible landscaping shall be avoided. The use of planting materials that will conserve water is recommended and native plants

are encouraged, but the entire property must be kept free of noxious weeds. If the property is part of a large scale Planned Performance Development, (See Chapter 8.29 as well as the recorded Conditions, Covenants and Restrictions, for landscaping requirements).

(3) Walls and Fences. Fences in the (M) Mountain Zone shall be minimal, and shall only fence in the area considered as the “limits of disturbance” and shall not be over one (1) acre in size to protect the dwelling and landscaping around the dwelling, if any. Any other fencing will only be permitted if the design does not inhibit the movement of deer, elk or other wild animals on the property.

(4) Water Requirements.

(a) Each dwelling shall be considered a full-time residence and must have sufficient culinary water available as required by the State Water Engineer for residential use only.

(b) Each dwelling must have sufficient water for outside irrigation to provide water for any landscaped area, plus any water required for irrigation of any agricultural use intended. The amount of water required for outside irrigation will be determined by the Town of Daniel water resources director based upon the appropriate needs of the property after taking into consideration the existing irrigation patterns and any landscaping or agricultural plans of the owner. The director will also be guided by the policies of the irrigation company involved as well as the state water engineer.

(c) The water requirements for any other use in this zone will be determined as part of any Planned Performance Development or Conditional Use approval process.

(5) Compliance with Land Use Requirements not a Guarantee of Building Permit. All applicable requirements for issuance of a building permit from all departments must be met before the permit may be issued. This includes, but is not limited, to appropriate road access, septic suitability, water supply and water quality, electricity, heat, transportation to and from schools, etc.

(6) Plan for Services. Property in the (M) Mountain Zone may be remote from services such as emergency services, winter road maintenance, sewer, water systems and schools. Any plan submitted must show how the proposed development will address these issues without requiring the Town of Daniel to extend urban services to those areas. Improvements shown on the final development plan shall be started within a period of twelve (12) months from final approval, and be completed and ready for occupancy within thirty-six (36) months, unless part of a phased development with approval to be done in phases. Agreed upon levels of service must be completed prior to occupancy of any structures.

Section 8.09.16 Minimum Open Space Requirements.

The (M) Mountain Zone shall have a minimum amount of forty (40) percent open space. Additional open space may be required or density bonuses given in specific Planned Performance Developments. Regardless of the percentage of open space required in this zone at least the required open space must be located on slopes of less than ten (10) percent grade.

(1) Intended Uses for Open Space.

(a) Open space should preserve environmentally sensitive areas, including slopes, unstable soils, geologic hazard areas, wetlands, desirable vegetation areas, wildlife habitat, view corridors, flood plains, culinary water sources, aquifer recharge areas, streams, seeps, springs and drainage corridors, ridge-lines, or other environmentally sensitive areas or important features.

(b) Open space reserved for slopes less than ten (10) percent is to allow for pedestrian seating, walking, play areas, or open gathering areas to create an open, inviting feel to the property, and/or landscaped areas to improve appearance of the area.

(c) Roadways, parking, storage areas, residential, and any land within a building lot, whether single family or multi-family, and any area within twenty (20) feet of any building shall be excluded in calculating the required area for open space.

(2) Open Space to Remain in Perpetuity. As assurance that the designated open space will remain open and unobstructed from the ground upward, the developers shall execute an open space preservation agreement with the Town of Daniel, which agreement shall run with the land and shall be binding upon the developer, heirs, successors, and assigns. The open space agreement shall preclude building on or development of the designated open space areas throughout the life of the development, unless approved by the Town of Daniel Legislative Body. The land shall either be dedicated to the Town of Daniel for a public use, if acceptable to the Town of Daniel, or to the homeowners association to hold as dedicated open space. If deemed appropriate by the Planning Staff, for smaller subdivisions, the open space may be contained within the lots owned by separate ownership, but must be deed restricted to prevent building of any structures, including fences thereon. Trail requirements of the Town of Daniel Trail Plan will still apply to smaller subdivisions.

(3) Ownership. Open space shall remain under the ownership of the homeowners association. In the event that Town of Daniel accepts dedication of the open space, the Town of Daniel shall then assume the responsibility of maintaining the property.

(4) Construction and Maintenance. The developer shall construct and landscape all areas and build all facilities, as per the approved plan. The Homeowners Association shall maintain all common areas and facilities. The Town of Daniel may place a lien upon each property contained within the development for the costs of such maintenance. Such lien may be foreclosed in the same fashion as a lien placed for property taxes.

(5) Development Allowed by Conditional Use. Planned Performance Developments shall be considered as a Conditional Use in the (M) Mountain Zone. Conditions and density will be based upon the results of a physical constraints analysis. Any proposal with more than one (1) ERU per every five (5) acres must earn additional density by complying with the guidelines in the performance in Chapter 8.29 of this Title.

Section 8.09.17 Additional Regulations.

See also Chapter 8.27 (Development Standards) for regulations that apply to this zone. In the event of a conflict between that chapter and the regulations contained in this chapter, the regulations of this chapter would control.

Chapter 8.10

(C) COMMERCIAL ZONE

Sections:

| | |
|----------------|--|
| 8.10.01 | Purpose. |
| 8.10.02 | Permitted Principal Uses. |
| 8.10.03 | Conditional Uses. |
| 8.10.04 | Lot Area. |
| 8.10.05 | Lot Width. |
| 8.10.06 | Lot Frontage. |
| 8.10.07 | Setback Requirements. |
| 8.10.08 | Distance Between Buildings. |
| 8.10.09 | Building Height. |
| 8.10.10 | Site Plan Provisions. |
| 8.10.11 | Permissible Lot Coverage. |
| 8.10.12 | Parking, Loading and Access Requirements. |
| 8.10.13 | Other Requirements. |

Section 8.10.01 Purpose.

The (C) Commercial Zone is established to recognize and provide areas in the Town of Daniel for the accommodation of commercial uses. This chapter establishes development guidelines and restrictions in the (C) Commercial Zone. The specific intent in establishing this zone is for the following purposes:

- (1) Facilitate the sale of goods and services in areas which are most appropriate;
- (2) Provide attractive commercial and mixed-use nodes in several areas of Daniel which are centrally located to population centers of residential or resort use;
- (3) Allow separation of dissimilar uses which may conflict either due to noise, appearance or other disturbances, and yet allow commercial uses to be close enough to resort or residential uses to be convenient;
- (4) Provide Commercial Zones that abut or are in close proximity to a state highway;
- (5) Provide access to Commercial Zones off major roadways that are convenient and able to handle major traffic volumes without hazards; and
- (6) In neighborhood areas, as determined by the planning commission, small commercial nodes may be created regardless of proximity to a state highway.

Section 8.10.02 Permitted Principal Uses.

Those principal uses or categories of uses as listed herein, and no others, are allowed as a permitted use in the (C) Commercial Zone.

- (1) All uses contained herein are listed by number as designated in the Daniel Land Use classification, which is published and maintained by the Planning Staff, and are attached, as Appendix 1. Classes or

groupings of uses permitted in the zone are identified by a four-digit number in which the last one or two digits are zeros, and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Daniel Land Use classification will be permitted in the (C) Commercial Zone subject to the limitations set forth herein.

| Permitted Uses in the (C) Commercial Zone | |
|--|--|
| Use Number | Use Classification |
| 2700 | Printing, Publishing |
| 4500 | Highway and Street Rights-of-Way |
| 4700 | Communications |
| 4800 | Electric Utility (Except 4811, 4812, and 4813) |
| 4846 | Sewage Company Office |
| 4923 | Travel Arranging Services |
| 4924 | Transportation Ticket Services |
| 5154 | Nursery |
| 5210 | Lumber and Other Building Materials-Small Scale * |
| 5220 | Heating and Plumbing Equipment-Small Scale * |
| 5230 | Paint, Glass and Wallpaper-Small Scale * |
| 5240 | Electrical Supplies-Small Scale * |
| 5250 | Hardware and Supplies-Small Scale * |
| 5310 | Department Stores-Small Scale * |
| 5320 | Mail and Phone Order Houses-Small Scale * |
| 5330 | Variety Stores-Small Scale * |
| 5390 | Other Retail Trade-General Merchandise-Small Scale * |
| 5400 | Food-Small Scale * |
| 5500 | Automotive, Marine Craft, Aircraft and Accessories |
| 5600 | Apparel and Accessories |
| 5700 | Furniture, Home Furnishings and Equipment |
| 5800 | Eating and Drinking Places |
| 5813 | Drive Through Short Order |

| | |
|------|--|
| 5820 | Drinking Places (Bar, Pub) |
| 5900 | Misc. Retail Trade (Except 5933, 5935, 5938, 5939, 5961, 5980) |
| 6100 | Finance, Insurance and Real Estate Services |
| 6221 | Portrait Photography |
| 6230 | Beauty and Barber Services |
| 6241 | Funeral Parlor/Mortuary |
| 6250 | Apparel Repair, Alteration and Cleaning Pick-Up Services, Shoe Repair Services |
| 6297 | Gyms, Athletic Clubs, Spas, Aerobic Centers, Etc. |
| 6311 | Advertising Services |
| 6316 | Direct Mail Advertising |
| 6320 | Consumer and Mercantile Credit Reporting Services |
| 6330 | Duplicating, Mailing, Stenographic and Office Services |
| 6350 | News Syndicate Services |
| 6360 | Employment Services |
| 6390 | Business Services, NEC (Except 6397) |
| 6397 | Automobile Rental Shop-Vehicle Storage Offsite |
| 6416 | Auto Washing, Polishing and Detailing |
| 6417 | Auto Washing-Self Service |
| 6493 | Watch, Clock, Jewelry Repair and Engraving |
| 6496 | Locksmiths and Key Shops |
| 6510 | Medical and Other Health Services |
| 6519 | Other Medical Services, NEC |
| 6520 | Legal Services |
| 6530 | Engineering Services |
| 6550 | Data Processing Services |
| 6590 | Professional Services, NEC |
| 6830 | Special Training and Schooling |
| 6920 | Welfare and Charitable Service With No Residential Uses |
| 6930 | Business, Professional and Labor Organizations and Services |
| 7100 | Cultural Activities and Nature Exhibitions |
| 7200 | Public Assembly (Except 7220) |
| 7390 | Amusements |

| | |
|--|--|
| | * Small Scale is businesses occupying under 40,000 square feet |
|--|--|

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (C) Commercial Zone provided they are incidental to, and do not substantially alter the character of the principal use or structure.

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

(b) Swimming pools and incidental bath houses.

(c) Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site, and provided further, that such use shall be for only the period of construction and thirty (30) days thereafter. Approval is subject to a bond and site plan approval from planning staff.

Section 8.10.03 Conditional Uses.

The following shows the uses and structures that are permitted in the (C) Commercial Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

| Conditional Uses in the (C) Commercial Zone | |
|--|---|
| Use Number | Use Classification-All must be done as a Planned Performance Development |
| 4811 | Electric Transmission Lines Over 38 KVA and Less Than 35' In Height |
| 4812 | Electric Generation Plants |
| 5210 | Lumber and Other Building Materials-Large Scale * |
| 5220 | Heating and Plumbing Equipment-Large Scale * |
| 5230 | Paint, Glass and Wallpaper-Large Scale * |
| 5240 | Electrical Supplies-Large Scale * |
| 5250 | Hardware and Supplies-Large Scale * |
| 5310 | Department Stores-Large Scale * |
| 5320 | Mail and Phone Order Houses-Large Scale * |
| 5330 | Variety Stores-Large Scale * |
| 5390 | Other Retail Trade-General Merchandise-Large Scale * |
| 5400 | Food-Large Scale * |
| 6397 | Automobile, Truck and Trailer Rentals |
| 7220 | Sport Assembly |

| | |
|--|--|
| | * Large Scale means businesses that occupy up to 40,000 square feet. |
|--|--|

Section 8.10.04 Lot Area.

Each development lot in the (C) Commercial Zone shall be one-half (1/2) acre minimum and shall be large enough to accommodate the business facility, parking, landscaped areas and setbacks required by the approval of the use and established in this title.

Section 8.10.05 Lot Width.

No width requirements are established for this zone, except that the width of the property must be adequate to accommodate the use proposed, the setback, gathering and buffer requirements, and the off-street parking required.

Section 8.10.06 Lot Frontage.

Each lot or parcel of land in the (C) Commercial Zone shall abut a public road or road built to Town of Daniel standards for a minimum distance of fifty (50) feet on a line parallel to the centerline of the road.

Section 8.10.07 Setback Requirements.

(1) Front Setback. Each structure in the (C) Commercial Zone shall have a front setback of not less than thirty (30) feet from the edge of the road right-of-way.

(2) Side Setbacks. All structures shall have side setbacks of a twelve (12) feet minimum.

(3) Rear Setbacks. All structures shall have rear setbacks of a ten (10) feet minimum.

(4) Corner Properties. No building shall be located closer than thirty (30) feet to a street. Corner properties shall be treated as though they have two front setbacks, and landscaping would apply to both front setbacks.

(5) Setbacks for Lots Bordering Residential Zones. For information on transitional development standards for non-residential uses bordering residential zones (See Section 8.21.19).

Section 8.10.08 Distance Between Buildings.

The adopted building code shall determine the distance between buildings.

Section 8.10.09 Building Height.

Height of all dwellings, accessory buildings, and/or structures shall not exceed forty feet (40) feet above natural grade unless approved as a Conditional Use. Additional setbacks apply for commercial buildings over twenty (20) feet high when bordering residential uses (See Section 8.21.19).

Section 8.10.10 Site Plan Provisions.

Prior to the construction of any building in the (C) Commercial Zone, a site plan shall be submitted to the planning office and taken to the Development Review Committee for approval. Submitted site plans shall be drawn to scale and shall contain the following information:

- (1) The location of all existing and proposed buildings and structures on the site, with full dimensions showing distances between buildings and distances from buildings to adjacent property lines, and the location of any existing irrigation, culinary or fire-prevention waterlines;
- (2) A landscaping plan showing the location, types, and initial sizes of all planting materials to be used together with the location of fences, walls, hedges, and decorative materials;
- (3) Preliminary elevations of main buildings showing the general appearance and type of external materials to be used;
- (4) Parking Lot layout;
- (5) Dumpster Enclosure location;
- (6) Site lighting;
- (7) Neighboring uses;
- (8) Irrigation Plan; and
- (9) Utility Plan.

Section 8.10.11 Permissible Lot Coverage.

All structures must be so located on the lot so as to allow parking in the rear or side of the buildings. The total footprint of the structures shall not cover more than fifty (50) percent of the parcel on which the use is located.

Section 8.10.12 Parking, Loading and Access Requirements.

Each commercial use shall provide approved parking sufficient for the use, as well as a safe and adequate pedestrian access to the building. All loading and unloading must be done in accordance with the required standards of this title. For further regulations on parking and loading see Chapter 8.20.

Section 8.10.13 Other Requirements.

- (1) **Landscaping.** Landscaping the property is a requirement for developments in this zone. Any portion of the lot not included in the structure or parking areas must be appropriately landscaped. The front landscape strip shall be thirty (30) feet on any side adjacent to a public street. A minimum of ten (10) percent of the lot shall be landscaped. For specific landscaping regulations see Section 8.21.10.

(2) Refuse and Debris. The entire lot shall be kept free from refuse, debris and waste material. All such refuse, garbage debris and waste material shall be kept in approved containers and stored within a building or enclosed in a sight-obscuring fence or wall of not less than six (6) feet in height. Garbage containers shall not be located within the required front setback (See Section 8.21.15).

(3) Emissions. No dust, noticeable odor, smoke, vibration, intermittent light or noise shall be emitted which is discernible beyond the property boundary lines (See Chapter 8.28).

(4) Storage. All storage and outside activities, except loading and unloading, shall be enclosed within a building or if approved as part of the Conditional Use, within an area that is enclosed with a sight obscuring fence at least six (6) feet and no more than eight (8) feet in height (See Section 8.21.15).

(5) Sewer System. All uses located within a (C) Commercial Zone shall be connected to a sewer system. Development within an existing (C) Commercial Zone, prior to the adoption of this title is exempt from this requirement.

(6) Maintenance. All signs, structures, parking areas, landscaping or other portions of the development that are visible from either an adjoining residential use, or from a major street or highway, shall be kept in good repair and maintenance at all times. Failure to do so may be grounds for refusal to renew any business license or conditional use permit.

(7) Adequate Water. No use may be permitted unless it is shown that there is an adequate supply of water for the use and fire flow.

(8) Signs. Any signs or other form of advertising must comply with the sign provisions of this title. Any signs fronting a state highway shall be monument signs (See Chapter 8.26).

(9) Building Design. Architectural renderings of all buildings shall be provided. Buildings with exterior facades facing a public street must have a minimum of forty (40) percent decorative masonry. Windows can be included in a portion of the masonry percentage calculation.

(10) Additional Regulations. See also Chapters 8.21 (Supplementary Development Standards) and 8.27 (Development Standards) for regulations that apply to this zone. In the event of a conflict between these chapters and the regulations contained in this chapter, the regulations of this chapter would control.

Chapter 8.11

(HS) HIGHWAY SERVICES ZONE.

Sections:

| | |
|----------------|------------------------------------|
| 8.11.01 | Purpose. |
| 8.11.02 | Conditional Uses. |
| 8.11.03 | Lot Width and Frontage. |
| 8.11.04 | Area Requirements. |
| 8.11.05 | Setback Requirements. |
| 8.11.06 | Conditional Uses. |
| 8.11.07 | Distance Between Buildings. |

- 8.11.08 Site Plan Provisions.**
- 8.11.09 Permissible Lot Coverage.**
- 8.11.10 Parking, Loading, and Access.**
- 8.11.11 Other Requirements.**

Section 8.11.01 Purpose.

The (HS) Highway Services Zone is established to allow limited commercial services for travelers along highways in remote areas of Daniel. Highway Service areas shall be limited to compact nodes with concentrated services with the intent to avoid sprawling strip commercial centers. To meet the intent of this chapter, all uses in the (HS) Highway Service Zone are conditional. Additional intent in establishing the (HS) Highway Services Zone is for the following purposes:

- (1) To facilitate the provision of services to the traveling public and residents in sparsely populated areas of the Town of Daniel;
- (2) To require standards of appearance and maintenance that will complement the dwellings or other uses which have been, or which will likely be, constructed in the surrounding area in the future;
- (3) To assure that services are provided along the highway will blend well with the surrounding uses and atmosphere in a small, clustered manner at points along the Highway that facilitate safe stopping points for traffic.

Section 8.11.02 Conditional Uses.

Those land uses or categories of uses as listed herein, and no others, are allowed as a conditional use in the (HS) Highway Services Zone.

- (1) All uses contained herein are listed by number as designated in the Daniel Land Use classifications, which is published and maintained by the planning staff, and is attached, as Appendix 1. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one (1) or two (2) digits are zeros (0), and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.
- (2) All such classes listed herein and all specific uses contained within them in the Daniel Land Use classification will be permitted in the (HS) Highway Services Zone subject to the limitations set forth herein.

| Conditional Uses in the (HS) Highway Services Zone | |
|---|---------------------------|
| Use Number | Use Classification |
| 1420 | Vacation Vehicle Courts |

| | |
|------|---|
| 1511 | Hotels |
| 1512 | Motels and Motor Hotels |
| 1516 | Bed and Breakfast |
| 1518 | Accessory Dwelling for Non-residential Use |
| 4500 | Highway and Street Rights of Way |
| 4712 | Telephone Relay Towers |
| 4732 | Radio Transmitting Stations and Towers |
| 4742 | Television Transmitting Stations and Relay Towers |
| 4810 | Electric Utilities, except 4813 |
| 4800 | Utilities (except 4812, 4813, 4822, 4823, 4824, 4825, 4829, 4830, 4840, 4846, 4850, and 4860) |
| 5390 | Other Retail Trade-General Merchandise |
| 5430 | Fruits and Vegetables |
| 5440 | Candy, Nuts and Confectionary |
| 5450 | Dairy Products |
| 5463 | Doughnut Shops |
| 5490 | Retail Trade-Food, NEC |
| 5520 | Tires, Batteries and Accessories |
| 5530 | Gasoline Service Stations |
| 5800 | Eating and Drinking Places |
| 5951 | Sporting Goods |
| 5980 | Fuel and Ice |
| 5995 | Gifts, Novelties, Souvenirs, Cards, Etc. |
| 7490 | Recreation, NEC |
| 7600 | Parks |

Section 8.11.03 Lot Width and Frontage.

There are no specific width requirements for this zone, except that the width and frontage must be sufficient to provide reasonable space to accommodate the requested uses, including buildings, landscaping and off-street parking, while maintaining a safe and adequate access to and from the Highway.

Section 8.11.04 Area Requirements.

There are no area requirements.

Section 8.11.05 Setback Requirements.

The setback requirements for this zone shall be as follows:

(1) Front Setback. All buildings and structures shall be set back at least thirty (30) feet from the highway right-of-way. Fuel pumps shall have a setback of at least fifty (50) feet from any highway right-of-way.

(2) Side Setback, Interior Lots. No building shall be located closer than twenty (20) feet to any residential use, and shall be required to provide a wall and/or landscape buffer to screen the commercial use from such residential uses. (See Section 8.21.19 for further regulations.)

(3) Side Setback, Corner Lots. Corner lots shall be treated as if they have two front setbacks.

(4) Rear Setback-Interior Lots. No building shall be located closer than twenty (20) feet to any residential use boundary lines, and shall be required to provide a wall and/or landscape buffer to screen the commercial use from such residential uses. (See Section 8.21.19 for further regulations.)

(5) Rear Setback, Corner Lots. No building shall be located closer than twenty (20) feet to any residential use or thirty (30) feet to any road or highway, and shall be required to provide a wall and/or landscape buffer to screen the commercial use from such residential uses. (See Section 8.21.19 for further regulations.)

Section 8.11.06 Conditional Uses.

Height of all dwellings, accessory buildings, and/or structures shall not exceed forty (40) feet above natural grade unless approved as a Conditional Use. Additional setbacks apply for commercial buildings over twenty (20) feet high when bordering residential uses (See Section 8.21.19).

Section 8.11.07 Distance Between Buildings.

Distance between buildings shall be determined by the regulations of the adopted building code.

Section 8.11.08 Site Plan Provisions.

Prior to the construction of any building in the (HS) Highway Services Zone, a site plan shall be submitted to the planning staff and reviewed by the development review committee. Said site plan shall be drawn to scale and shall contain the following information:

(1) The location of all existing and proposed buildings and structures on the site, with full dimensions showing distances between buildings and distances from buildings to adjacent property lines, and the location of any existing irrigation, culinary or fire-prevention waterlines;

(2) A landscaping plan showing the location, types, and initial sizes of all planting materials to be used together with the location of fences, wall, hedges, and decorative materials;

- (3) Preliminary elevations of main buildings showing the general appearance and type of external materials to be used;
- (4) Parking lot layout;
- (5) Dumpster enclosure location;
- (6) Site lighting;
- (7) Neighboring uses;
- (8) Irrigation plan;
- (9) Utility plan; and
- (10) Storm water, runoff control plan.

Section 8.11.09 Permissible Lot Coverage.

Structures should not cover more than fifty (50) percent of the parcel on which the land is located.

Section 8.11.10 Parking, Loading, and Access.

Each use shall provide approved parking sufficient for the use, as well as safe and adequate pedestrian access to the building. All loading and unloading must be done in accordance with required standards. For further regulations on parking and loading (See Section 8.20.12).

Section 8.11.11 Other Requirements.

(1) Landscaping. Any portion of the lot not included in the structure or parking areas must be appropriately landscaped. The front landscape strip shall be thirty (30) feet on any side adjacent to a public street. A minimum of ten (10) percent of the overall site shall be landscaped. For specific regulations (See Section 8.21.10).

(2) Refuse and Debris. The entire lot shall be kept free from refuse, debris and waste material. All such refuse, garbage debris and waste material shall be kept in approved containers and stored within a building or enclosed in a sight-obscuring fence or wall of not less than six (6) feet in height. Garbage containers shall not be located within the required front setback (See Section 8.21.15).

(3) Emissions. No dust, noticeable odor, smoke, vibration, intermittent light or noise shall be emitted which is discernible beyond the property boundary lines (See Chapter 8.28).

(4) Storage. All storage and outside activities, except loading and unloading, shall be enclosed within a building or if approved as part of the conditional use, within an area that is enclosed with a sight-obscuring fence at least six (6) feet and no more than eight (8) feet in height (See Section 8.21.15).

(5) Maintenance. All signs, structures, parking areas, landscaping or other portions of the development that are visible from either an adjoining residential use, or from a major street or highway, shall be kept in good repair and maintenance at all times. Failure to do so may be grounds for refusal to renew any business license or conditional use permit.

(6) Adequate Water. No use may be permitted in this zone unless it is shown that there is an adequate supply of water for the use and for fire protection.

(7) Signs. Any signs or other form of advertising must comply with the sign provisions of this title. Any signs fronting a state highway shall be monument signs (See Chapter 8.26).

(8) Building Design. Architectural renderings of all buildings shall be required. All facades visible from a public street cannot be metal.

(9) Additional Regulations. See also Chapters 8.21 (Supplementary Development Standards) and 8.27 (Development Standards) for regulations that apply to this zone. In the event of a conflict between these chapters and the regulations contained in this chapter, the regulations of this chapter would control.

Chapter 8.12

(OBP) OFFICE AND BUSINESS PARK ZONE.

Sections:

- 8.12.01 Purpose.**
- 8.12.02 Permitted Principal Uses.**
- 8.12.03 Conditional Uses.**
- 8.12.04 Lot Area Requirements.**
- 8.12.05 Lot Width Requirements.**
- 8.12.06 Setback Requirements.**
- 8.12.07 Height Requirements.**
- 8.12.08 Design and Site Plan Approval.**
- 8.12.09 Site Plan Provisions.**
- 8.12.10 Permissible Lot Coverage.**
- 8.12.11 Parking Loading and Access Requirements.**
- 8.12.12 Other Requirements.**
- 8.12.13 Lighting Standards.**

Section 8.12.01 Purpose.

The purpose of this chapter is to establish areas within Daniel that allow for the development of office complexes, research facilities, businesses, assembly areas, and applicable accessory uses. This zone establishes regulations to insure compatibility of new development with the surrounding land uses through standards that provide an open campus-like setting with attractive buildings, park-like grounds, generous landscaping and other appropriate amenities that support employee activity.

Section 8.12.02 Permitted Principal Uses.

Those principal uses, or categories of uses as listed herein, and no others, are permitted in the (OBP) Office and Business Park Zone:

(1) All uses contained herein are listed by number as designated in the Daniel Land Use classifications, which is published and maintained by the planning staff, and is attached, as Appendix 1. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one (1) or two (2) digits are zeros (0), and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Daniel Land Use classification will be permitted in the (OBP) Office and Business Park Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (OBP) Office and Business Park Zone | |
|---|--|
| Use Number | Use Classification |
| 2700 | Printing, Publishing and Allied Industries |
| 2830 | Pharmaceutical Preparations |
| 3970 | Motion Picture Production-Small Scale |
| 4500 | Highway and Street Rights-of-Way |
| 4800 | Utilities (Except 4813, 4856, 4857) |
| 4811 | Electric Transmission Lines less than 38 KVA and less than thirty five (35) feet in height |
| 4841 | Underground Sewer Pipeline Right-of-Way |
| 4844 | Sewage Pressure Control Stations |
| 4873 | Storm Drain or Right-of-Way |
| 5121 | Pharmaceuticals-Small Scale |
| 5160 | Electrical Goods-Small Scale |
| 5320 | Mail and Phone Order Houses-Call Centers and Telecommuting Centers |
| 5392 | Small General Convenience Store to Serve Business Park-no Gasoline Sales |
| 5463 | Doughnut Shops |
| 5494 | Delicatessen |
| 5496 | Food to go |
| 5740 | Office Equipment, Furniture, Machines and Supplies-Small Scale |

| | |
|------|---|
| 5800 | Eating and Drinking Places (Except 5813) |
| 5940 | Books, Stationery, Art and Hobby Supplies |
| 6100 | Finance, Insurance and Real Estate Services |
| 6222 | Commercial Photography (Aerial Photos and Mapping Services) |
| 6252 | Laundry and Dry Cleaning Pickup Services only |
| 6297 | Gymnasiums, Athletic Clubs, Spas, Aerobic Centers, etc. |
| 6311 | Advertising Services |
| 6316 | Direct Mail Advertising |
| 6320 | Consumer and Mercantile Credit Reporting Services |
| 6330 | Duplicating, Mailing, Stenographic and Office Services |
| 6390 | Business Services, NEC (Except 6397) |
| 6493 | Watch, Clock, Jewelry Repair and Engraving |
| 6510 | Medical and Other Health Services (Except 6515, 6516, 6519) |
| 6520 | Legal Services |
| 6530 | Engineering Services |
| 6540 | Research Services |
| 6550 | Data Processing Services |
| 6590 | Professional Services |
| 6610 | General Contract Construction office only-no equipment stored |
| 6930 | Business, Professional and Labor Organizations and Services |

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (OBP) Office and Business Park Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

Section 8.12.03 Conditional Uses.

The following uses and structures are permitted in the (OBP) Office and Business Park Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof:

| Conditional Uses in the (OBP) Office and Business Park Zone | |
|--|---------------------------|
| Use Number | Use Classification |
| 4700 | Communications |

| | |
|------|---|
| 4810 | Electric Utility (Except 4813) |
| 4820 | Gas Utilities (Except 4822 and 4823) |
| 4830 | Water Utilities or Irrigation (Except 4832, 4834) |
| 6519 | Other Medical Services, NEC |
| 6700 | Governmental Services (All Levels of Government) |
| 6810 | Nursery, Primary and Secondary Education |
| 6820 | Universities, College, Junior College and Professional School |
| 6830 | Special Training and Schooling |

Section 8.12.04 Lot Area Requirements.

There are no specific lot area requirements for this zone except that the lot is large enough to accommodate the business facility and setback requirements required by this chapter.

Section 8.12.05 Lot Width Requirements.

There are no specific width requirements for this zone, except that the width and frontage must be sufficient to provide reasonable space to accommodate the requested uses, including buildings, landscaping and off-street parking, while maintaining a safe and adequate access from the street.

Section 8.12.06 Setback Requirements.

(1) Front Setback. All buildings and structures shall be set back at least thirty (30) feet to provide a landscaped front yard.

(2) Side Setback. No building shall be located closer than twenty (20) feet to any side property boundary line.

(3) Corner Properties. No building shall be located closer than thirty (30) feet to any street. Corner properties shall be treated as though they have two (2) front setbacks, and landscaping for the front setbacks would apply to both front setbacks.

(4) Rear Setback. Interior Property Boundaries - No building shall be located closer than twenty (20) feet to any rear property lines.

(5) Setbacks for lots bordering Residential Zones. See Section 8.21.19 for information on transitional development standards for non-residential uses bordering residential uses.

Section 8.12.07 Height Requirements.

Height of all dwellings, accessory buildings, and/or structures shall not exceed forty feet (40) feet above natural grade unless approved as a Conditional Use. Buildings which abut a residential zone or use shall

be increased at least one (1) foot for each two (2) feet in building height above twenty (20) feet (See Section 8.21.19).

Section 8.12.08 Design and Site Plan Approval.

Site plan approval is a condition of approval for all development within this zone. The design and site plan review shall include but not be limited to architectural design and theme, building materials, lighting, signage, landscaping, parking, vehicular, bike and pedestrian access, accessory structures, helicopter pads, nuisance factors and natural and manmade hazards.

Section 8.12.09 Site Plan Provisions.

Prior to the construction of any building in this Zone, a site plan shall be submitted and approved by the development review committee. Site plans shall be drawn to scale and shall contain, but not limited to, the following information:

- (1) The location of all existing and proposed buildings and structures on the site, with full dimensions showing distances between buildings and distances from buildings to adjacent property lines, and the location of any existing irrigation, culinary or fire-prevention waterlines;
- (2) A landscaping plan showing the location, types, and initial sizes of all planting materials to be used together with the location of fences, wall, hedges, and decorative materials;
- (3) Preliminary elevations of main buildings showing the general appearance and type of external materials to be used;
- (4) Parking lot layout;
- (5) Dumpster enclosure location;
- (6) Site lighting;
- (7) Neighboring uses;
- (8) Irrigation plan; and
- (9) Utility plan.

Section 8.12.10 Permissible Lot Coverage.

A building or group of buildings, with all accessory buildings, shall not cover more than thirty (30) percent of the property, exclusive of parking areas.

Section 8.12.11 Parking Loading and Access Requirements.

Each use shall provide approved parking sufficient for the use, as well as safe and adequate pedestrian access to the building. All loading and unloading must be done in accordance with required standards. For more information on parking and loading see Section 8.20.12.

Section 8.12.12 Other Requirements.

(1) Landscaping. Any portion of the lot not included in the structure or parking areas must be appropriately landscaped. The front landscape strip shall be thirty (30) feet on any side adjacent to a public street. A minimum of thirty (30) percent of the overall site shall be landscaped. For specific regulations see Section 8.21.10.

(2) Refuse and Debris. The entire lot shall be kept free from refuse, debris and waste material. All such refuse, garbage debris and waste material shall be kept in approved containers and stored within a building or enclosed in a sight-obscuring fence or wall of not less than six (6) feet in height. Garbage containers shall not be located within the required front setback (See Section 8.21.15).

(3) Emissions. No dust, noticeable odor, smoke, vibration, intermittent light or noise shall be emitted which is discernible beyond the property boundary lines (See Chapter 8.28).

(4) Storage. All storage and outside activities, except loading and unloading, shall be enclosed within a building or if approved as part of the Conditional Use, within an area that is enclosed with a sight-obscuring fence at least six (6) feet and no more than eight (8) feet in height (See Section 8.21.15).

(5) Sewer System. All uses located within the (OBP) Office Business Park shall be connected to a publicly owned and operated sewer system.

(6) Maintenance. All signs, structures, parking areas, landscaping or other portions of the development that are visible from either an adjoining residential use, or from a major street or highway, shall be kept in good repair and maintenance at all times. Failure to do so may be grounds for refusal to renew any business license or conditional use permit.

(7) Adequate Water. No use may be permitted unless it is shown that there is an adequate supply of water for the use and minimum requirements for fire protection as determined by the Wasatch County fire marshal.

(8) Signs. Any signs or other form of advertising must comply with the sign provisions of this title. Any signs fronting a state highway shall be monument signs (See Chapter 8.26).

(9) Parking Areas. Parking areas may not cover more than twenty five (25) percent of the property.

(10) Accesses. Appropriate access to trails, creeks, sidewalks or open space amenities is required. Trails shall be created to connect to any existing or planned public trail system in the area.

(11) Roof mounted appurtenances. Roof mounted appurtenances is discouraged. If they are used, they shall be placed within an enclosure as high as the appurtenance that reflects the architectural design scheme of the project.

(12) Utilities. All utility connections shall be compatible with the architectural elements of the site and not be exposed except where necessary. Utility lines and cables shall be installed underground.

(13) Walkways. Pedestrian walkways shall be a minimum of five (5) feet in width and public easements for such walkways and trails shall be required.

(14) Exterior Materials. All buildings shall be made of brick, wood, stone or masonry materials. Vinyl and metal siding is prohibited.

(15) Prohibited Roof Types. Flat roofs, rounded rooflines and mansard roofs are not permitted unless approved as a conditional use.

Section 8.12.13 Lighting Standards.

See Section 8.21.16 for additional requirements. In the event of a conflict between that section and this section, this section shall control.

- (1) Uniformity of lighting is desirable to achieve an overall objective of continuity, and to avoid objectionable glare.
- (2) The light shall be low intensity, shielded from uses on adjoining lots, and directed downward and away from adjacent property in a residential or agricultural zone or an adjacent residential or agricultural use.
- (3) All parking luminaries, except those required for security, shall be extinguished one (1) hour after the end of business hours. The exception for security lighting requires that security lighting must be equipped with motion sensors so that only lights sensing movement will come on and thereby reduce the amount of light interfering with adjoining uses or the night sky.
- (4) Pedestrian walkways shall be lighted along the walkways.

Chapter 8.13

(I) INDUSTRIAL ZONE.

Sections:

| | |
|----------------|-------------------------------------|
| 8.13.01 | Purpose. |
| 8.13.02 | Permitted Principal Uses. |
| 8.13.03 | Conditional Uses. |
| 8.13.04 | Lot Area. |
| 8.13.05 | Lot Width. |
| 8.13.06 | Lot Frontage. |
| 8.13.07 | Setback Requirements. |
| 8.13.08 | Distance Between Buildings. |
| 8.13.09 | Building Height. |
| 8.13.10 | Site Plan Provisions. |
| 8.13.11 | Permissible Lot Coverage. |
| 8.13.12 | Parking, Loading and Access. |
| 8.13.13 | Other Requirements. |

Section 8.13.01 Purpose.

The Purpose of the (I) Industrial Zone is to provide an area in Daniel for the processing, assembling, manufacturing, warehousing, and storage of materials products and goods. The specific intent in establishing this zone is for the following purposes:

- (1) Facilitate the provision of goods, services and manufacturing in areas that are most appropriate, or in previously designated industrial areas, which will be least likely to conflict with residential or commercial core uses;
- (2) Keep services that are convenient for industrial business customers without detracting from residential, commercial and mixed-use cores;
- (3) Zone such districts in such a manner as to allow separation of other uses which will conflict either due to noise, odors, heavy truck traffic, appearance or other disturbances, and yet allow industrial uses to exist and prosper;
- (4) Maximize the location of various types of industrial uses in the most convenient and attractive manner;
- (5) Limit the number and placement of industrial uses that are likely to be incompatible within the entry corridors or sensitive lands of the Town of Daniel, and other surrounding uses;
- (6) Broaden the tax base and improve the economic base of the Town of Daniel;
- (7) Discourage the undesirable mixture of incompatible commercial, industrial, and residential uses; and
- (8) Control the uses that emit odor, dust, fumes or other undesirable impacts.

Section 8.13.02 Permitted Principal Uses.

Those principal uses, or categories of uses as listed herein, and no others, are permitted in the (I) Industrial Zone.

(1) All uses contained herein are listed by number as designated in the Daniel Land Use classifications, which is published and maintained by the planning staff, and is attached, as Appendix 1. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one (1) or two (2) digits are zeros (0), and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Daniel Land Use classification will be permitted in the (I) Industrial Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (I) Industrial Zone | |
|--|------------------------------------|
| Use Number | Use Classification |
| 2150 | Bakery Products Manufacturing |
| 2170 | Confectionery and Related Products |

| | |
|------|--|
| 2310 | Apparel, Except Leather |
| 2350 | Hats, Caps and Millinery |
| 2380 | Miscellaneous Apparel and Accessories |
| 2390 | Fabricated Textile Products Manufacturing, NEC |
| 2700 | Printing, Publishing and Allied Industries |
| 3210 | Glass and Glassware Manufacturing-Small Scale |
| 3500 | Professional, Scientific and Controlling Instruments: Photographic and Optical Goods, Watches and Clocks |
| 3900 | Miscellaneous Manufacturing (Except 3960) |
| 4200 | Motor Vehicle Transportation |
| 4500 | Highway and Street Rights-of-Way |
| 4850 | Transfer Station (Publicly Owned) |
| 5110 | Motor Vehicle and Automotive Equipment (Except 5113) |
| 5130 | Wholesale Dry Goods and Apparel |
| 5140 | Wholesale Groceries and Related Products |
| 5150 | Wholesale Raw Materials-Farm Products |
| 5160 | Electrical Goods-Manufacturing or Wholesale |
| 5170 | Hardware-Wholesale or Manufacturing |
| 5180 | Machinery, Equipment and Supplies Wholesale/Manufacturing |
| 5220 | Heating and Plumbing Equipment |
| 5240 | Electrical Supplies |
| 5250 | Hardware and Supplies |
| 5712 | Floor Coverings |
| 5961 | Hay, Grains and Feeds for Poultry and Livestock, Including Bulk Fertilizers |
| 5980 | Fuel and Ice |
| 6210 | Laundering, Dry Cleaning and Dyeing |
| 6317 | Sign Painting |
| 6340 | Dwelling and Other Building Services |
| 6370 | Warehousing or Storage Services (Except 6372) |
| 6380 | Auction Services |
| 6397 | Automobile Truck and Trailer Rentals Without Drivers |
| 6410 | Automobile Repair and Related Services |

| | |
|------|--|
| 6420 | Electrical Appliance Repair and Services |
| 6490 | Repair Shops and Related Services |
| 6600 | Contract Construction Services |

(3) Permitted Accessory Uses. Accessory uses and structures are permitted in the (I) Industrial Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

Section 8.13.03 Conditional Uses.

The following table shows which uses and structures are permitted in the (I) Industrial Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

| Conditional Uses in the (I) Industrial Zone | |
|---|---|
| Use Number | Use Classification |
| 2110 | Meat Products Manufacturing |
| 2120 | Dairy Products Manufacturing |
| 2130 | Canning and Preserving of Fruits and Vegetables |
| 2140 | Grain Mill Products Manufacturing |
| 2160 | Sugar Manufacturing |
| 2180 | Beverage Manufacturing |
| 2190 | Food Preparations and Kindred Products, NEC |
| 2200 | Textile Mill Products |
| 2360 | Leather and Leather Products |
| 2370 | Fur Goods |
| 2400 | Lumber and Wood Products (Except Furniture) |
| 2500 | Manufacturing Furniture and Fixtures |
| 2600 | Paper and Allied Products |
| 2921 | Paving Mixtures and Blocks |
| 3230 | Cement, Hydraulic |
| 3240 | Structural Clay Products |
| 3250 | Pottery and Related Products |
| 3260 | Concrete, Gypsum and Plaster Products |

| | |
|------|--|
| 3270 | Cut Stone and Stone Products |
| 3420 | Machinery |
| 3430 | Other Machinery |
| 3440 | Transportation Equipment |
| 3490 | Fabricated Metal Products, NEC |
| 4700 | Communications |
| 4800 | Utilities (Except 4813, 4822, 4842,4843,4845,4850) |
| 4910 | Underground Pipeline Right-of-Way and Pressure Control Stations, NEC |
| 4920 | Transportation Services and Arrangements (Except 4923, 4924) |
| 5113 | Tires and Tubes for Automobile, Truck, Motorcycles, etc.-Wholesale |
| 5120 | Drugs, Chemicals and Allied Products |
| 5190 | Misc. Wholesale Trade, NEC |

Section 8.13.04 Lot Area.

The minimum lot size for each development in the (I) Industrial Zone shall be one half (1/2) acre. The lot shall be large enough to accommodate the industrial facility, parking, landscaped areas and setbacks required by the approval of the use.

Section 8.13.05 Lot Width.

No width requirements are established for this zone, except that the width of the property must be adequate to accommodate the proposed use, the setback, access buffer requirements and off-street parking required.

Section 8.13.06 Lot Frontage.

Each lot or parcel of land in the (I) Industrial Zone shall abut a public road or road built to Town of Daniel standards for a minimum distance of fifty (50) feet on a line parallel to the centerline of the road.

Section 8.13.06 Lot Frontage.

Each lot or parcel of land in the (I) Industrial Zone shall abut a public road built to Town of Daniel standards for a minimum distance of fifty (50) feet.

Section 8.13.07 Setback Requirements.

(1) Front Setback. All buildings and structures shall be set back at least twenty (20) feet from the street right-of-way line. The setback must be landscaped in accordance with an approved landscape plan. Parking shall not be located within the required setback.

(2) Side Setback, Interior Lots. No building shall be located closer than ten (10) feet to the property line. If adjacent to a residential zone, see Section 8.21.19.

(3) Rear Setback-Interior Lots. No building shall be located closer than ten (10) feet to the property line.

(4) Rear Setback, Corner Lots. No building shall be located closer than thirty (30) feet to any street side of a corner lot.

(5) Setbacks for lots bordering Residential Zones. See Section 8.21.19 for information on transitional development standards for non-residential uses bordering residential uses.

Section 8.13.08 Distance Between Buildings.

The Building Code as adopted by Daniel shall determine the minimum distance between buildings.

Section 8.13.09 Building Height.

Height of all dwellings, accessory buildings, and/or structures shall not exceed forty feet (40) feet above natural grade unless approved as a Conditional Use. Additional setbacks apply for industrial buildings over twenty (20) feet high when bordering residential uses (See Section 8.21.19).

Section 8.13.10 Site Plan Provisions.

Prior to the construction of any building in the (I) Industrial zone, a site plan shall be submitted and approved by the development review committee. Site plans shall be drawn to scale and shall contain but not limited to the following information:

(1) The location of all existing and proposed buildings and structures on the site, with full dimensions showing distances between buildings and distances from buildings to adjacent property lines, and the location of any existing irrigation, culinary or fire-prevention waterlines;

(2) A landscaping plan showing the location, types, and initial sizes of all planting materials to be used together with the location of fences, wall, hedges, and decorative materials;

(3) Preliminary elevations of main buildings showing the general appearance and type of external materials to be used;

(4) Parking lot layout;

(5) Dumpster enclosure location;

(6) Site lighting;

(7) Neighboring uses;

(8) Irrigation plan;

- (9) Utility plan;
- (10) Sewer plan; and
- (11) Stormwater Control Plan.

Section 8.13.11 Permissible Lot Coverage.

Buildings or structures shall not cover more than fifty (50) percent of the parcel on which the use is located.

Section 8.13.12 Parking, Loading and Access.

Each use shall provide approved parking sufficient for the use, as well as a safe and adequate pedestrian access to the building. All loading and unloading must be done in the area designated as part of the site plan approval for further regulations on parking and loading (See Section 8.20.12).

Section 8.13.13 Other Requirements.

Inasmuch as the Industrial zone is usually adjacent to a major highway, the following standards with respect to appearances and maintenance of buildings and premises must be adhered to in the construction and maintenance of the buildings and grounds within the zone:

(1) Landscaping. Any portion of the lot not included in the structure or parking areas must be appropriately landscaped. The front landscape strip shall be twenty (20) feet on any side adjacent to a road. A minimum of ten (10) percent of the overall site shall be landscaped. For further requirements see Sections 8.21.10 and 8.21.19.

(2) Refuse and Debris. The entire lot shall be kept free from refuse, debris and waste material. All such refuse, garbage debris and waste material shall be kept in approved containers and stored within a building or enclosed in a sight-obscuring fence, wall or screen of not less than six (6) feet in height. Garbage containers shall not be located within the required front setback (See Section 8.21.15).

(3) Emissions. No dust, odor, smoke, vibration, light, glare or noise shall be emitted which is discernible beyond the lot boundary lines (See Chapter 8.28).

(4) Storage. All storage and outside activities, except loading and unloading, shall be enclosed within a building, or if approved as part of the conditional use within an area that is enclosed with a sight-obscuring fence at least six (6) feet and no more than eight (8) feet in height. Storage shall not be permitted to protrude above the sight-obscuring fence (See Section 8.21.15).

(5) Maintenance. All signs, structures, parking areas, landscaping or other portions of the development that are visible from either an adjoining residential use, or from a major street or highway, shall be kept in good repair and maintenance at all times. Failure to do so may be grounds for refusal to renew any business license or conditional use permit.

(6) Adequate Water. No use may be permitted unless it is shown that there is an adequate supply of water for the use and fire protection.

(7) Signs. Any signs or other form of advertising must comply with the sign provisions of this title (See Chapter 8.26).

(8) Buildings. Metal buildings may be allowed in this zone. All metal buildings shall have vertical walls and shall be painted with neutral colors.

(9) Additional Regulations. See Chapter 8.21 for regulations that apply to this zone. In the event of a conflict between that section and the regulations contained in this section, the regulations of this section would control.

Chapter 8.14

(PF) PUBLIC FACILITIES ZONE.

Sections:

| | |
|----------------|-------------------------------------|
| 8.14.01 | Purposes. |
| 8.14.02 | Permitted Principal Uses. |
| 8.14.03 | Conditional Uses. |
| 8.14.04 | Lot Area Requirements. |
| 8.14.05 | Lot Width Requirements. |
| 8.14.06 | Parking, Loading and Access. |
| 8.14.07 | Setback Requirements. |
| 8.14.08 | Height Requirements. |
| 8.14.09 | Site Plan Provisions. |
| 8.14.10 | Permissible Lot Coverage. |
| 8.14.11 | Other Requirements. |

Section 8.14.01 Purposes.

The (PF) Public Facilities Zone is established to provide areas in Daniel for the placement of public facilities that are compatible with the adjoining uses and surroundings. The (PF) Public Facilities Zone is established for the following purposes:

- (1) Plan locations for parks, solid waste disposal, Town of Daniel facilities and other public facilities in areas that are appropriate and designed to fit near the adjoining zones without detracting from the existing uses;
- (2) Combine public facilities whenever possible to conserve economic resources and management, while placing the social facilities at social centers to enhance public participation;

(3) Attempt to locate less compatible or less attractive public facilities into areas where the use will be available to the public without interfering with other uses and where the use will blend more appropriately; and

(4) Maximize the location of various types of public facilities in the most convenient and attractive manner, in a compatibly designed setting, so as to not detract from other nearby uses.

Section 8.14.02 Permitted Principal Uses.

Those principal uses, or categories of uses as listed herein, and no others, are permitted in the (PF) Public Facilities Zone.

(1) All uses contained herein are listed by number as designated in the Daniel Land Use classifications, which is published and maintained by the planning staff, and is attached, as Appendix 1. Classes or groupings of uses permitted in the zone are identified by a four-digit number in which the last one (1) or two (2) digits are zeros (0), and sub-uses of those categories or groupings will follow that number. (For example, a particular category may be listed as 8100, and a subcategory of 8100 would be 8110 and a subcategory of 8110 would be 8111). This document, available in the planning office, is to be used by the planning office and others to assist in determining similar uses and the intent of this chapter.

(2) All such classes listed herein and all specific uses contained within them in the Daniel Land Use classification will be permitted in the (PF) Public Facilities Zone subject to the limitations set forth herein.

| Permitted Principal Uses in the (PF) Public Facilities Zone | |
|--|--|
| Use Number | Use Classification |
| 1111-A | Remodeling or addition of existing home which conforms to the requirements of this Title 8 |
| 7100 | Cultural Activities and Nature Exhibitions |
| 7200 | Public Assembly |
| 7311 | Fairgrounds |
| 7400 | Recreational Activities |

Section 8.14.03 Conditional Uses.

If a use is a permitted or a conditional use in the zone or zones with which the (PF) Public Facilities Zone adjoins, the intended use shall be a conditional use in the (PF) Public Facilities Zone. If the intended use is not listed as either a permitted or conditional use in any adjoining zone, the use proposed will be treated as a conditional use. Such uses that are not intended in the adjoining zones will be reviewed with a higher standard of care to insure compatibility with surrounding uses. Such uses may include the following uses. The following table shows which uses and structures are permitted in the (PF) Public Facilities Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof:

| Conditional Uses in the (PF) Public Facilities Zone | |
|---|--|
| Use Number | Use Classification |
| 4500 | Highway and Street Rights-of-Way |
| 4600 | Communications |
| 4810 | Electric Utilities (Except 4813) |
| 4821 | Underground Gas Pipeline Right-of-Way |
| 4824 | Gas Pressure Control Stations |
| 4831 | Underground Water Pipeline Right-of-Way |
| 4832 | Water Treatment Plants |
| 4833 | Water Storage |
| 4834 | Water Storage Covered |
| 4835 | Irrigation Distribution Channels |
| 4836 | Water Pressure Control Stations and Pumping Plants |
| 4839 | Other Water Utilities or Irrigation, NEC |
| 4841 | Underground Sewage Pipeline Right-of-Way |
| 4842 | Sewer Treatment Facilities |
| 4858 | Solid Waste Transfer Station (Public Only) |
| 4910 | Underground Pipeline Right-of-Way and Pressure Control Stations, NEC |
| 7610 | Undeveloped Park / Developed |
| 7612 | Undeveloped Parkland |
| 8100 | Agriculture |
| 8200 | Agriculture Related Activities |
| 8405 | Fishing Activities |

Section 8.14.04 Lot Area Requirements.

There are no specific lot area requirements for this zone except that the property is large enough to accommodate the use, necessary parking, setback requirements, storage areas, landscaping and any necessary facilities.

Section 8.14.05 Lot Width Requirements.

There are no specific lot width requirements for this zone, except that the width and frontage must be sufficient to provide reasonable space to accommodate the requested uses, including buildings, landscaping and off-street parking, while maintaining a safe and adequate access from the street.

Section 8.14.06 Parking, Loading and Access.

Each use shall provide approved parking sufficient for the use, as well as a safe and adequate pedestrian access to the building. All loading and unloading must be done in the area designated as part of the site plan approval for further regulations on parking and loading (See Section 8.20.11).

Section 8.14.07 Setback Requirements.

(1) Front Setback. All uses and structures shall be set back a minimum distance of twenty (20) feet. The setback must be landscaped in accordance with an approved landscape plan. Parking shall not be located within the required setback.

(2) Side Setback. No building shall be located closer than ten (10) feet to any property boundary line. If adjacent to a residential zone, see Section 8.21.19.

(3) Corner Properties. Shall be treated as though they have two (2) front setbacks.

(4) Rear Setback. No building shall be located closer than ten (10) feet to any rear property lines. If adjacent to residential property, see Section 8.21.19.

Section 8.14.08 Height Requirements.

Height of all dwellings, accessory buildings, and/or structures shall not exceed forty (40) feet above natural grade unless approved as a Conditional Use. Additional setbacks apply for commercial buildings over twenty (20) feet high when bordering residential uses (See Section 8.21.19).

Section 8.14.09 Site Plan Provisions.

Prior to the construction of any structure in the (PF) Public Facilities Zone, a site plan shall be submitted to the planning staff to be placed on the agenda for the Development Review Committee (DRC) for review and approval of all permitted uses and to the Planning Commission for review and approval of all conditional uses. All site plans shall be drawn to scale and shall contain the following information.

(1) The location of all existing and proposed buildings and structures on the site, with full dimensions showing distances between buildings and distances from buildings to adjacent property lines, and the location of any existing irrigation, culinary and/or fire-prevention waterlines;

(2) A landscaping plan showing the location, types, and initial sizes of all planting materials to be used together with the location of fences, wall, hedges, and decorative materials;

(3) Preliminary elevations of main buildings showing the general appearance and type of external materials to be used;

- (4) Parking lot layout;
- (5) Dumpster enclosure location;
- (6) Site lighting;
- (7) Neighboring uses;
- (8) Irrigation plan;
- (9) Utility plan;
- (10) Sewer plan; and
- (11) Stormwater runoff control plan.

Section 8.14.10 Permissible Lot Coverage.

Coverage. Buildings or structures shall not cover more than fifty (50) percent of the parcel on which the use is located.

Section 8.14.11 Other Requirements.

The following standards with respect to appearances and maintenance of buildings and premises must be adhered to in the construction and maintenance of the buildings and grounds within the zone:

(1) Landscaping. Any portion of the lot not included in the structure or parking areas must be appropriately landscaped. The front landscape strip shall be twenty (20) feet on any side adjacent to a public road. A minimum of ten (10) percent of the overall site shall be landscaped (See Sections 8.21.10 & 8.21.19).

(2) Refuse and Debris. The entire lot shall be kept free from refuse, debris and waste material. All such refuse, garbage debris and waste material shall be kept in approved containers and stored within a building or enclosed in a sight-obscuring fence, wall or screen of not less than six (6) feet in height. Garbage containers shall not be located within the required front setback (See also Section 8.21.15).

(3) Emissions. No dust, odor, smoke, vibration, light, glare or noise shall be emitted which is discernible beyond the lot boundary lines (See also Chapter 8.28).

(4) Storage. All storage and outside activities, except loading and unloading, shall be enclosed within a building, or if approved as part of the conditional use within an area that is enclosed with a sight-obscuring fence at least six (6) feet and no more than eight (8) feet in height. Storage shall not be permitted to protrude above the sight-obscuring fence (See Section 8.21.15).

(5) Maintenance. All signs, structures, parking areas, landscaping or other portions of the development that are visible from either an adjoining residential use, or from a major street or highway, shall be kept in good repair and maintenance at all times. Failure to do so may be grounds for revocation of a conditional use permit.

(6) Adequate Water. No use may be permitted unless it is shown that there is an adequate supply of water for the use and minimum standards for fire protection as determined by the Wasatch County fire marshal.

(7) Signs. Any signs or other form of advertising must comply with the sign provisions of this title (See Chapter 8.26).

(8) Buildings. Metal buildings are not permitted in this zone. All building shall be painted with neutral colors that blend in with the surrounding environment.

(9) Additional Regulations. See Chapter 8.21 for regulations that apply to this zone. In the event of a conflict between that chapter and the regulations contained in this chapter, the regulations of this chapter would control.

Chapter 8.15

{Repealed.}

Chapter 8.16

{Repealed.}

Chapter 8.17

(GHOZ) GEOLOGIC HAZARDS OVERLAY ZONE

Sections:

| | |
|----------------|--|
| 8.17.01 | Purpose. |
| 8.17.02 | Definitions. |
| 8.17.03 | Applicability. |
| 8.17.04 | Notice. |
| 8.17.05 | Reserved. |
| 8.17.06 | When Geologic Hazard Reports and Disclosures are Required. |
| 8.17.07 | Qualifications of Person(s) Performing Geologic Hazard Reports. |
| 8.17.08 | Content of Geologic Hazard Reports. |
| 8.17.09 | Review and Approval Procedure. |
| 8.17.10 | Dispute Resolution Procedures. |
| 8.17.11 | Prohibited Activities. |
| 8.17.12 | Presumption, Warning and Disclaimer. |
| 8.17.13 | Severability. |
| 8.17.14 | Conflicts With Other Regulations. |

8.17.15 Ordinance 2-11.

Section 8.17.01 Purpose.

The purpose of the (GHOZ) Geologic Hazards Overlay Zone is to provide standards, guidelines, and criteria, having the effect of minimizing Geologic Hazards and manmade hazards and to protect people and property while protecting the natural scenic character of the sensitive land areas not suitable for development, or suitable for development only after mitigation of hazards and ensuring the efficient expenditure of public funds.

The (GHOZ) Geologic Hazards Overlay Zone is established for the following purposes:

- (1) To promote the health, safety, morals, and general welfare of the inhabitants of the Town of Daniel;
- (2) To identify by map geologic hazards affecting lots in Daniel platted prior to the effective date of this title, to inform potential buyers of those geologic hazards, and to make recommendations to said buyers that Geologic Hazards reports be obtained and followed;
- (3) To require that persons seeking to subdivide parcels of land within the Geologic Hazard Overlay Zone Area first obtain Geologic Hazard reports; and
- (4) To recommend that certain measures be taken to ensure that habitable structures built on land affected by geologic hazards are constructed in such a manner so as to reduce the geologic hazards to an acceptable risk.

Section 8.17.02 Definitions.

As used in this title and as used in the Town of Daniel's review and approval procedures, the following terms shall have the following meanings:

- (1) Active fault.** A fault displaying evidence of greater than four (4) inches of displacement along one (1) or more of its traces during Holocene time (about eleven thousand (11,000) years ago to the present.
- (2) Addition or Home addition.** Any expansion of the footprint of a structure designed for human occupancy, commercial building, or essential facility, or any alteration, expansion, modification to such structures that requires grading or excavation; provided that the addition of an outside deck shall not constitute an addition unless constructing the outside deck requires grading or excavation.
- (3) Buildable area.** That portion of a site, which an engineering geology report has concluded, is not impacted by geologic hazards where structures may be safely sited after consideration of setback requirements or other regulations that limit areas for building.
- (4) Building envelope.** The footprint of a proposed structure, the access drive thereto, areas requiring grading or excavation, and a twenty (20) foot buffer surrounding the footprint, access drive, and graded or excavated areas.
- (5) Critical facilities.** Essential facilities, and lifelines such as major utility, transportation, and communication facilities and their connections to essential facilities.

(6) Debris flow. A moving mass of rock fragments, soil and mud moved by an excessive amount of water and transported in an extremely fast and destructive flow through a valley or across an alluvial fan; includes a continuum of sedimentation events and processes including debris flows, debris floods, mudflows, clear-water floods, and alluvial fan flooding.

(7) Engineering geologist. A geologist who, through education, training and experience, is able to conduct field investigations and interpret geologic conditions to assure that geologic factors affecting engineered works are recognized, adequately interpreted, and presented for use in engineering practice and for the protection of the public.

(8) Engineering geology. The application of geological data, principles and interpretation so that geological factors affecting planning, design, construction and maintenance of engineered works are properly recognized and adequately interpreted.

(9) Essential facility. Buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes, as defined in the 2000 International Uniform Building Code. Essential facilities include police stations, jails, fire stations, emergency medical facilities, search and rescue facilities, hospitals, schools (public or private), public buildings, churches, structures having an occupancy load of three hundred (300) persons or more, and other similar structures.

(10) Fault. A fracture in the earth's crust forming a boundary between rock or soil masses that have moved relative to each other (see "Active fault").

(11) Fault setback or setback. An area on either side of a fault within which construction of structures for human occupancy or critical facilities is not permitted.

(12) Fault scarp. A steep slope or cliff formed by movement along a fault.

(13) Fault trace. The intersection of a fault plane with the ground surface, often present as a fault scarp, or lineament on aerial photographs.

(14) Fault zone. A corridor of variable width along one or more fault traces, within which deformation has occurred.

(15) Geologic hazard. Surface fault rupture, liquefaction, landslide, debris flow, rock-fall, and/or other geologic hazards.

(16) Geologic Hazards Overlay Zone. The total of the areas shown as potentially hazardous areas on the series of maps adopted with this Title, or in other areas defined under the sections on applicability within this title.

(17) Geologic Hazards Overlay Zone Area. A portion of the potentially hazardous areas shown on the Geologic Hazards Overlay Zone Maps, or in other areas defined under Applicability within which a geologic hazards evaluation and/or a topographic mapping is generally recommended or required by this title prior to development.

(18) Geologic Hazards Overlay Zone Maps. Refers to a series of maps adopted by this title that show areas of potential geologic hazards in Wasatch County. These maps are available in the Wasatch County planning office. A smaller scale map of the Wasatch County Geologic Hazard Overlay Zone is attached in Appendix 4.

(19) Geologic Hazard Report. Any report obtained, either by recommendation or as required, under Section 8.17.07 of this chapter.

(20) Geotechnical Engineer. A professional engineer licensed in the State of Utah whose education, training and experience, is in the field of geotechnical engineering.

(21) Geotechnical Engineering. The investigation and engineering evaluation of earth materials including soil, rock and man-made materials and their interaction with earth retention systems, foundations, and other civil engineering works. The practice involves the fields of soil mechanics, rock mechanics, and earth sciences and requires knowledge of engineering laws, formulas, construction techniques, and performance evaluation of engineering.

(22) Governing body. The Town of Daniel legislative body, or a future successor body to the Town of Daniel legislative body.

(23) Landslide. A general term for the down-slope movement of a mass of soil, surficial deposits or bedrock, including the continuum between landslides, earth-flows, mud-flows, debris-flows and avalanches.

(24) Liquefaction. A process by which certain water-saturated soils lose bearing strength because of earthquake-related ground shaking and subsequent increase of groundwater pore pressure.

(25) Non-Buildable area. That portion of a site, which an engineering geology report has concluded, may be impacted by geologic hazards, where siting of structures is not permitted, considering required setbacks, offsets, or other areas as specified.

(26) Percent slope. The measured natural slope of the ground surface prior to any human modifications.

(27) Quaternary fault. A fault displaying evidence of displacement in the last one and six-tenths (1.6) million years but lacking evidence for Holocene displacement.

(28) Rock-fall. A mass of rock newly detached from a cliff or other very steep slope, which free-falls or precipitously moves down-slope; includes rock-slides, rock-fall, avalanches, and talus.

(29) Slope stability. The resistance of a natural or artificial slope or other inclined surface to failure by landsliding; usually assessed under both static and dynamic\seismic (earthquake induced) conditions.

(30) Structure designed for human occupancy. Any residential dwelling or any other structure used or intended for supporting or sheltering any human use or occupancy. This would include homes, home additions, and most commercial and public buildings. This would not include garages, workshops or other structures designed for minimal human occupancy or storage.

Section 8.17.03 Applicability.

(1) This Geologic Hazards Chapter is applicable to all lands located within the Wasatch County Geologic Hazard Overlay Zone areas, as designated on the currently adopted Wasatch County Geologic Overlay Zone maps on file with the county planning staff. These maps currently include:

- (a) Known landslides;
- (b) Known active faults;
- (c) Known debris flows, stream flooding, and alluvial fan flooding areas; and

(d) Areas where the measured slopes are in excess of twenty five (25) percent, and those measured slopes fall within the building envelope of the proposed structure as determined by planning staff.

(2) Maps and areas within Wasatch County, to the extent such areas overlap with areas under the jurisdiction of the Town of Daniel, are hereby declared to be part of this Title as if fully described and detailed herein.

(3) This chapter shall not apply to structures designed for human occupancy, commercial buildings, or essential facilities constructed prior to the effective date of this title; except that this chapter shall apply to additions to such structures.

Section 8.17.04 Notice.

The Wasatch County Geologic Overlay Zone maps shall be maintained by the county planning staff. Where lots in the Wasatch County Geologic Hazard Overlay Zone were platted prior to the effective date of this title, a notice shall be recorded in the office of the Wasatch County recorder as to each such platted lot in substantially the following form:

NOTICE

This lot falls within the Wasatch County Geologic Hazard Overlay Zone. Maps and information regarding potential geologic hazards affecting this lot are on file with the Wasatch County Recorder and the Wasatch County Planning Office.

This lot is also subject to certain recommendations set forth in the Wasatch County Geologic Hazards Overlay Zone Ordinance. It is recommended that prior to the construction of any structure designed for human occupancy on the lot, or any addition thereto, owners consult with a qualified Engineering Geologist and Geotechnical Engineer.

It is recommended that owners obtain a Geologic Hazards Report, meeting the standards set forth in the Wasatch County Geologic Overlay Zone Ordinance. It is further recommended that the construction of any structure designed for human occupancy, or addition thereto, on this lot precisely conform to the recommendations made in the report.

Section 8.17.05 Reserved.

Section 8.17.06 When Geologic Hazard Reports and Disclosures are Required.

(1) It is recommended that any applicant requesting development of a lot platted prior to the effective date of this title and within the Geologic Hazard Overlay Zone area, obtain a Geologic Hazard report as described in this chapter.

(2) Persons requesting subdivision approval on a parcel of land located within the Geologic Hazards Overlay Zone area shall obtain the Geologic Hazard reports described in this chapter. Such persons shall be subject to the review and approval procedures, and dispute resolution procedures set forth in this chapter.

(3) Any Geologic Hazards report obtained, whether as required or recommended by this chapter, shall be filed in the offices of the Town of Daniel planning commission and the Wasatch County planning staff.

Section 8.17.07 Qualifications of Person(s) Performing Geologic Hazard Reports.

(1) An individual whose expertise is in the field of engineering geology or Geotechnical Engineering and who desires to perform geologic hazards evaluations in Daniel should present proof of their qualifications to the Daniel Planning Commission and be placed on a list of individuals or companies who have presented this documentation, and whose reports will be recognized by the Town of Daniel.

(2) A qualified engineering geologist requires at least a four (4) year degree in geology, and/or engineering geology from an accredited university, and at least three (3) full years of experience in a responsible position in the field of engineering geology.

(3) A qualified Geotechnical Engineer requires licensure in the state of Utah with the focus of their engineering experience being in geotechnical engineering and at least four (4) years of experience in a responsible position in the field of geotechnical engineering.

(4) Upon presentation of proof of qualifications, the individual will be added to the list of those whose reports will be recognized by Daniel as having submitted such evidence, but shall not guarantee the quality or competence of the engineer. Submission shall only be required once to be placed on such list. Presence on such list should not be construed to be a recommendation by the Town of Daniel (or the Daniel Planning Commission) that the individual is qualified to perform the work, but only that the individual has presented documents to the Town of Daniel sufficient to allow the Town of Daniel to accept reports for processing from that individual. Proof of qualification should include:

(a) Copies of degrees received from accredited universities in an appropriate field of study pertaining to engineering geology and/or a copy of their professional engineering license.

(b) A letter from a credible person (employer, past employer, etc.) verifying your expertise and responsible experience in the field of engineering geology or geotechnical engineering.

(c) A copy of a resume no more than one (1) year old.

Section 8.17.08 Content of Geologic Hazard Reports.

This section sets forth the required content for Geologic Hazard reports required, or in certain specified circumstances recommended, by this chapter.

(1) An engineering geology report that includes a geologic hazards evaluation shall be prepared by a qualified engineering geologist. The report shall be site-specific and shall identify all known or suspected potential geologic hazards, originating on-site or off-site, whether previously mapped or unmapped, that may affect the particular property or surrounding properties.

(2) If the engineering geology report described in this section indicates a potential for debris flow, a debris flow evaluation and report shall include test pits or trench logs (scaled one (1) inch to five (5) feet or larger), include estimates of the number and frequency of past events and their thicknesses and volume; and include estimates of the recurrence, depth and impact forces anticipated in future events. Debris flow reports shall be prepared by an engineering geologist from the list compiled by the Daniel Planning Commission, and a professional engineer licensed to practice in the state of Utah. The report should be signed by both preparers, including the professional engineer's original stamp and signature.

(3) Landslide reports shall be prepared in accordance with the Utah Geological Survey's Guidelines for evaluating landslide hazards in Utah (Hylland, 1996), a copy of which may be obtained from the planning staff. Landslide reports shall be prepared by a qualified engineering geologist placed on the list compiled by the Daniel Planning Commission and a professional engineer licensed to practice in the state of Utah. The report should be signed by both preparers, including the professional engineer's original stamp and signature.

(4) For any proposed subdivision located within an identified landslide area on the Geologic Hazards Overlay Zone maps adopted herewith, the entire landslide mass must be evaluated for stability.

(5) Other geologic hazards or engineering geology reports shall be prepared in accordance with the Utah Association of Engineering Geologists (AEG) guidelines for preparing engineering geologic reports in Utah, a copy of which may be obtained from the planning staff. These reports should be prepared by a qualified engineering geologist placed on the list compiled by the Daniel Planning Commission, and as appropriate, in conjunction with a professional engineer licensed to practice in the state of Utah, each addressing their specific areas of expertise. All reports shall be signed by the preparers. Reports signed by a professional engineer must include the professional engineer's original stamp and signature. Certification by the Town of Daniel consists of receiving a copy of the degree and letter verifying experience as stated above.

(6) All reports should be prepared in accordance with the accepted standard of care at the time the report is written and should address any specific additional issues identified by this title. All reports shall include, at a minimum:

(a) A geologic map, at an easily readable scale, (with reference) showing the development plans considered, including septic systems and irrigated landscaping. All reports shall be signed by the preparer;

(b) Fault study reports shall contain all requirements as described in the document Minimum Standards for Surface Fault Rupture Studies, published by Salt Lake County, a copy of which may be obtained from the Wasatch County planning staff. Fault study reports shall be prepared and signed by a qualified engineering geologist on the list in the Town of Daniel;

(c) Liquefaction analyses, if applicable, shall contain all surface geology, bedrock geology (where exposed), bedding attitudes, faults or other structural features, and the locations of any geologic hazards; liquefaction analyses will not be required on single family residences;

(d) A detailed site map of the subject area showing any site-specific mapping performed as part of the geologic evaluation, and including boundaries and features related to any geologic hazards,

topography, and drainage. The site map must show the location and boundaries of the geologic hazard(s), delineation of any recommended setback distances from geologic hazard(s), and recommended location(s) for structures. Buildable and non-buildable areas shall be clearly identified. Scale shall be identified and must be easily readable;

(e) Trench logs and test pit logs (scale: one (1) inch equals five (5) feet, or larger), boring logs (scale: one (1) inch equals five (5) feet, or larger), aerial photographs, references with citations, and other supporting information, as applicable;

(f) Field observations including depth to groundwater, surface water conditions, bedrock outcroppings or other pertinent information that was used in establishing the results and conclusions presented in the report;

(g) Laboratory data substantiating soil and/or rock characteristics used in the engineering/geological analysis of the site;

(h) Conclusions that summarize the characteristics of the geologic hazards, and that address the potential effects of the geologic conditions and geologic hazards on the proposed development and occupants thereof in terms of risk and potential damage;

(i) Specific recommendations for avoidance or mitigation of the effects of the hazard(s), consistent with the purposes set forth in this chapter;

(j) Specific recommendations for additional or more detailed evaluation, as may be required to understand or quantify the hazard, evaluate whether mitigation measures are required, and evaluate mitigation options;

(k) Evidence on which recommendations and conclusions are based shall be clearly stated in the report;

(l) Additional or more detailed evaluation may be required, if recommended by the report or as advised by a review, to understand or quantify the hazard, or to evaluate whether mitigation measures recommended in the report are adequate; and

(m) A geologic hazards assessment and all recommendations and requirements given therein, shall remain valid for seven (7) years from the date of completion, unless a shorter period is specified in the report by the preparer. The exception to the seven (7) year period of validity is where a change in site conditions, change in proposed development, technical information or Town of Daniel policy significantly affects the technical data, analysis, conclusions or requirements of the assessment. In this case the Town of Daniel may require a new or revised assessment.

Section 8.17.09 Review and Approval Procedure.

(1) In order to fulfill the purposes of this chapter, Town of Daniel planning staff shall review any proposed subdivision or development which requires preparation of a Geologic Hazard report under this chapter to determine the possible risks to the safety of persons or property from geologic hazards. Appeals are to be entertained by the Town of Daniel Board of Adjustment.

(2) The Town of Daniel may request the Utah Geological Survey, and/or other experts to review the report and provide additional recommendations. Any cost the Town of Daniel must pay for such reviews shall be paid by the applicant, prior to any further action. A copy of the Geologic Hazard report

shall be filed in the Town of Daniel planning project file and in the Wasatch County planning project file. A copy may also be forwarded to the Utah Geological Survey.

(3) The Town of Daniel and retained experts in their review of the Geologic Hazard report, and the planning staff in their consideration of the development, shall determine whether the development complies with the following standards:

(a) A suitable Geologic Hazard report has been prepared by a qualified professional as defined in this chapter.

(b) The development does not present an unreasonable risk to the safety of persons or property (including buildings, storm drains, public streets, essential facilities, or critical facilities whether off-site or on-site), or to the natural functions of the landscape (e.g. slopes, streams or other waterways, or drainage, whether off-site or on-site) because of the presence of geologic hazards or because of modifications to the site due to the proposed development (including, but not limited to, grading, septic system and irrigation of landscaped areas).

(c) At the Town of Daniel planning staff's discretion, based upon advice from the reviewing experts, such area may be approved for development if the applicant submits substantial evidence in the engineering geology report that, using best available practices, the identified hazards can be mitigated to a level where the risk to human life and damage to property, as well as the risk to the natural functions of the site, are reduced to an acceptable and reasonable level in a manner which has a minimum effect on the natural environment. The Town of Daniel may, based upon information received from experts, set other requirements as are necessary to overcome any geologic hazards and to ensure that the purposes of this chapter are met. These requirements may include, but are not limited to:

(i) Additional or more detailed evaluation to understand or quantify the hazard or determine whether mitigation measures recommended in the report are adequate;

(ii) Specific mitigation requirements; establishment of buildable and/or non-buildable areas; limitations on slope grading; and/or revegetation;

(iii) Other requirements such as time schedules for completion of the mitigation, phasing of development, etc.;

(iv) The Town of Daniel planning staff may set requirements necessary to reduce the risks from geologic hazards as a condition to the approval of any development that requires a Geologic Hazards report; and

(v) Where mitigation requirements or conditions for use are set, issuance of certificate of occupancy will be given only after the engineering geologist, geotechnical engineer, or other party responsible for the requirements or conditions for use has provided a letter stating that they have reviewed the plans prior to development, viewed the site before and after development, and the project was completed in accordance with the conditions set in the Geologic Hazards report. Deviations from the approved conditions during construction must be approved by planning staff and supported by documentation from the preparer of the Geologic Hazards report.

Section 8.17.10 Dispute Resolution Procedures.

(1) Disputes regarding the actual boundaries of geologic hazards may arise when:

- (a) There is a conflict between the boundary lines illustrated on the Geologic Hazard Overlay Zone maps and actual field conditions;
 - (b) Detailed investigations show that mapped hazards are not present within a particular area;
 - (c) Field conditions indicate that unmapped hazards may exist that require further study.
- (2) The foregoing disputes shall be resolved in accordance with the following dispute resolution process:
- (a) The person disputing the geologic hazard overlay zone boundary or the presence of mapped or unmapped hazard(s) within a particular area shall submit technical and geologic evidence to support his/her claim to the Town of Daniel in the form of a Geologic Hazard report.
 - (b) The Town of Daniel shall request the Utah Geological Survey, and/or other experts to review the evidence prior to making a decision concerning the dispute. The cost of the review shall be paid by the person disputing the map.
 - (c) In the event that the expert who issued the Geologic Hazard report and the reviewing expert disagree, the property owner may request that a third party review be performed at their expense. In that event the two (2) experts shall agree on a third expert to make the determination. In the event the experts cannot agree on the third party reviewer then the mayor of the Town of Daniel shall name the third party reviewer.
- (3) Any decision of the Town of Daniel may be appealed to the Board of Adjustment pursuant to the appeal procedures set forth by Daniel municipal ordinance.

Section 8.17.11 Prohibited Activities.

It shall be a class C misdemeanor to:

- (1) Construct an essential facility (excluding transportation lines or utilities, which by their nature may cross active faults) or a structure designed for human occupancy astride an active fault, whether within or outside of the Geologic Hazards Overlay Zone area. If a fault is discovered in the excavation for such a structure, a fault study report as described in this chapter must be performed to determine if the fault is active. If the fault is active, the review and approval procedures described in this chapter shall apply. The fault study report shall establish a fault setback on either side of the fault following the requirements set forth in said report, within which no critical facilities or structures designed for human occupancy shall be allowed.
- (2) Construct a structure designed for human occupancy on an active fault scarp. Footing setbacks from a fault scarp shall meet the requirements set forth in the Utah Geological Survey's Guidelines for Evaluating Landslide Hazards in Utah (Hylland, 1996) and the Minimum Standards for Surface Fault Rupture Studies, published by Salt Lake County, (both copies are available from the Wasatch County planning staff) or the requirements of the currently adopted building code, whichever is more stringent. The planning director may increase footing setback requirements where information from a fault study report indicates slope conditions warrant a greater setback distance.
- (3) Construct a critical facility, whether within or outside of the Geologic Hazards Overlay Zone area, without first obtaining from a qualified engineering geologist and geotechnical engineer a report as to the risk of liquefaction on the affected property. If the report indicates a risk of liquefaction, it shall be unlawful to commence construction of the critical facility without obtaining a liquefaction analysis as

described in this chapter. For all structures where a liquefaction analysis indicates that ground settlement may be anticipated, the project structural engineer shall provide documentation that the structure is designed to accommodate the predicted ground settlement in such a manner as to be protective of life during and after the seismic event.

(4) Subdivide land in the Geologic Hazard Overlay Zone area without first complying with the requirements of this chapter and submitting to the Town of Daniel planning staff the Geologic Hazard reports required by this chapter.

(5) Commence grading, filling, or excavating land within the Geologic Hazard Overlay Zone area without first obtaining the required reports and submitting them to the Town of Daniel planning staff.

(6) Where Geologic Hazard reports are required by this chapter, commence construction of a structure designed for human occupancy on land within the Geologic Hazard Overlay Zone area without first obtaining the required reports and submitting them to the Town of Daniel planning staff.

(7) Fail to report to the Town of Daniel planning staff and the Town of Daniel building official any geologic hazard previously unknown, but which becomes known during grading, filling, excavating, constructing or altering any structure designed for human occupancy on land within the Geologic Hazard Overlay Zone area.

Section 8.17.12 Presumption, Warning and Disclaimer.

Conditions described on geologic hazard maps and aerial topography maps for Wasatch County, together with applicable explanatory material, are presumed to exist for the purposes of this chapter, until substantial evidence to the contrary is submitted. This Geologic Hazards Overlay Zone chapter and the associated Geologic Hazard Overlay Zone maps represent only those potentially hazardous areas known to the Town of Daniel, and should not be construed to include all possible potential hazard areas. If new areas are discovered and brought to the attention of the Town of Daniel by reliable experts, appropriate actions will be taken to amend this chapter and the maps. The provisions of this chapter do not in any way assure or imply that areas outside its boundaries will be free from the possible adverse effects of geologic hazards. This chapter shall not create liability on the part of the Town of Daniel, any officer or employee thereof for any damages from geologic hazards that result from reliance on this chapter or any administrative requirement or decision lawfully made thereby.

Section 8.17.13 Severability.

This chapter and various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

Section 8.17.14 Conflicts With Other Regulations.

This chapter is not intended to repeal, nullify, or impair any existing easements, covenants or deed restrictions. In cases of conflict between the provisions of existing Land Use classifications, building

code, Daniel Land Use Code, easements, covenants, deed restrictions or any other ordinance of the Town of Daniel and the Geologic Hazards Overlay Zone chapter outlined herein, this chapter shall control. This chapter shall not in any way be construed to nullify or otherwise render invalid the general prohibition of construction or development on slopes in excess of thirty (30) percent.

Chapter 8.18

{Repealed.}

Chapter 8.19

{Repealed.}

Chapter 8.20

GENERAL PARKING STANDARDS

Sections:

- 8.20.01 Purpose.**
- 8.20.02 Conflict.**
- 8.20.03 Nonconformity.**
- 8.20.04 Off-Street Parking Required.**
- 8.20.05 Parking Plan Required.**
- 8.20.06 Computation of Parking Requirements.**
- 8.20.07 Location of Parking Facilities.**
- 8.20.08 Size of Parking Spaces.**
- 8.20.09 Parking Facilities Restricted to Appropriate Zone.**
- 8.20.10 Lighting.**
- 8.20.11 Residential Requirements for Two Units or Less.**
- 8.20.12 Commercial, Industrial, Institutional or Residential of Three (3) or more Units.**
- 8.20.13 Parking Computation.**
- 8.20.14 Parking Structure Drawings.**
- 8.20.15 Parking Surface Drawings.**

Section 8.20.01 Purpose.

The purpose of this chapter is to increase safety and lessen congestion on public and private streets, by providing adequate off-street parking as well as accomplish the following:

- (1) To integrate parking areas with other uses;
- (2) Set standards for off-street parking;
- (3) Reduce the on-street storage of vehicles;
- (4) Enhance traffic circulation onto public streets from parking lots; and
- (5) Require parking lots to be as attractive as possible.

Section 8.20.02 Conflict.

The following standards are general standards to be applied generally throughout the Town of Daniel. If a specific zone or subdivision type requires a stricter standard than those set forth here, the standards set forth in the section relating to the more specific zone or subdivision type shall control.

Section 8.20.03 Nonconformity.

Any use of property which on the effective date of this chapter or of any subsequent amendments thereto is non-conforming relating to off-street parking facilities may continue in the same manner as if the parking facilities were conforming. If the use is expanded current parking standards will apply.

Section 8.20.04 Off-Street Parking Required.

There shall be provided at the time of the establishment of any use or at the time any main building is enlarged or constructed minimum off-street parking, permanently maintained, with adequate provisions for ingress or egress by standard sized automobiles as provided and described in this chapter. The actual number of spaces and whether such spaces must be covered are determined using the Parking Computation Matrix in this chapter.

Section 8.20.05 Parking Plan Required.

A site plan showing the proposed parking area, number of stalls, aisle layout, and accesses thereto shall be provided and approved prior to issuance of any building permit or project plan approval. In addition, the site plan shall clearly show the location, size, shape, design, bumpers, landscaping, lighting, and other features relevant to the proposed parking area.

Section 8.20.06 Computation of Parking Requirements.

Each use shall be calculated as a separate unit. Any request to consider a shared parking plan shall require submission of a formal study for approval of the planning commission. See the Parking Computation Matrix.

Section 8.20.07 Location of Parking Facilities.

The off-street parking facilities required by this chapter shall be located on the same lot as the use except in cases of practical difficulty the Planning Commission may approve a substitute location which meets the following conditions:

- (1) All or part of the substitute location must be on an adjacent lot, or within two hundred (200) feet from the use, and easily accessible for pedestrian traffic so pedestrians are not required to cross a public street to access the use for which the parking is provided.
- (2) The substitute lot must be in the same possession as the use it is intended to service and must be maintained as long as the use or structure exists. Such possession may be by recorded deed or long-term lease and should run concurrently with the life of the building or use. The length of such lease shall be at least twenty five (25) years, but may be terminated or modified earlier with the consent of the Town of Daniel planning staff, if the use for which the parking is required is terminated or modified.
- (3) Parking shall not be located in required front or side yards.

Section 8.20.08 Size of Parking Spaces.

Each off-street parking space shall be not less than nine (9) feet by twenty (20) feet for diagonal or ninety (90) degree spaces, or nine (9) feet by twenty two (22) feet for parallel spaces exclusive of access drives or aisles; except that commercial and industrial parking lots may have not more than five (5) percent of the parking spaces designated for motorcycles which shall measure at least four (4) feet by eight (8) feet. The Planning staff may consider allowing up to a two (2) foot reduction in the length of diagonal or ninety (90) degree parking spaces if bumper guards are placed so that a vehicle can extend over a landscaped area without interfering with the plants or pedestrian passage. No vehicle may protrude over any sidewalk. Handicap stalls shall be in accordance with (ADA) Americans with Disabilities Act requirements.

Section 8.20.09 Parking Facilities Restricted to Appropriate Zone.

Off-street parking space, which is required in connection with a use, shall be construed to be part of that use and shall be in the same zone and not be located within a zone unless such use is permitted therein.

Section 8.20.10 Lighting.

Any lighting used to illuminate off-street parking facilities shall be so arranged as to reflect the light away from the adjoining premises and downward so it will not interfere with the night sky. Additional, more specific, lighting requirements that must be met are contained in Section 8.21.8.

Section 8.20.11 Residential Requirements for Two Units or Less.

(1) There shall be provided in a private garage, or in a paved area, properly located, sufficient space for the parking of automobiles for each unit in accordance with the Parking Computation Matrix contained in this section.

(2) Mobile-home parks, shall have two (2) parking spaces for each unit, plus one (1) space for every two (2) units in a guest parking area. Guest parking areas shall be grouped to conveniently serve various blocks within the park.

(3) No portion of a required front yard, other than driveways leading to a garage or properly located parking area, shall be paved or improved to encourage or make possible the parking of vehicles thereon. Parking of vehicles shall not be allowed except in such designated improved parking areas, and shall not be permitted in areas intended to be landscaped.

(4) Access to parking spaces and private garages used in conjunction with dwellings of two (2) or less units shall be limited as follows:

(a) Driveways shall be located a minimum of forty (40) feet from any street intersection;

(b) No driveway approach shall be located closer than ten (10) feet from a side lot line, excepting an approved shared driveway with the adjoining property. No driveway may interfere with any recorded easement;

(c) An approved shared driveway on private property may be constructed up to the side or rear property line so long as the driveway does not interfere with a recorded easement or the surface drainage of the lot or adjacent lots where drainage easements are provided. The drainage from the driveway must be kept within the property.

(5) In developments denser than one (1) unit per acre, driveways shall be paved with a hard surfaced material such as concrete, asphalt, brick, or stone pavers. In rural type developments, less dense than one (1) unit per acre, compacted road base may be used. Recreational vehicle pads constructed adjacent to a paved driveway may be constructed of a dust and weed-free gravel, compacted road base, or similar surface.

(6) Lots shall be limited to one driveway approach per frontage except where a second driveway approach is specifically approved by the planning staff to increase safety. Lots that are double-fronted with one (1) frontage on a major collector street, or corner lots with frontage on a major collector street, shall not be permitted to have a drive approach on the major collector street. Upon approval by the planning staff, corner lots with frontages on two (2) local streets may have two (2) drive approaches to create a circular driveway if such approval would increase safety.

(7) Driveways shall be a minimum of twenty (20) feet wide and a maximum of thirty (30) feet wide.

Section 8.20.12 Commercial, Industrial, Institutional or Residential of Three (3) or more Units.

(1) Specific Parking Requirements for Commercial, Industrial, Attached Residential of Three (3) or more Units and Institutional Uses. For new buildings, changes in occupancy, enlargement or increase in seating capacity, floor area, or guest rooms of any existing building, a minimum number of parking spaces shall be provided as described in the Parking Computation Matrix herein.

(2) Circulation Within a Parking Area. Circulation within a parking area shall comply with the following requirements:

- (a) Access to driveways shall be provided for ingress to and egress from all parking and loading facilities. Each parking and loading space shall be easily accessible, and not interfere with normal vehicular or pedestrian movement;
- (b) Forward travel to and from parking facilities from a dedicated street or alley shall be required for all uses. The parking area shall be adequate to facilitate the turning of vehicles to permit forward travel upon entering a street. No parking will be allowed that requires vehicles to back onto a public street;
- (c) Access to all off-street parking facilities shall be designed in a manner, which will not interfere with the movements of vehicular and pedestrian traffic.

(3) Driveway Locations.

- (a) Access shall be accommodated by not more than one (1) driveway for the first one hundred fifty (150) feet of frontage. A second driveway is allowed if it is shared with a neighboring parcel. For lots over one hundred fifty (150) feet, two (2) driveways are allowed, as long as all aspects of the code are met. Shared driveways, as a second means of access, are encouraged;
- (b) No two (2) of these driveways shall be closer to each other than fifty (50) feet, and no driveway shall be closer to a side lot line than twenty (20) feet unless the access is shared or as granted by the Planning Commission based upon a belief that the design is appropriate in a particular situation for safety or aesthetics;
- (c) No driveway shall be located closer than eighty (80) feet from the point of intersection of two (2) major collector streets, or fifty (50) feet from the intersection of a major collector street. For all streets other than major collectors this distance shall be fifty (50) feet. Measurements shall be done as set forth in this chapter;
- (d) Lots with frontages of one hundred fifty (150) feet or less are encouraged to share access to streets with adjacent lots;
- (e) The design and location of all driveways entering a state highway shall be done as required by the Utah Department of Transportation. Approval of the driveway(s) shall be provided to the Town of Daniel in writing prior to the issuance of any building permit.

(4) Width of Driveway. Each driveway shall have a width of not less than twenty (20) feet nor greater than thirty-five (35) feet on local and collector streets. On major collector streets the width shall not exceed forty (40) feet in width. The measurement of driveways shall be taken at right angles to the centerline of the driveway at the front lot line and shall be from face to face of the curb radii.

(5) Parking Lot Improvement Requirements. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots and automobiles, farm equipment, or other open-air sales lots and residential developments of three (3) or more units shall be developed and maintained in accordance with the following requirements:

- (a) Parking areas shall be properly graded for drainage, surfaced with concrete, asphaltic concrete, asphalt, brick, stone. Such surface must be maintained in good condition, free of weeds, dust, trash and debris;
- (b) The sides and rear of any off-street parking area for more than four (4) vehicles, which adjoins a residential or institutional building, or is contiguous to a residential zone, shall be

effectively screened by light-tight masonry wall or solid fence. Chain link fences with inserts shall not be considered acceptable. Such wall or fence shall be of a height determined by the Planning Staff not to exceed eight (8) feet in height, and shall be maintained in good condition. Additional landscaping and buffering shall also be required;

(c) Lots shall be provided with wheel or bumper guards at least two (2) feet from a lot line or building, located so that no part of a parked car will extend beyond the parking space unless permitted over a landscaped area;

(d) Parking lots shall be buffered from the street with a minimum of ten (10) feet of landscaping unless specified differently in the individual zones as per Section 8.21.10;

(e) Parking lots must have a landscaped island at least eight (8) feet wide by eight (8) feet in length every sixteen (16) spaces to break up the linear appearance of a parking lot. Islands must be landscaped with trees and shrubs as well as a ground cover that will help inhibit weed growth. Islands may not be combined into larger, but fewer islands. Islands may be larger, but may not be fewer in number, and must be distributed throughout the parking lot at least every sixteen (16) spaces;

(f) For condominiums, townhomes, apartments or other residential uses, at least fifty (50) percent of the off-street parking shall be enclosed or have an overhead covering that compliments the architectural design of the main structure. All off-street parking shall be located in close proximity to the unit to which it is associated;

(g) Parking lot aisle width shall be in conformance with parking design standard;

(h) There shall also be at least ten (10) spaces located at any community or recreation center within the park. There shall also be at least one (1) oversized space for every three mobile home units in the park, located in a designated recreational vehicle parking area.

(6) Loading Space Requirements. No building shall be designed, erected, altered, increased in capacity, used or occupied, and no land shall be used or occupied for manufacturing, storage, warehousing, goods display, department store, grocery store, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution by vehicle of materials or merchandise, unless adequate off-street loading space is provided therefor.

(7) Loading Space Berth Requirements. Each use for which off-street loading space is required shall provide the number of loading berths necessary to properly service that use, plus an area or means for adequate ingress and egress to each berth. Loading space location will not require trucks to back into the loading space from a public street. When the use is on property adjoining a residential use or zone, said loading areas shall be screened from the adjoining property by a light-tight masonry wall or solid fence at a height to be determined by the planning staff, but not exceeding eight (8) feet. A landscape buffer shall also be required by the planning staff that shall be properly maintained in perpetuity by the property owner. Loading space berth areas and circulation areas shall be paved with asphalt or cement.

(8) Loading Space Location. Off-street loading space shall be located on the same site or lot as the use for which it is provided. No loading space shall be designed, arranged or used where all or part of the space would permit loading, unloading, or service from a public street or sidewalk.

(9) Authorization for Parking Space Reduction or Combination. The planning staff may approve or deny reduction of off-street parking and loading space as part of an approved shared parking plan, taking into consideration the following, which must be set forth in a written form:

(a) Reduction in Parking Space. After consideration of the shared parking plan, the nature of the buildings or premises, and specific conditions, the planning staff believes the shared parking plan would lessen the need for the parking spaces as specified in this chapter.

(b) Combined Parking Space. When two (2) dissimilar uses are located adjacent to each other and the demand times for parking would not conflict, the maximum number of parking spaces for the larger use, may be allowed. If at any time there is a change in one (1) or both of the uses, additional parking may be required.

(10) Guest/Recreation Vehicle Parking. For residential development containing attached units or single family Planned Unit Developments of twenty-five (25) or more units, recreation vehicle parking areas may be required by the Planning Commission. In addition there shall be one (1) space for each two (2) units designated as guest parking distributed in small groups to conveniently serve the various blocks within the development.

(11) Parking Analysis. Uses not listed in the Parkway Computation Matrix may be required to provide a parking analysis for the review and approval by the planning director.

Section 8.20.13 Parking Computation.

| PARKING COMPUTATION MATRIX | | |
|----------------------------|--|---|
| USE | DESCRIPTION | OFF-STREET SPACES REQUIRED |
| <u>RESIDENTIAL</u> | Single Family Dwelling | Two (2) per unit up to three (3) bedrooms One-quarter (.25) per bedroom above three (3). [Minimum of two (2) spaces is to be covered.] |
| | Multi-Family | Two (2) per unit One (1) guest parking for each three (3) units. [Minimum of one (1) space per unit are to be covered] |
| | Accessory Dwelling | One (1) for up to two (2) bedrooms, plus one (1) for each additional bedroom. |
| | Assisted Living Facilities | One (1) for every two (2) units, plus one (1) for each four (4) units for guest parking. [Minimum of half (50%) of the spaces are to be covered] |
| | Retirement Housing, Single-Family Detached or Attached without | Treat the same as single-family dwelling. |

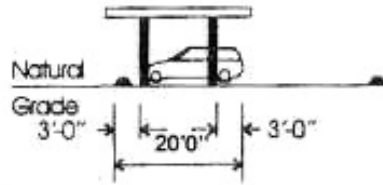
| PARKING COMPUTATION MATRIX | | |
|-----------------------------------|---|---|
| USE | DESCRIPTION | OFF-STREET SPACES REQUIRED |
| | Medical Assistance | [Minimum of half (50%) of the spaces are to be covered] |
| | Dormitory, Fraternity, Sorority Houses or Batching Apartment. | Two (2) stalls per bedroom, plus one-quarter (.25) stalls for visitor parking per unit, unless designated for single room [one (1) person] occupancy, for which there shall be one (1) stall per bedroom and one-quarter (.25) per unit for visitor parking. |
| | Bed & Breakfast – Small | One (1) for each bedroom, plus One (1) for each daytime employee, plus two (2) for residential family. |
| COMMERCIAL | Auditorium, Stadium or Theater (indoor or outdoor) | One (1) for every three (3) seats, based upon design capacity. |
| | Adult Entertainment (SOB) | One (1) space for each three (3) seats, based upon design capacity. |
| | Art Gallery | One (1) per every two hundred (200) square feet of display area, plus one (1) for each employee. |
| | Auction House | Two (2) per every one hundred (100) square feet of floor area. |
| | Automobile and Machinery Sales and Service Garages (not gas stations) | Two (2) spaces plus one (1) space for each four hundred (400) square feet of display area, plus one (1) space for each daytime employee. |
| | Bank, Savings and Loans, Drive-in Banking | Minimum of twenty (20) spaces with ten (10) additional spaces for every teller cage over three (3). For drive-in windows, one (1) space in use, plus three (3) in each approach lane. [Minimum of one (1) space per two hundred (200) square feet of floor area on main floor and one (1) space per five hundred (500) square feet on any other floor] |
| | Barber / Beautician Shop | Two (2) spaces per station. |
| | Bowling Alley | Four (4) spaces per alley plus, one (1) for each employee, plus any required based upon accessory uses such as cafes or taverns. |
| | Cafes, Cafeterias, Restaurants | One (1) space for each one hundred (100) square feet of floor space. |

| PARKING COMPUTATION MATRIX | | |
|-----------------------------------|--|---|
| USE | DESCRIPTION | OFF-STREET SPACES REQUIRED |
| | Drive-in, Fast Food Establishments | One (1) space per one hundred (100) square feet of floor area but not less than ten (10) spaces. For drive-up windows, one (1) space in use plus four (4) in the approach lane. |
| | Dance Halls | One (1) space for every three (3) persons based upon maximum occupancy. |
| | Car Wash | Three (3) spaces in each approach lane to each wash bay. |
| | Offices | One (1) space per two hundred (200) square feet of office floor space, including reception areas, plus one (1) for each person employed therein. |
| | Churches | One (1) space for every three (3) seating spaces in the main assembly room, based upon the maximum occupancy. |
| | Commercial recreation, i.e., billiard halls, etc. | One (1) space for each two (2) persons such place is designed to accommodate including participants and spectators, based upon design capacity. |
| | Day care center, children' s nursery or pre-school | Four (4) spaces, plus one (1) space per five hundred (500) square feet of floor area. |
| | Dry cleaner | One (1) space per employee, plus three (3) spaces for customer use. |
| | Gas Stations and Convenience Stores | One (1) space per pump site, plus one (1) space per employee. If convenience store also, add three (3) spaces per two hundred (200) square feet of store area. |
| | Golf courses | Four (4) spaces per hole plus one (1) per daytime employee. |
| | Hospitals, sanatoriums, convalescent hospitals, nursing homes. | One (1) space for each two (2) bed capacity, plus one (1) space for every employee at the highest shift. |
| | Medical clinics | Four (4) spaces per staff doctor or nurse practitioner, plus one (1) for each daytime employee. |
| | Laboratory research, industrial, manufacturing, wholesale establishments | One (1) space per employee on the highest shift. |
| | Laundromat | One (1) space per washer/dryer combination |

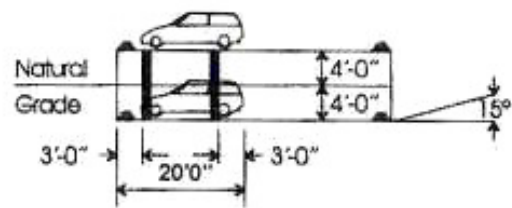
| PARKING COMPUTATION MATRIX | | |
|-----------------------------------|--|---|
| USE | DESCRIPTION | OFF-STREET SPACES REQUIRED |
| | Library | Five (5) spaces for every five hundred (500) square feet of public area, plus one (1) for each daytime employee. |
| | Lounges, Night Clubs, Private Clubs or Taverns | One (1) space for each one hundred (100) square feet of floor space. |
| | Liquor Store | One (1) space for every two hundred (200) square feet, plus one (1) space for each daytime employee. |
| | Mortuary or Funeral Parlor | One (1) space for every three (3) persons based upon design occupancy. |
| | Motel, Hotel, Inn | One (1) space for each unit and one (1) space for each daytime employee, plus one (1) space for every two hundred (200) square feet of assembly area. |
| | Nursery or Garden Supplies | One (1) space for each daytime employee, plus one (1) space for each three hundred (300) square feet of display area. |
| | Post Office | One (1) space per vehicle used by the operation, plus one (1) space per employee at the highest shift, plus ten (10) spaces for customers. |
| | Retail | One (1) space for each daytime employee, plus one (1) space for each two hundred (200) square feet of floor area. |
| | Professional Office, i.e., Legal, Employment Insurance, Travel, Photo, Real Estate, etc. | One (1) space per two hundred (200) square feet of office floor space, including reception areas, plus one (1) for each person employed therein. |
| | Skating Rink | One (1) per two hundred (200) square feet in the building. |
| | Swimming Pool | One (1) per one hundred (100) square feet of pool area, plus one (1) for each daytime employee. |
| SCHOOLS | Elementary | Two (2) spaces for each classroom. |
| | Middle & Junior High | Two (2) spaces for each classroom. |

| PARKING COMPUTATION MATRIX | | |
|-----------------------------------|--------------------|--|
| USE | DESCRIPTION | OFF-STREET SPACES REQUIRED |
| | Senior High | One (1) space for each four (4) seats provided in the auditorium or classroom, whichever is greater. |
| | College | One (1) space for each three (3) seats provided in the classroom or auditorium whichever is greater. |

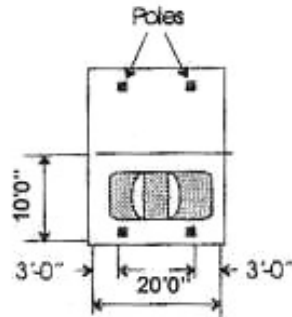
Section 8.20.14 Parking Structure Drawings.



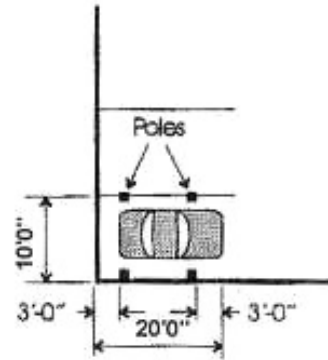
Side view of carports, and poles



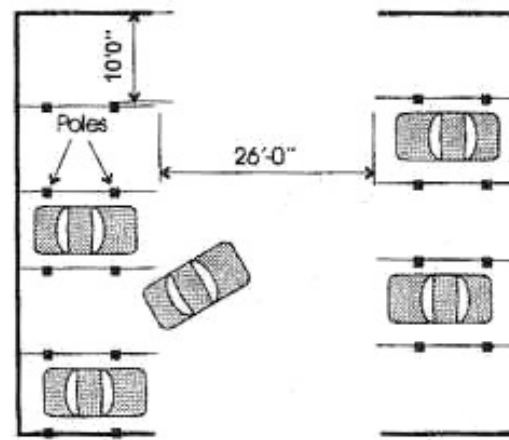
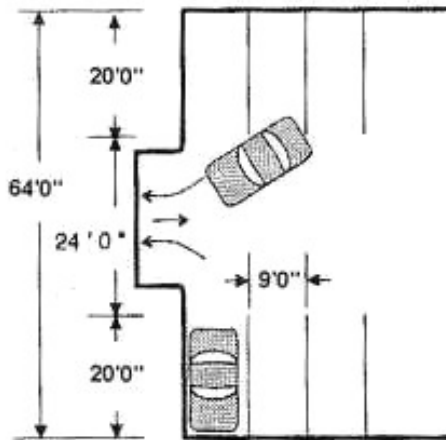
Side view of parking structure and poles



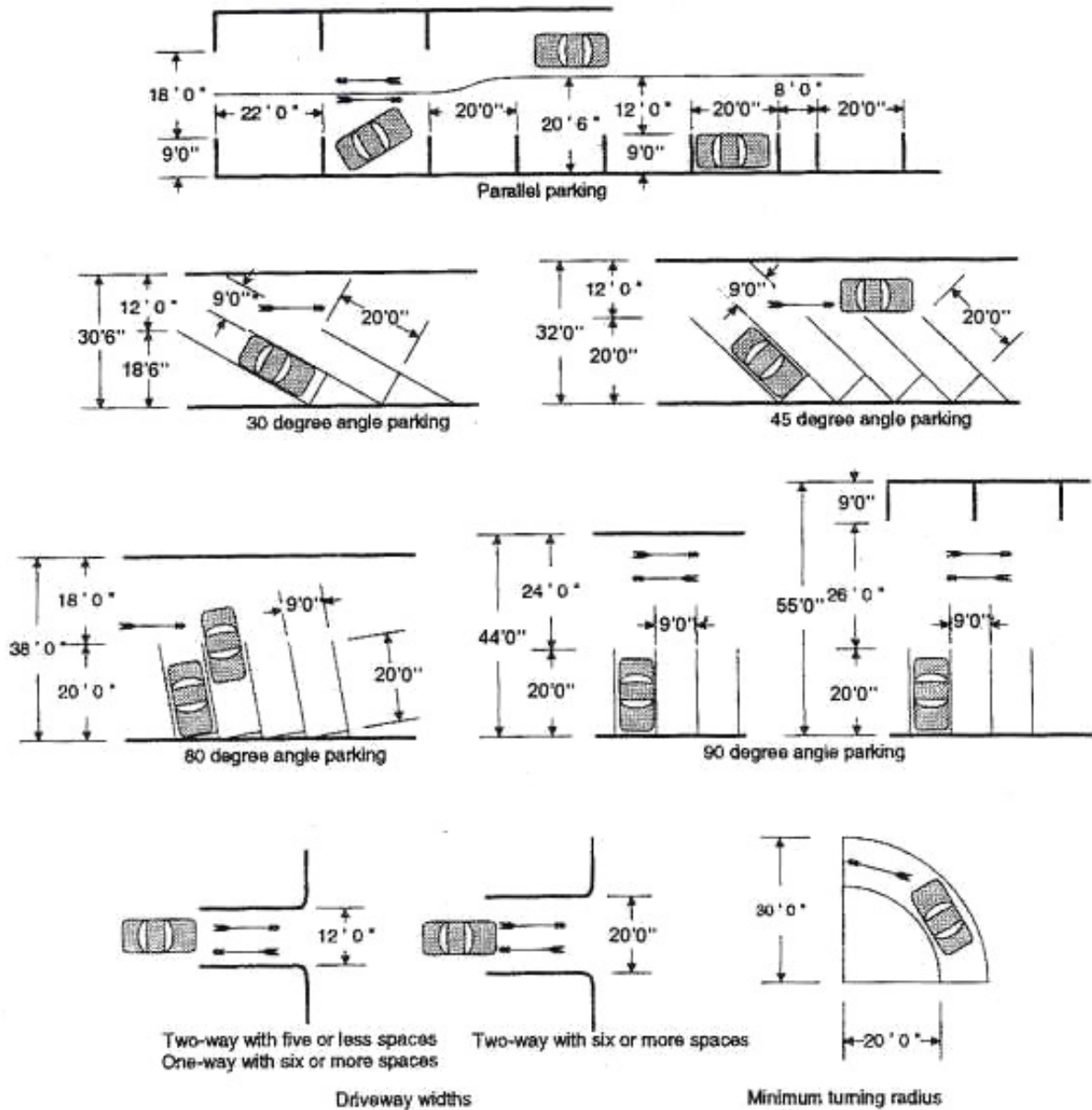
Top view carport, poles



Top view parking structure, poles



Section 8.20.15 Parking Surface Drawings.



Chapter 8.21

SUPPLEMENTARY DEVELOPMENT STANDARDS.

Sections:

- 8.21.01 Purpose.
- 8.21.02 Every Lot Created Shall Meet Minimum Standards of this Title.
- 8.21.03 Requirements Declared Minimums.
- 8.21.04 Yard Space for One Building Only.

| | |
|---------|--|
| 8.21.05 | Sale or Lease of Required Space Prohibited. |
| 8.21.06 | Every Dwelling to be on a Separate Lot. |
| 8.21.07 | General Setback Requirements. |
| 8.21.08 | Accessory Buildings. |
| 8.21.09 | Public Improvements. |
| 8.21.10 | General Landscape Standards. |
| 8.21.11 | Height of Buildings. |
| 8.21.12 | Approval of Culinary Water Supply and Sewage Disposal Required. |
| 8.21.13 | Fire Protection Required. |
| 8.21.14 | Right to Farm Regulations. |
| 8.21.15 | Outside Storage and Waste Disposal. |
| 8.21.16 | Outdoor Lighting Regulations. |
| 8.21.17 | Uses For The Elderly And Persons With Disabilities. |
| 8.21.18 | Non-Motorized Trails. |
| 8.21.19 | Transitional Development Standards for Non-residential Uses Bordering Residential Zones. |
| 8.21.20 | Prior Created Lots. |
| 8.21.21 | Projection into Yards. |
| 8.21.22 | Equivalent Resident Units. |
| 8.21.23 | Swimming Pool Standards. |
| 8.21.24 | Accessory Buildings Prohibited on Lots without a Dwelling. |
| 8.21.25 | Bed and Breakfast. |
| 8.21.26 | Rentals of Single Family Residences. |
| 8.21.27 | Single Family Dwellings Design Standards |
| 8.21.28 | Telecommunication. |
| 8.21.29 | Standards for Detached Accessory Structures |
| 8.21.30 | Snow Storage in Public Right-of-Ways. |
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8.21.38 Platted Subdivision.

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8.21.40 Wind energy Conversion Systems

Section 8.21.01 Purpose.

The purpose of this chapter is to establish land development standards that are applicable to all zones in the Town of Daniel. The requirements of this chapter shall be in addition to the specific standards set forth within each of the specific zones.

Section 8.21.02 Every Lot Created Shall Meet Minimum Standards of this Title.

Except as may otherwise be provided in this chapter, no lot shall be approved and no building permit shall be issued for a lot unless such lot shall have the area, width, depth, geotechnical studies, culinary and irrigation water, sanitary sewage disposal, road frontage, and any other requirement stated in this title or any subsequent amendments thereto, as required by the regulations for the zone in which the lot is located and the applicable subdivision type. Exceptions will be allowed for lots that are considered legally non-conforming.

Section 8.21.03 Requirements Declared Minimums.

The uses and regulations, which apply to each zoning district, are established in accordance with the General Plan and designed for the same purposes for which this Title is enacted. All requirements set forth herein are the minimum requirements necessary to accomplish the purposes of this title. No parcel shall be created that does not meet minimum standards for the zoning district in which it is located.

Section 8.21.04 Yard Space for One Building Only.

No required yard or other open space around an existing building shall be considered as providing a yard or open space for any other building; neither shall any yard or other required open space on an adjoining lot be considered as providing the yard or open space on the lot where a building is to be erected or constructed.

Section 8.21.05 Sale or Lease of Required Space Prohibited.

No space needed to meet the width, yard, area, open space, coverage, parking, frontage on a public street, or other requirement of this title for a lot or building may be sold, bequeathed, or leased apart from such lot or building. No land shall be sold which will result in an existing or future lot that does not comply with this title.

Section 8.21.06 Every Dwelling to be on a Separate Lot.

Only one (1) building which contains a single dwelling unit shall be located and maintained on a lot except for dwellings approved as a planned performance development or conditional use for an accessory dwelling unit.

Section 8.21.07 General Setback Requirements.

These regulations are the general setback standards for the Town of Daniel. Notwithstanding these general standards, different standards may be permitted in specific zones. In the event of a conflict the stricter standard shall be required.

(1) Highways. Unless otherwise provided herein, all residential buildings abutting upon highways having a state or federal designation shall be set back at least one hundred fifty feet (150') from the right-of-way line.

(2) Major Town of Daniel Collector Roads. For buildings abutting upon a Town of Daniel street that is designated as a major collector road in the Wasatch County Master Transportation Plan, the setback shall be eighty-five feet (85') from the centerline of any street, or fifty feet (50') from the right-of-way, whichever is greater.

(3) Minor Collector Roads or Residential Roads. On minor collector roads or local residential roads, the setback shall be sixty (60) feet from the center of the road or thirty feet (30') from the right-of-way, whichever is greater. Planned performance developments shall have the front setbacks determined as part of the approval process.

(4) Lot, Gore-Shaped. Where such lot is a gore-shaped lot, an additional ten feet (10') shall be added to the required rear setback line. (See Figure 2 of Appendix 2). The rear setback line must be parallel with the front setback line.

(5) Lot, Corner Classified As Having Two Front Setbacks. For the purpose of locating a structure thereon, an owner of an existing corner lot shall treat the lot as having two (2) front setbacks, one (1) rear setback and one (1) side setback. (See Figure 3 of Appendix 2). All new corner lots will be required to have larger area requirements in an amount to accommodate the extra setback areas.

(6) Front Setback Exceptions. The setback from the street for any dwelling located between two (2) existing dwellings may be the average of the setback distance of all existing homes located on the same side of the street as the proposed home, provided each such existing home must be within one thousand three hundred feet (1,300') of the proposed dwelling site. Notwithstanding this possible exception to the front setback regulations, no dwelling or other structure shall be permitted closer than twenty feet (20') from the right-of-way or easement line of the street. This provision does not apply to lots that front state or federal highways and/or major collector roads.

(7) Rear Setbacks. In the absence of different requirements within a specific zone or subdivision, the minimum rear setback for any residential dwelling shall be thirty feet (30'), unless approved on a rear alley for access to a garage. In that event, the setbacks will be established and determined by the approved plan and subject to the adopted building code and the adopted fire code.

(8) Side Setbacks. In the absence of conflicting regulations contained within a specific zone or subdivision, the general minimum side setback for any building shall be twelve feet (12'). (Amended eff. 4-7-2008)

(9) Setbacks For Accessory Buildings. Setbacks for accessory buildings shall be determined in the same manner as for the main building, except that any barn, shed or coop intended to house or contain animals must be located at least one hundred feet (100') from any existing residential structure, and a minimum of fifty feet (50') from any side property line, and one hundred feet (100') from the front property line. Notwithstanding this requirement, accessory buildings that are not intended to, and do not house animals may be approved within a rear setback if it meets the requirement of the specific zone.

(10) Effect of Proposed Street Plan. Wherever a front, rear or side yard is required for a building, which building abuts on a proposed street or alleyway which has not been constructed but which has been designated by the planning commission as a future street or alleyway, the depth of such front, rear or side yard shall be measured from the planned street lines.

(11) Setback from Canals. No structure or obstruction which would prevent access (for the operation and maintenance) shall be allowed within twenty-five feet (25') from centerline of a canal, except after a Conditional Use Permit has been authorized by the planning commission.

Section 8.21.08 Accessory Buildings.

(1) Maximum Area of Accessory Buildings. Any non-agricultural accessory building that has a footprint larger than one thousand-five hundred (1,500) square feet, must be approved as a Conditional Use. Agricultural buildings, although exempt from receiving a building permit as per state Law, would require a site plan approval from the planning staff. The site plan must include the following: 1) location of the structure on the property; 2) show setbacks from the property lines; 3) show all existing and proposed structures on the property and adjoining properties

(2) Accessory Buildings Prohibited as Living Area. Living and sleeping quarters shall not be permitted in any accessory building.

(3) Accessory Buildings-Time of Construction. No accessory building may be constructed prior to the construction of the main building on the lot.

(4) Location of Detached Accessory Structures and Buildings. All accessory buildings or structures shall be located in either the rear or side yards, unless incorporated into the principal use building or structure as an architectural and integral part thereof. If accessory buildings are located in the side yard, the required setbacks as stated in the individual zone shall be required.

(5) Accessory Building Permit Requirement. Except for an approved agricultural building, a building permit shall not be approved, for an accessory building, unless there is an existing main structure on the same property or a main structure that has received a building permit.

Section 8.21.09 Public Improvements.

The developer shall be responsible for the dedication and improvement of all off-site public improvements in accordance with this title and other standards of the Daniel Municipal Code.

Section 8.21.10 General Landscape Standards.

The landscaping standards set forth herein are the minimum requirements and do not apply to residential developments, except for subsection seven (7). Each zone may set forth additional standards that apply for that zone. Both the requirements of this section, as well as more specific sections shall be required. In the event of a conflict, the more specific section shall apply.

(1) Intent. The purpose of the landscaping standards and requirements shall be to enhance and conserve, property values by encouraging pleasant and attractive surroundings that create the necessary atmosphere for the orderly development of a pleasant community. Landscaping contributes to the relief of heat, noise, glare and buffers unattractive uses, through the proper placement of plants and trees.

(2) Maintenance. Landscaped areas shall be maintained in a neat, clean, orderly, and healthful condition. This includes proper pruning, mowing, weeding, removal of litter, fertilizing, replacement of dead plants and the regular watering of all plantings.

(3) Site Plan Required. A site plan showing the proposed landscape development, watering system and use of the property shall be submitted to the planning staff. The same plot plan used to show parking layout or other requirements may be used to show landscaping providing all proposed landscaping is detailed adequately on the site plan.

(4) Required Landscaped Area. All of the area contained within the front and side yards not being used by approved parking areas shall be landscaped.

(5) Size and Number of Plants. At least one (1) tree shall be planted on center every fifty (50) feet along the roadway for each fifty (50) feet frontage along any road, and an additional tree that may be clustered elsewhere on the property, for each one thousand (1,000) square feet of required landscape area. Such trees shall be at least two (2) inch caliper and shall be at least six (6) feet tall at time of planting. At least one (1) shrub shall be planted for each five hundred (500) square feet of land area to be landscaped, but may be clustered. At least fifty (50) percent of the shrubs planted shall be five (5) gallons or larger, and the remainder may not be smaller than one (1) gallon. Additional bedding plants and grass areas shall cover the remaining landscaped areas. Any trees or shrubs not living after a period of eighteen (18) months from the time they are planted shall be replaced with trees or shrubs of a size equal to those trees or shrubs remaining still alive on site. Plants, trees and shrubs must be chosen from those acceptable plant materials listed for landscaping in Daniel. Unless approved otherwise as described in Section 7 below. Please refer to Figure 9 of Appendix 2.

(6) Approved Plant Lists. When possible plants, shrubs and trees should be chosen using the information contained on the approved list attached as Figure 9 of Appendix 2. If plants not listed on the approved list are being considered for use, a letter from a landscape architect or contractor should be provided showing that the plant is appropriate for this climate and location and is drought tolerant.

(7) Non Residential Developments or common space in Planned Performance Developments. Shall complete the required landscaping prior to bond release. Residential lots shall have a period of eighteen (18) months to complete landscaping.

Section 8.21.11 Height of Buildings.

(1) Minimum Height of Buildings: No dwelling shall be erected which has a ceiling height of less than eight (8) feet above the average level of the ground on which the dwelling is located.

(2) Maximum Height.

(a) Churches. Churches are a conditional use in all zoning districts. In the event that a conditional use is granted for a greater height, than is permitted in the zone, additional setbacks may be required.

(b) Structures Not for Human Occupancy. Chimneys, flagpoles, clock towers, church towers, and similar structures not used for human occupancy or industrial uses, are excluded in determining height, except as specifically otherwise required in this title.

(c) Residential Structures. Height of residential structures are contained in the individual zones.

Section 8.21.12 Approval of Culinary Water Supply and Sewage Disposal Required.

When an approved culinary water or sewer system is not available, no building permit shall be issued until the proposed plan for sewage disposal and the proposed source of water supply has been approved by the Wasatch County Health Department.

Section 8.21.13 Fire Protection Required.

Notwithstanding other provisions in this title, all structures in the Town of Daniel shall have fire protection in accordance with the International Fire Code.

Section 8.21.14 Right to Farm Regulations.

The Town of Daniel has areas that have traditionally been used for agriculture. The Town of Daniel legislative body places a high value on the protection and preservation of agricultural land for the residents who wish to continue agricultural practices. Developments which border agricultural areas shall have additional requirements imposed upon the developer in the form of an analysis to be reviewed and implemented as part of the development process. The impact analysis shall be used to determine the impacts on associated farming or livestock operations affected by development, and to mitigate conflicts that may occur with the agricultural operation.

(1) Analysis Required. The developer is responsible for the performance of the analysis and shall use the following review guidelines in determining the impacts of the development, and will apply appropriate conditions during the approval process to insure that the agricultural use is assured a right to farm without undue burden of development growth and complaints by neighbors. Rights to farm are preserved to the best ability of the Town of Daniel, taking into consideration practical land uses and private property rights and concerns.

(2) Factors to Consider. The following factors shall be used as guidelines in the preparation and review of the impact analysis, and may be addressed by notes on a plat, restrictive covenants and/or in development agreements:

- (a) Protection of irrigation access and maintenance of ditches and canals;
- (b) Safety and protection of the public from ditches, canals, ponds and drainage systems; livestock movement corridor protections and safety concerns;

- (c) Fencing safety (i.e. electrical, barb wire) and design;
- (d) Private property protection issues;
- (e) Hunting protection, access and safety concerns;
- (f) Protection of farm equipment ingress and egress;
- (g) Erosion and soil protection;
- (h) Drainage and designs to minimize impact on agricultural lands and soils;
- (i) Noxious weeds, pests and pet controls in the subdivision;
- (j) Provisions, acknowledgments and understandings by new property owners that farm work hours run late and begin early, and that farm operations may contribute to smells, flies and noises;
- (k) Screening provisions, fencing and landscaping designs to reduce or abate noise or negative visual impacts, and;
- (l) Other reasonable concerns that the planning commission deems necessary to protect the rights of the developer as well as the agricultural operation.

(3) Existing Water Courses. The developer is hereby advised that interfering with natural water courses or existing irrigation facilities without legal right and prior written notice to the affected irrigation companies is prohibited in the Town of Daniel. The developer has an obligation to put buyers on notice that the existence of water on the property to be purchased does not, in and of itself, grant any legal rights to the water or the right to alter the natural watercourse or existing irrigation facility. Easements for irrigation canals shall be noted and disclosed to future buyers.

(4) Obligation to Fence. The Daniel Town Council recognizes the importance of agricultural pursuits within the Town of Daniel. As development replaces agricultural uses, fencing becomes a very important issue. Therefore, Large Scale Subdivisions must provide a fencing plan at the time of preliminary application. This fencing plan shall adequately address the following: (a) existing and potential agricultural uses in the area, (b) materials that will be used in the fencing, (c) safety, (d) traffic and roads, and (e) aesthetics. If the proposed Large Scale Subdivision is in the vicinity of existing or potential agricultural land, the proposed fencing must be reinforced so as to be of suitable quality to keep farm animals out of residential properties. The sufficiency of the proposed fencing plan will be determined, and approved or rejected, by the land use authority prior to preliminary approval.

(5) Obligation of Adjoining Property Owner to Mitigate Damages. If a person owns property adjoining land used for farming and farm animals, and that person desires to protect certain landscaping or other property from damage by stray farm animals, the person is obligated to mitigate potential damage to his or her property by maintaining a fence around the property. It is the intent of this section to require the owner of land adjoining an agricultural use to be responsible for adequate fencing on the adjoining property line. If animals escape the agricultural use at any point other than the adjoining property line, the agricultural user is responsible for damages done by his or her animals.

(6) Right To Abate Nuisance and Enforce This Title Preserved. Nothing in this section entitled "Right to Farm Regulations" shall be construed to limit or in any way impair the right of the Town of Daniel or any private citizen to petition the courts to abate a nuisance or public nuisance arising from agricultural use of land, or to otherwise enforce the provisions of the Daniel Municipal Code.

Section 8.21.15 Outside Storage and Waste Disposal.

All outdoor storage and waste disposal permitted within a zone, shall meet the requirements of this section.

(1) Outdoor storage facilities for any commercial, manufacturing or industrial use except for agricultural products shall be enclosed by a fence or wall at least six (6) feet in height and impervious to sight, adequate to conceal such facilities from adjacent property and the street. No items may be stacked higher than the fence or wall of the enclosure.

(2) All commercial, industrial, institutional, multi-family, condominium or other development or enterprise required to provide private garbage collection shall be required to locate all outdoor trash receptacles within an area enclosed by a fence or wall at least six (6) feet in height and impervious to sight, adequate to conceal such facilities from adjacent property and the street. All enclosures must be approved by the Wasatch County Public Works Department as being compatible with the operation of their equipment. Temporary containers for construction sites, containers located as part of a Town of Daniel sponsored cleanup or celebration, and those in public parks are exempt from these requirements.

(3) No materials or waste shall be deposited upon any property in such form or manner that natural causes or forces may transfer them off such property. All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible by, or otherwise be attractive to rodents or insects may not be stored outdoors.

(4) No yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Title, shall be used for the storage of junk, building materials, debris, inoperable and/or unlicensed vehicles or commercial equipment, and no other land shall be used for such purposes except as specifically permitted herein.

(5) Open storage of hay or other agricultural products shall be located not less than forty (40) feet from a public street, and fifty feet (50') from any dwelling on adjoining property; except, that any accessory building containing such products shall be located as required for all agricultural accessory buildings as provided for herein.

Section 8.21.16 Outdoor Lighting Regulations.

The purpose of the Outdoor Lighting Regulations is to establish standards for all outdoor lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property and astronomical observations within the Town of Daniel. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practices and systems which will reduce light pollution and conserve energy while increasing nighttime safety, utility, security and productivity.

In the event that any provisions contained within this title conflict with the provisions contained in this section, the provisions of the more restrictive regulations shall apply.

(1) Definitions.

(a) Cutoff. The point at which all light rays emitted by a lamp, light source, or luminary are completely eliminated (cut off) at a specific angle above the ground.

(b) Cutoff Angle. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

(c) Cutoff Type Luminary. A unit of illumination with elements such as shield, reflectors, or refractor panels that direct and cut off the light at a cutoff angle less than ninety (90) degrees.

(d) Foot-candle. A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.

(e) Glare. Light emitting from a luminary with an intensity great enough to reduce a viewer's ability to see and in extreme cases, causing momentary blindness.

(f) Light Trespass. The shining of light produced by a luminary beyond the boundaries of the property on which it is located.

(g) Luminary. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

(h) Outdoor Lighting. For purposes of this Section, "outdoor lighting" shall refer to all street lighting, commercial lighting, and all lighting in a residential neighborhood excepting small porch lights using not over one hundred (100) watt bulbs, and garden lights under one hundred (100) watts and under the height of ten (10) feet in height.

(2) Conformance with Applicable Codes. All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this title, the building code, the electrical code, and the sign regulations of the Town of Daniel as applicable and under appropriate permit and inspections.

(3) Approved Materials and Methods of Construction or Installation/Operation. The provisions of this code are not intended to prevent the use of any design, material or method of installation or operation not specifically prescribed by this section, provided such alternate has been approved. The planning staff may approve any such proposed alternate provided there is a finding that:

(a) The alternate proposal meets the intent of the applicable requirements of this section;

(b) The alternate proposal has been designed or approved by a registered professional engineer and content and function promotes the intent of this code; and

(c) All proposed outdoor lighting shall be designed and approved for outdoor lighting.

(4) Cutoff Angle. All light shall require a luminary with less than a ninety (90) degree cutoff.

(5) Heights of Standards. Heights of standards shall not exceed twenty (20) feet in commercial areas and fifteen feet (15') in residential areas.

(6) Prohibited Lighting. Flashing lights, searchlights, and neon lighting is prohibited.

(7) Motion Sensors. The use of Motion Sensors are encouraged, and may be required near residential areas, but such sensors shall be set so that the light is activated when movement is on the property and not activated with movement on the adjoining property, or streets or sidewalks.

(8) Plan Required. During the approval process of a development a lighting plan shall be submitted as part of the application which shall address the following:

(a) Type of illumination;

- (b) Height above grade;
- (c) Location;
- (d) Source of light;
- (e) Lighted area for each source light which is proposed; and
- (f) Proposed use and area of sensitivity for motion sensors.

(9) Fire Hydrant Lighting. All fire hydrants within an approved development shall be lighted with an approved street light as required by the Town of Daniel.

(10) Exceptions.

- (a) Lighting used for public roadway illumination may be installed at a maximum height of fifteen (15) feet and may be positioned at that height up to the edge of any bordering property;
- (b) All temporary emergency lighting needed by the police, fire department, or other emergency services, as well as all vehicular lighting, shall be exempt from the requirements of this article; and
- (c) All hazard warning lighting required by any Town of Daniel, county, state or federal agencies.

(11) Lighting Standards.

The following shall be required on all street lights for consistency of maintenance:

- (a) All bulbs shall be high pressure sodium
- (b) 240 Volt
- (c) Tool-less replacement and interchangeable ballast
- (d) Twistlock photocell

Other than the above requirements and dark sky standards the developer can determine the style of the pole however, the applicable power company or the Town of Daniel will not be responsible for replacement of damaged nonstandard poles. Nonstandard poles must be replaced by the homeowners association. Departures from the above requirements will only be approved with a sign off from the applicable power provider.

Section 8.21.17 Uses For The Elderly And Persons With Disabilities.

(1) Residential Facility For Elderly Persons. A residential dwelling unit that offers primary care to a limited number of non-related elderly persons may be permitted in any residential zone except exclusively single-family zones, which such use will be allowed as a conditional use. A residential facility for elderly persons may not operate as a business, and may not be considered a business because a reasonable fee is charged for food or for actual and necessary costs of operation and maintenance of the facility. Residential facilities for elderly persons shall comply with the following requirements:

- (a) The residential facility shall be owned by one (1) of the residents or by an immediate family member of one (1) of the residents or, by a charitable, or beneficial organization or be a facility for which the title has been placed in trust for a resident;
- (b) Shall be consistent with existing zoning of the desired location;

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

(d) Shall meet all applicable building, safety, Land Use and health regulations applicable to similar dwellings;

(e) Shall provide adequate off-street parking space so that residents and visitors will not be allowed to park on the street overnight;

(f) Shall be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;

(g) No residential facility for elderly persons shall be established within one (1) mile of another residential facility for elderly persons or residential facility for persons with disabilities, as defined by the Utah State Code and the American with Disabilities Act;

(h) No person being treated for alcoholism or drug abuse shall be placed in a residential facility for elderly persons; and

(i) Placement in a residential facility for elderly persons shall be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

(2) Residential Facility For Persons With Disabilities. A residential facility for persons with disabilities shall be consistent with all applicable federal and state Laws, and the existing zoning of the desired location, and shall:

(a) Be occupied on a twenty-four (24) hour-per-day basis by eight (8) or fewer persons with disabilities, in a family type arrangement under the supervision of a house family or manager;

(b) Conform to all applicable standards and requirements of the Department of Human Services;

(c) Be operated by or operated under contract with that department;

(d) Meet all Town of Daniel building, safety, and health ordinances applicable to similar dwellings;

(e) Provide assurances that the residents of the facility will be properly supervised on a twenty-four (24) hour basis;

(g) Provide adequate off-street parking space, as required under this title, See Chapter 8.20, General Parking Standards - Parking Matrix;

(h) Be capable of use as a residential facility for persons with disabilities, without structural or landscaping alterations that would change the structure's residential character;

(i) Not be established or maintained within one (1) mile of another residential facility for the elderly or persons with disabilities;

(j) Not allow treatment for alcoholism or drug abuse to be performed on the premises of a residential facility for persons with disabilities. This shall not preclude the residence from being used for temporary housing for persons who are being treated for such disabilities on an outpatient basis at an approved facility for such treatment;

(k) Not allow a person who is violent to be placed in a residential facility for persons with disabilities; and

(l) Require that placement in a residential facility for persons with disabilities be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

Section 8.21.18 Non-Motorized Trails.

To facilitate the transportation and recreational needs of the Town of Daniel residents and visitors, non-motorized trails systems shall be provided and subject to the following standards:

- (1) All new developments shall provide public trails. Connections must be made with adjoining properties on at least four (4) sides of the development and/or with a complete loop trail system.
- (2) New developments shall make connections to the Town of Daniel trail network and the greater Wasatch County trail network when possible.
- (3) Trail plans must comply with the standards provided in the Town of Daniel Trail Design Standards. See Appendix 3.
- (4) Trail maintenance shall be provided by the developer or future Home Owners Association (HOA) with provisions made in the Covenants, Conditions and Restrictions (CC&R's) to fund the necessary maintenance.
- (5) Trail plans must be submitted in hard copy and electronic formats and must show the closest section corner. Electronic files types accepted are: ARC view files in NAD 83 meters and AutoCAD. Hard copy submissions must show the relationship to development units, all stream channels and water sources, roads and slopes.

Section 8.21.19 Transitional Development Standards for Non-residential Uses Bordering Residential Zones.

- (1) Where a lot in any business, commercial or industrial zone abuts a lot in any residential zone or use, there shall be provided a landscaped yard of at least twenty feet(20') in width along such property line. In addition, the required setback shall increase as building height increases: the building shall be set back at least one (1) foot for each two (2) feet of building height above twenty feet (20').
- (2) Screening of commercial uses adjacent to residential uses shall consist of a mixture of evergreen and deciduous trees, spaced no further than twenty-five feet (25') on center. Sizes of trees shall be in accordance with Section 8.21.10.
- (3) Where a lot in any business, commercial or industrial zone abuts a residential zone or use, there shall be provided a landscaped front yard equal to the residence on the abutting property unless a stricter requirement is listed in the individual zone.
- (4) Any parking lot consisting of four (4) or more spaces is to be screened from adjoining properties in the residential zone or use by a masonry wall, berm or solid fence. There shall be a ten foot (10') landscape buffer between parking areas and residential uses.
- (5) All building and parking lot lighting is to be arranged so that there will be no glare there from to the occupants of adjoining property in a residential zone.

(6) Uses will be strictly prohibited next to a residential zone or use that involves open storage of merchandise or equipment, off-premise signs, trade or industry that is noxious or offensive by reason of emission of odor, smoke, gas, vibration or noise.

(7) No overhead/bay doors are permitted in the wall of the building which faces the residential zone or use if said wall is closer than twenty-five feet (25') to the property line.

(8) All mechanical equipment (i.e., air conditioners, fans, pumps, etc.) shall be located within the building or on the roof with parapet walls. Any mechanical equipment located on the outside of the building within twenty-five feet (25') of the nearest residential use/dwelling must have a visual/noise barrier (masonry wall), and/or landscaped berming that completely surrounds the equipment and extends at least one (1) foot above the equipment.

(9) No loading docks, delivery pickup areas, etc. may be located within fifty (50) feet of a residential use/dwelling. These areas must be screened from the public's view with a six (6) foot masonry wall or solid fence.

(10) No trash container shall be located closer than twenty-five feet (25') to a residential property line.

(11) Fencing between the residential and commercial uses shall be a minimum of six (6) feet in height and shall be a solid wall or fence. Slatted chain link fences do not meet these requirements.

Section 8.21.20 Prior Created Lots.

Lot or parcels of land which were legally created prior to the enactment of the requirements of this title shall not be denied a building permit solely for reasons of nonconformance with the parcel requirements of this chapter.

Section 8.21.21 Projection into Yards.

The following structures may be erected on or projected into any setback areas:

(1) Sight-obscuring fences, not exceeding thirty-six (36) inches in height, may be placed within the front setback or the side setback on a corner lot and may not extend into the road right-of-way area. Sight-obscuring fences that exceeds thirty-six (36) inches in height shall not protrude into the twenty-five foot (25') visibility triangle on the street sides of a corner lot, or near a driveway used for ingress and egress on all lots. (See Figures 5 and 6 of Appendix 2) Fences in rear yards shall not exceed eight (8) feet in height unless a conditional use permit is granted.

(2) Landscape elements including trees, shrubs, agricultural crops, except that no sight obscuring plants, trees or shrubs may exceed thirty-six (36) inches in height within the twenty-five (25) foot visibility triangle (See Figure 6 of Appendix 2), near a corner or a driveway used for ingress and egress. Trees may be permitted if they are kept trimmed so that the area between three feet (3') and eight feet (8') is kept open and clear within the "visibility triangle" area (See Figure 6 of Appendix 2).

(3) Necessary appurtenances for utility services.

(4) The architectural elements listed below may project into a required front or rear yard setback up to four feet (4') and up to two feet (2') in required side yards:

- (a) Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features;
- (b) Fireplace structures and bays, provided that they are not wider than ten feet (10') measured generally parallel to the wall of which they are a part;
- (c) Stairways, balconies, porches, fire escapes, awnings, and planter boxes or masonry planters not exceeding twenty-four (24) inches in height; and
- (d) Porte-cochere over a driveway in a side yard, providing such structure is not more than one (1) story in height and twenty-four (24) feet in length, and is entirely open on at least three (3) sides except for necessary supporting columns and customary architectural features.

Section 8.21.22 Equivalent Resident Units.

Density of developments is a factor of both the sewer and water usage, as well as the size of the structure built in the project. ERU calculations shall be based upon the Unit Equivalent Chart contained in Appendix 2, Figure 11 of this title. If a particular unit does not fit the exact description of one (1) of the uses contained within the table, the planning staff shall make a determination of Equivalent Residential Units (hereinafter referred to as ERUs) using the table as a guideline.

Section 8.21.23 Swimming Pool Standards.

Swimming pools of permanent construction which are not enclosed within a building shall be set back at least five feet (5') from all property lines and shall conform to the following:

(1) Swimming Pools shall be isolated from access by a fence or an enclosure that meets the following requirements:

- (a) Any access gate through the fence or enclosure must open away from the swimming pool, and be self-closing with a self-latching device placed no lower than five feet (5').
- (b) A minimum fence or enclosure height is five feet (5').
- (c) Gaps or voids, if any, are not to allow passage of a sphere equal to or greater than four (4) inches in diameter.
- (d) The outside fence or enclosure surface is to be free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds.
- (e) The fence or enclosure shall be located a minimum of four feet (4') from the nearest edge of the pool.
- (f) If the house walls are used as part of the enclosure, doors must comply with one of the following:
 - (i) The residence shall be equipped with exit alarms on those doors providing direct access to the pool or;
 - (ii) All doors providing direct access from the home to the swimming pool shall be equipped with a self-closing. Self-latching device with a release mechanism placed no lower than fifty-four (54) inches above the floor.

(2) Swimming Pools and spas equipped with locking covers that meet all of the performance specifications of the American Society of Testing and Materials (ASTM – F 1346-91) shall be deemed to satisfy the requirement of paragraph one above.

Section 8.21.24 Accessory Buildings Prohibited on Lots without a Dwelling.

If a nonconforming lot of record or approved subdivision lot does not have a dwelling thereon, then accessory buildings may not be placed on such lot until a dwelling unit has been constructed thereon and received a valid Certificate of Occupancy.

Section 8.21.25 Bed and Breakfast.

Bed & Breakfasts may be allowed as a Conditional Use in historical buildings located in any zone in the Town of Daniel. Newly constructed Bed & Breakfasts may be permitted as a Conditional Use in the RA-5 or HS Zones if the applicant shows a preponderance of the evidence that the following is true:

(1) The property on which the Bed & Breakfast establishment is located is at least five (5) acres in size. If a building that is older than seventy-five (75) years of age and of historical significance applies for a permit, the five (5) acre requirement does not apply provided there is adequate land for parking to meet the requirements of this ordinance.

(2) The property fronts a road of sufficient size and design to handle the traffic adequately that has a designation as a “collector” or “arterial” road. (Amended eff. 3-3-2008)

(3) A report from the building official and the Wasatch County fire marshal has been submitted showing that the building does, or can and will under the current proposal, meet current building and fire codes.

(4) A report from the Health Department showing that the building and premises is served by an approved water and sewer or septic service of adequate size, and otherwise does or can be made to comply with current health rules, regulations or laws. If the property line of a proposed Bed & Breakfast is located within three hundred (300) feet of an available sewer line, the establishment will be required to hook up to the sewer line.

(5) That adequate off-street parking, as required by this title, for all guests and employees of the establishment can be met on the property in an area which screens the parking from the street or nearby neighbors.

(6) Any outside lighting for the establishment is designed so it will not reflect or direct light onto adjoining property or the night sky.

(7) The proposed establishment is in accordance with the rules adopted by any appropriate property owners association, if any, in accordance with their ability to regulate by law.

(8) That the establishment may have no less than three (3) bedrooms for rent on a nightly basis, and no more than eight (8) bedrooms that are rentable. If more than the allowed number of bedrooms are requested they will not qualify as a Bed & Breakfast, but may qualify as a hotel, inn, etc. under a different standard.

- (9) That breakfast, brunch, or other light snacks or refreshment may be provided only for overnight guests, and must comply with any health code requirements.
- (10) Liquor may not be sold in a Bed & Breakfast. Overnight guests may provide their own, if desired.
- (11) Receptions for groups not staying overnight on the premises are not allowed unless the establishment is approved for a reception use in an appropriate zone under a separate ordinance.
- (12) Either the owner or resident manager will occupy the residence full time. Other employees may be hired for cooking, cleaning, etc.
- (13) The guest rooms shall not have any kitchen facilities.
- (14) There must be a distance of at least one-half (.5) miles between any Bed & Breakfast unless in a commercial zone.

Section 8.21.26 Short-Term Home Rentals

(1) Definitions:

“Short-term private home rental” or “short-term rental” shall mean a single family dwelling rented for the purpose of overnight lodging for a period of not less than one (1) night and not more than thirty (30) days and for which period the owners or leaseholders have vacated the dwelling. References in this section to a “leaseholder” or “leaseholders” are referring to the long-term (greater than 30 days) lessee(s) of the dwelling, not to the renter(s) of a short-term rental.

(2) The following requirements shall apply to a short-term rental:

- (a) Any owner or leaseholder who desires to rent their dwelling as a short-term rental shall not be allowed to do so.

Section 8.21.27 Single Family Dwellings Design Standards,

- (1) Single family dwellings shall be constructed on permanent foundations.
- (2) The roof of each single family dwelling shall have a minimum pitch of two and one-half to twelve (2.5":12") inches. At non-gable ends of the roof there shall be an overhang at the eaves of not less than twelve (12) inches inclusive of rain gutters.
- (3) Each single-family dwelling shall not be less than twenty (20) feet in depth at the narrowest point. The depth shall be considered to be the lesser of the two (2) primary dimensions of the dwelling exclusive of attached garages, bay windows, room additions, or other similar appendages.

Section 8.21.28 Telecommunication.

(1) General provisions:

- (a) **Purpose:** The purposes of this ordinance are:

- (i) To regulate telecommunications services, CMRS antennas and support structures, and related electronic equipment and equipment structures.
- (ii) To provide for the orderly establishment of CMRS telecommunications facilities in the County;
- (iii) To minimize the number of antenna support structures by encouraging the co-location of multiple antennas on a single structure, and by encouraging the location of antennas on pre-existing support structures.
- (iv) To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications CMRS facilities;
- (v) To comply with the Telecommunications Act of 1996 by establishing regulations that:
 - 1) Do not unreasonably discriminate among providers of functionally equivalent services;
 - 2) Do not prohibit or have the effect of prohibiting the provision of telecommunications CMRS services;
 - 3) Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

(b) Findings: The Town of Daniel Legislative Body makes the following findings:

- (i) Telecommunications CMRS facilities are an integral part of the rapidly growing and evolving telecommunications industry, and present unique Land Use challenges for the Town of Daniel.
- (ii) The Town of Daniel wishes to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the Town of Daniel, and sometimes differing interests and desires of others concerning health, safety, welfare and aesthetics issues, and orderly planning of the community.
- (iii) The Town of Daniel has experienced an increased demand for telecommunications CMRS facilities to be located in the Town of Daniel, and expects the increased demand to continue into the future.
- (iv) It is in the best interests of the citizens of the Town of Daniel to have quality telecommunications CMRS services available, which necessarily entails the erection of telecommunications CMRS facilities within the Town of Daniel boundaries.
- (v) The visual effects of telecommunications facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use.
- (vi) Locating antennas on existing buildings and structures creates less of a visual impact on the community than the erection of towers.
- (vii) Buildings and structures on public and private property are capable of being used to provide support for antenna arrays, thus reducing the number of towers in all areas of the Town of Daniel;

(viii) The public policy objective of mitigating the impact of telecommunications towers can best be facilitated by permitting the locating of systems on existing buildings, towers and antenna support structures;

(ix) The provisions set forth in this ordinance for the placement of telecommunications CMRS facilities will contribute to the health, safety, and general welfare of the community.

(x) Chapter 69-3 of the Utah Code, Annotated, grants counties the authority to create or acquire sites to accommodate the erection of telecommunications towers and facilities in order to promote the location within a manageable area and to protect the aesthetics and environment of the area. The law also allows the Town of Daniel to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the Town of Daniel the fair market rental value for the use of any Town of Daniel-owned site.

(c) Definitions: The following words shall have the described meaning when used in this ordinance, unless a contrary meaning is apparent from the context of the word.

(i) Antenna: A transmitting or receiving device used in telecommunications that radiates or captures radio signals.

(ii) Antenna Support Structures: Any structure that can be used for the purpose of supporting an antenna.

(iii) County: Wasatch County, Utah.

(iv) Town-owned property: Real property that is owned, leased or controlled by the Town of Daniel.

(v) CMRS or Commercial Mobile Radio Service: Low power wireless telecommunications service, including, but not limited to cellular, enhanced specialized mobile radio (ESMR), paging, personal communications systems (PCS) and point-to-point microwave.

(vi) Co-location: The location of an antenna on an existing structure, tower, or building that is already being used or considered for antenna facilities of another.

(vii) Guyed Tower: A tower that supports an antenna or antennas and requires guy wires or other stabilizers for support.

(viii) Lattice Tower. A self-supporting three or four sided, open steel frame structure used to support telecommunications equipment.

(ix) Monopole: A single, self-supporting, cylindrical pole, constructed without guy wires or ground anchors, that acts as the support structure for antennas.

(x) Monopole Antenna with Platform: a monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height.

(xi) Monopole antenna with no Platform: A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height.

(xii) CMRS Antenna: An antenna used in connection with the provision of CMRS telecommunications.

(xiii) CMRS Facilities: Facilities for the provision of transmitters, antennas, structures supporting antennas, and electronic equipment that is typically installed in close proximity to

a transmitter.

(xiv) Private Property: Any real property not owned by the Town of Daniel, even if the property is owned by another public or governmental entity.

(xv) Roof Mounted Antenna: an antenna or series of individual antennas mounted on a roof, mechanical room, or penthouse of a building.

(xvi) Stealth Facilities: CMRS Telecommunications facilities which have been designed to be compatible with the natural setting and surrounding structures, and which camouflage or conceal the presence of antennas and/or towers. This term includes, but is not limited to clock towers, church steeples, light poles, flag poles, signs, electrical transmission facilities, and water tanks.

(xvii) Tower: A free-standing structure, such as a monopole tower, lattice tower, or guyed tower, that is used as a support structure for antenna.

(xviii) Wall Mounted Antenna: An antenna or series of individual antennas mounted on the vertical wall of a building or structure.

(xvx) Whip Antenna: An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed.

(d) Applicability: This ordinance applies to CMRS telecommunications facilities. This ordinance shall not apply to the following types of communications devices, although they may be regulated by another jurisdiction's ordinances and policies:

(i) Amateur Radio: Any tower or antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission.

(ii) Satellite: Any device designed for over-the-air reception of television broadcast signals, multi-channel multipoint distribution service or direct satellite service.

(iii) Cable: Any cable television head-end or hub towers and antennas used solely for cable television services.

(2) Application Requirements: Any person desiring to develop, construct or establish a CMRS telecommunications facility in the Town of Daniel shall submit an application for site plan approval to the Town of Daniel. The Town of Daniel shall not consider the application until all of the required information has been included. The application shall include the following:

(a) Fee: the applicable cost-based fee set by the Town of Daniel.

(b) Site Plan:

(c) Name and street address of the site or location;

(d) Tax I.D. Number of property upon which the facilities are intended to be located;

(e) Plat map of the section, township and range of the location of the property on which the facilities are intended to be located;

(f) Name of owner of the property;

(g) Lot line and setback dimensions of the intended location;

(h) Footprints of existing and proposed buildings, towers, antennas and structures, including a

notation of each unit's height above grade.

- (i) Location of existing and proposed street access to the location;
- (j) Surface water drainage system plan;
- (k) Drawings of proposed structure elevations showing the height, dimensions, appearance, and materials proposed;
- (l) Location and description of any existing or proposed fencing;
- (m) Location and description of existing and proposed signs, lighting, plants.
- (n) Names and tax notice addresses of all property owners within 500 feet of the proposed structures.
- (o) Environment: A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance;
- (p) Maintenance: A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance;
- (q) Location: A map showing the site and the nearest telecommunications facility sites, whether they belong to the applicant or to another.
- (r) Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna.
- (s) A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations, so that there will be no interference with existing television or radio transmissions.
- (t) The name of a contact person who can respond to questions concerning the application and the proposed facility. Include the name, address, telephone number, facsimile number and electronic mail address, if applicable.
- (u) If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures and a description of the distances between the applicant's proposed and existing CMRS facilities, whether the nearest belongs to the applicant or another.
- (v) If the applicant desires to locate antennas on a site other than the highest priority site (as described herein below) the applicant shall provide the following information to the Town of Daniel:
 - (i) The identity and location of any higher priority sites located within the desired service area.
 - (ii) The reason(s) why the higher priority sites were rejected
- (w) A copy of a liability insurance policy naming the Town of Daniel as an additional insured in an amount to be determined by the Daniel Planning Commission planning staff after reviewing the particular facility being requested and any safety hazards associated therewith.

(3) Approval Process: The application and site plan shall be reviewed by the Town of Daniel planning staff, and if complete, the planning staff shall place the matter on the Planning Commission agenda for

a public hearing. If the application is granted, it shall be granted as a conditional use permit. Any conditions on such use shall be given in writing. Any decision to deny the applicant's request shall also be in writing within 30 days from the date of the public hearing, and shall include the reasons for the denial.

(4) Location: Priority of Antenna Site Locations: CMRS Telecommunications antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall create A stealth facilities@ and make a good faith effort to locate antennas on sites in the following order of priority:

- (a) At the same location where another CMRS facility is already located; or
- (b) Existing Structures: Lawfully existing buildings, structures and antenna support structures, provided that the buildings, structures, or support structures are either:
 - (i) Located in the P-160 (Preservation) zone in a non-residential area; or
 - (ii) Located in the M (Mountain) zone at least 1000 feet from any residential area or commercial area on property that is being used for non-residential and non-commercial uses; or
 - (iii) Located in a commercial zone or a residential zone on property that is being used for a residential building and is at least thirty-five feet (35') in height.
- (c) Monopoles and guyed towers constructed on public or private property, provided that the property is:
 - (i) Located in the P-160 (Preservation) zone in a non-residential area; or
 - (ii) Located in the M (Mountain) zone at least 1000 feet from any residential area or commercial area on property that is being used for non-residential and non-commercial uses; or
 - (iii) Located in a commercial zone or a residential zone on property that is being used for a multi-family residential building having eight (8) or more dwelling units and which is at least thirty-five feet (35') in height.
 - (iv) Sites other than those listed above.
- (d) Co-Location Required: Owners of CMRS facilities within the Town of Daniel shall design or construct their facilities within the Town of Daniel so as to allow for co-location where practicable. Any conditional use permit for any facilities may be conditioned upon the agreement of the applicant to allow co-location of other providers' facilities on such terms as are common in the industry.

(5) Types of Antennas and Standards: CMRS facilities are characterized by the type or location of the antenna structure. There are five general types of antenna structures allowed by this ordinance as a conditional use: wall-mounted antennas, roof-mounted antennas, stealth facilities, monopoles with a platform, and monopoles without a platform. The minimum standard are as follows:

(a) Wall-mounted Antennas:

- (i) Wall-mounted antennas may not extend above the roofline of the building or extend more than four feet (4') horizontally from the face of the building;
- (ii) The antennas, equipment, and supporting structures shall be painted to match the color of the background against which they are most commonly seen. Antennas and the

supporting structures on the building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall-mounted antenna structure.

(b) Roof-Mounted Antennas:

- (i) The maximum height of a roof-mounted antenna shall be twelve feet (12') above the roof-line of the building.
- (ii) Roof-mounted antennas shall be located a least five feet (5') from the exterior wall of the building.
- (iii) Roof-mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight feet (8') above the existing roofline of the penthouse or mechanical equipment room.
- (iv) Roof-mounted antennas, equipment, and supporting structures shall be painted to match the color of the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

(c) Area Limitation for Wall and Roof-Mounted Antennas: Buildings may have a combination of wall and roof-mounted antennas. The total area for all wall and roof-mounted antennas and supporting structures on any one building shall not exceed the lesser of fifty (50) square feet or 4% of each exterior wall of the building.

(d) Monopoles with no Platform:

- (i) The maximum height of the monopole or monopole antenna shall be sixty feet (60') although the approving body may grant up to one hundred feet (100') if the location is not obtrusively visible from residential, commercial and any resort areas of the Town of Daniel, and the applicant has demonstrated to the satisfaction of the approving body that the additional height is necessary to obtain coverage or allow co-location, and the applicant has taken all reasonable steps to mitigate adverse effects on the surrounding neighborhood. The entire antenna structure mounted on the monopole shall not exceed three feet (3') in width.
- (ii) Monopoles shall be set back a minimum of one hundred and fifteen percent (115%) of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.
- (iii) Monopoles, antennas and related support structures shall be painted a neutral color or a color to match the background against which they are most commonly seen.

(e) Monopoles with Platform:

- (i) The maximum height of the monopole or monopole antenna shall be sixty feet (60'), although the approving body may allow an antenna or antenna support structure up to one hundred feet (100') in height if the location is not obtrusively visible from residential, commercial and any resort areas of the Town of Daniel, and the applicant has demonstrated to the satisfaction of the approving body that the additional height is necessary to obtain coverage or allow co-location, and the applicant has taken all reasonable steps to mitigate adverse effects on the surrounding neighborhood. The entire antenna structure including the monopole shall not exceed twelve feet (12') in width, or one hundred twenty feet (120') in height.
- (ii) Monopoles shall be set back a minimum of one hundred and fifteen percent (115%) of

the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

(iii) Monopoles, antennas, and related support structures shall be painted a neutral color or a color to match the background against which they are most commonly seen.

(iv) Monopoles and towers shall be located at least two thousand feet (2000') from each other, except upon a showing of necessity by the applicant, or upon a finding by the Town of Daniel that a closer distance would adequately protect the health, safety, and welfare of the community and/or the shorter distance will be more visibly screened in a particular instance.

(v) Monopoles shall be located as unobtrusively as possible.

(f) Stealth Facilities: The height and location of a stealth facility shall be limited to the maximum height allowed in the zone, unless specially approved by the Planning Commission.

(6) The Planning Commission shall also consider the following:

(a) Height, mass, and design of buildings and structures in the vicinity of the facility;

(b) Whether the facility is located relative to existing vegetation, topography, and structures in a manner that optimizes the visual screening;

(c) The willingness of the applicant to co-locate its facility on the facility of another, or to allow others to co-locate on applicant's facility on such terms and conditions as are common in the industry.

(7) Safety:

(a) Regulations: All operators of CMRS facilities shall comply with the rules and regulations of the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) regulations at all times. Failure to comply with the applicable regulations shall be grounds for revoking the conditional use permit approval.

(b) Licenses and Permits: Applicant will submit copies of all licenses and permits required by other agencies and shall maintain such licenses and permits in good standing and shall provide evidence of renewal thereof upon request by the Town of Daniel.

(c) All facilities shall be protected against unauthorized climbing by removing the climbing pegs from the lower twenty feet (20') of the facility.

(d) All facilities shall be fenced in accordance with the condition outlined in the conditional use permit, unless such requirement is determined to be unnecessary in a particular instance.

(e) Monopoles and towers shall comply with the Airport Overlay zone requirements and the FAA requirements for height and lighting. If security lighting is used, it shall not be allowed to trespass into any residential areas.

(8) Abandonment: the Town of Daniel may require the removal of all facilities if the facility has been inoperative or out of service for more than twelve (12) consecutive months.

(a) Notice: Notice to remove shall be given in writing by certified mail addressed to the operator's last known address, or by personal service.

(b) Failure to remove the facilities after proper notice has been given is a violation of the terms of this ordinance. The Town of Daniel may initiate criminal and/or civil legal proceedings and may seek a civil injunction requiring the removal of any structures. If the owner does not remove the

facilities with the time period allowed in the notice, the Town of Daniel may remove the facilities and the owner shall be responsible for the costs thereof, and failure to remove the facilities after receiving notice to do so automatically transfers ownership of the facilities on the site to the Town of Daniel.

(9) Site Requirements:

- (a) No outside storage or solid waste receptacles shall be permitted on the site.
- (b) All electronic and other related equipment and appurtenances necessary for the operation of any CMRS facility shall, whenever practicable, be located within or on a lawfully pre-existing structure. When a new structure is required, the structure will be harmonious with and blend with the natural features and buildings surrounding such structure.
- (c) The Town of Daniel requires a minimum of one parking space for facilities to allow for service of the facility.
- (d) The CMRS facilities shall be maintained in a safe, neat, and attractive manner.
- (e) All sites with a CMRS facility shall be landscaped in accordance with zone requirements where the facility is located.

Section 8.21.29 Standards for Detached Accessory Structures

(1) Accessory buildings (regardless of their use) over two hundred (200) square feet, must apply for a building permit. If the structure is determined to be an agricultural use, no fees will be charged for the building permit, unless inspections are necessary.

(2) Any accessory building over two thousand five hundred (2,500) square feet must have restroom facilities, unless the accessory structure is within three hundred (300) feet of the main dwelling. If the structure is determined to be an agricultural use such as hay barn, lounging shed, stable, etc., restroom facilities are not required.

Section 8.21.30 Snow Storage in Public Rights-of-Way.

(1) Retaining walls or cuts adjacent to roads shall have a ten foot (10') minimum setback from the edge of asphalt. When the road section has a slope of 1.5:1 or greater, the setback from the edge of asphalt shall be twenty feet (20'). Except for limited landscaping elements, any material or structure (temporary or permanent) that will hinder the removal of snow shall not be allowed in the snow storage area.

(2) On downhill slopes adjacent to rights-of-way there shall be a ten-foot (10') minimum clear area. If determined by the Town of Daniel engineering department that more than ten feet (10') is needed for a clear area, the decision will be made at preliminary approval. The snow storage area shall be shown on the Town of Daniel plat as a recorded easement and shall remain open and unobstructed.

hinder the removal of snow shall not be allowed in the easement area.

Section 8.21.31 Mailboxes in Town of Daniel Rights-of-Way.

(1) No structure shall be located within any Town of Daniel right-of-way, except as noted below:

(a) Mailboxes may be allowed in Town of Daniel rights-of-way. Where there is no curb, gutter, or sidewalk mailboxes must be set back from the edge of asphalt a minimum of five feet (5') to the leading edge of the box. Where there is curb, gutter, and sidewalk mailboxes shall be in the park strip and shall not protrude the edge of the curb or impede pedestrian traffic. Where there is curb, gutter, and sidewalk combination, the mailboxes shall be located behind the sidewalk and shall not extend over the sidewalk or impede pedestrian traffic.

No masonry structure that incorporates a mailbox will be allowed in the right-of-way unless it is in the park strip where there is curb, gutter, and sidewalk. If there is no curb, gutter, and sidewalk, mailboxes in the right-of-way must be on a 4x4 wood post.

The Town of Daniel will not be responsible for replacing mailboxes within the right-of-way, if destroyed by the Town of Daniel during the regular maintenance of roads or removed to facilitate improvement to the road.

Section 8.21.32 Relocation of Buildings.

No persons shall place, move on, or affix to the land in any manner any building, requiring a building permit, which was formerly located in another site, unless approval of the Planning Commission has first been obtained. The term "building" as used herein means any structure designed, built, or occupies as a shelter or roughed enclosure for persons, animals, or property, and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes.

A person seeking Planning Commission approval hereunder shall file an application for such approval with the Planning Commission as follows:

(1) **Form.** The application shall be made in writing upon forms provided by the Planning Commission and shall be filed in the office of the planning staff.

(2) **Contents.** The application shall set forth and contain:

(a) A description of the building to be moved, giving construction materials, dimensions, number of rooms, conditions of exterior and interior, date of construction, and an estimate of its present value;

(b) The present location of the building, giving municipality and street address or legal description at its present site;

(c) A complete legal description of the lot on which said building is proposed to be located and the street address;

(d) A plot plan of the proposed new site showing all boundary lines, adjacent lot on all sides, all structures and improvements, means of access, and the location of the building proposed to be moved;

(e) Photographs of the building showing front, rear, and side elevations; and such other photos of the building or site as may help to portray the proposal;

(f) Any additional information which the Planning Commission may find necessary in making a fair determination of whether the application should be approved.

(3) Public Hearing. A public hearing before the Planning Commission shall be set, with right of appeal to the Town of Daniel Legislative Body.

(4) Standard for Relocation. Before approving any application hereunder, the Planning Commission shall determine that all of the following conditions are satisfied:

(a) That the building will conform to all provisions of the applicable land use regulations at its proposed site;

(b) That the building is of the size and architectural style, which shall be in harmony with existing developments of the neighborhood. If the area into which the building is proposed to be removed is undergoing development or redevelopment, the Planning Commission may consider developments and improvements planned or anticipated by property owners in the area;

(c) That the building will not have detrimental effects on the environment and property values of the area into which it is to be moved;

(d) That the proposed relocation will not adversely affect any proposed streets or other improvements in the area, nor be in conflict with adopted plan of the Town of Daniel.

(e) That the building and its components can comply or be made to comply with the provisions of all the building codes and standards currently adopted by the Utah State Building Code Commission for new construction (for the purposes of this title, the "Building Code").

(5) Conditional approval. The Planning Commission may approve a proposed relocation subject to such conditions as it may deem warranted by the circumstances. Said conditions may include specified landscaping and exterior finishing, dedication, and improvements of streets and alleys adjoining the property, and time for completion of the work and improvements required. Such conditional approval shall not become effective, nor shall any action be taken thereon, unless and until a performance bond is furnished.

(6) Performance Bond. If approval is granted subject to performance of conditions by the applicant, a performance bond shall be posted with the Town of Daniel and shall guarantee the performance of the conditions enumerated by the Planning Commission and any work ordered done by the building official.

(7) Inspection of Work. The Planning Commission shall cause an inspection of the building at its new location to be made on request therefore by the owner or applicant, or at the expiration of the time designation by the Planning Commission for completion of the work. Said inspection shall include a determination of compliance with provisions of the current Uniform Building Codes Standard Act and conditions or requirements imposed by the Planning Commission upon approval of the building relocation. No Certificate of Occupancy and land use compliance shall be issued until the inspection has been made and all code requirements and conditions are complied with.

(8) Other Permits Required. Approval or conditions approval by the Planning Commission hereunder is not a building permit, and shall not relieve the applicant of requirements for obtaining necessary building permits or moving permits.

Section 8.21.33 Mobile Homes and Vacation Vehicles Prohibited - Exceptions.

(1) Intent. Most mobile homes have a life expectancy of somewhat less than conventionally constructed dwellings and do not comply with all of the provisions of the International Building Code and when located on scattered sites, they tend to depreciate surrounding property values. Therefore, it shall be unlawful to place any mobile home or vacation vehicle on any lot or parcel of land in the Town of Daniel and use the same for human habitation, except in compliance with one (1) of the following conditions:

(a) A vacation vehicle may be temporarily located on a lot, if a permit for a dwelling or project has been issued, and a cash bond, in the amount of twenty-five hundred dollars (\$2,500.00) is posted with the Daniel Planning Commission guaranteeing the removal of the mobile home. This bond will be limited to one (1) year, during the time of construction.

(b) A vacation vehicle located temporarily on a tract of land without a main structure may not exceed twenty (20) days in any one (1) calendar year when used for human habitation; a violation hereunder shall be a nuisance, prohibited and actionable as set forth in Chapter 4-3.

(2) Storage. There may not be more than two (2) vacation vehicles or campers units, (not titled to the current property owner or resident), stored on an open tract of land where there is an existing dwelling. On parcels without a main dwelling storage of mobile homes and vacation vehicles is prohibited.

Section 8.21.34 Long-term Camping.

“Long-term camping” is defined as temporarily lodging or living (for a period of greater than twenty (20) consecutive days in the previous 365 calendar days which involves staying overnight in the open, in tent, or a trailer, camper, or other recreational vehicle except for (i) established legal campgrounds and the hosts and security for such campgrounds, or (ii) as may be allowed by a permit issued as provided in Section 8.31.33; long-term camping shall be a nuisance hereunder, prohibited and actionable as set forth in Chapter 4-3.

Section 8.21.35 Lot Identification and Disturbance Limitation.

Before any disturbance, including grading, grubbing, or excavation may commence on any lot or parcel, whether or not approved by Planning Commission as part of a grading permit or a building permit, all corners or the perimeter of the lot or parcel must be staked and flagged and a bright colored temporary fencing must be installed around the perimeter of the Limit of Disturbance (LOD) (see Section 8.28.07) to secure the excavation material on site and avoid any encroachment to the adjacent property. This temporary fence must be visible from the road and the adjacent property. A landscaping bond must be posted to certify that the area of disturbance will be revegetated. The requirements of this provision may be waived or modified by written authorization of the planning director.

Section 8.21.36 Illegal Lot Creation.

An illegally created lot may not be developed. Any person(s) owning an illegal parcel, or portion

thereof, may develop said property only after correcting the infraction and conforming to the standard of the current Daniel Municipal Code. It is the burden of the lot owner to prove that any lot was legally created.

Section 8.21.37 Expansion of Commercial, Industrial or Institutional Uses.

Any expansion of an existing structure that is commercial, industrial or institutional in use, may require improvements to the site that conforms to the existing Town standards or as determined by the planning director.

Section 8.21.38 Platted Subdivision.

Prior to commencing any construction work within a platted/recorded subdivision or development, an engineered plan shall be submitted for review and approval by the building official and/or Daniel Planning Commission, or other Town of Daniel departments that are responsible for approving developments in Daniel.

Section 8.21.39 Grading Permit in Platted Subdivision.

No land within the Town of Daniel may be disturbed, including construction, grubbing, grading, cutting, filling or excavating, without a grading permit or building permit issued by the Town of Daniel. This provision does not apply to agriculture activity or to disturbances of an area less than one thousand (1,000) square feet.

Section 8.21.40 Wind Energy Conversion Systems (WECS) Ordinance

The purpose of this section is to establish a process, rules, and standards for the construction and operation of WECS used primarily for on-site power.

(1) Permitted and Prohibited Uses:

(a) Pole-mounted WECS are allowed in any residential zoning district as a permitted use as long as the parcel is a minimum of twenty (20) acres upon issuance of a building permit and compliance with all applicable performance standards and design requirements.

(b) Pole-mounted WECS may be allowed in any residential zoning district as a conditional use with a lot size between 19.99 and one (1) acre upon issuance of a building permit and compliance with all applicable performance standards and design requirements.

(c) Pole-mounted WECS are allowed as a conditional use in any C (Commercial) or I

(Industrial) zoning district upon issuance of a building permit and compliance with all applicable performance standards and design requirements.

(d) Roof-mounted WECS shall not be permitted.

(e) Commercial wind power generating facilities shall not be permitted.

(2) Performance Standards and Design Requirements:

(a) No more than one (1) WECS shall be permitted per parcel without a conditional use permit.

(b) Minimum parcel size of one (1) acre is required for the installation of a WECS.

(c) Maximum height of the tower shall be that of the underlying zoning district measured from pre-existing natural grade to the highest point of the tower.

(d) The WECS shall have a maximum height of fifty-five feet (55') as measured to the top of the blade extended from natural grade.

(e) The lowest point of any part of the rotor shall be twenty feet (20') from natural grade.

(f) A photo simulation shall be provided that shows there will be no impacts to ridgelines from three (3) areas viewed by the public as determined by staff.

(g) Towers shall be set back from all property lines a minimum of one foot (1') for every one foot (1') in height measured from the top of the rotor extended from natural grade. No part of the WECS, including guy wire anchors, may extend into the minimum setback area of the underlying zoning district or into any access or utility easements.

(h) Towers with guy wires are not allowed unless on a property with a minimum of five (5) acres.

(i) All WECS in any zone shall be located in a minimum of three hundred feet (300') from the closest residential dwelling off site.

(j) All portions of the WECS shall be non-reflective, non-obtrusive colors such as a galvanized tower with neutral colors.

(k) There shall be no advertising on towers.

(l) WECS shall be designed, installed, and operated so that the noise generated by the system shall not exceed 35 dBA, as measured from the nearest property line.

(m) Towers are not allowed to be attached to buildings.

(n) No lattice towers are allowed.

(3) Building Permits and Inspection:

(a) All WECS shall conform to applicable industry standards, including those of the American National Standards Institute.

(b) A building permit shall be required for all WECS.

(c) The applicant shall submit two complete sets of detailed plans and specifications for the WECS, including a site plan and a structural and electrical design completed by

a registered professional engineer licensed to do such work in the state of Utah, whose seal shall be affixed to all such drawings and plans.

(d) No experimental, home-built, or prototype WECS shall be permitted.

(e) Compliance with building code: Building permit applications for small WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower and base footing. An engineering analysis of the tower showing compliance with the building code and certified by a professional engineer, licensed by the state of Utah, shall also be submitted.

(f) Compliance with national electric code: Building permit applications for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the national electrical code.

(g) All engineering and electrical wiring/connections shall conform to all applicable provisions of the national electrical code.

(h) Utility notification: No grid connected WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned turbine. All WECS connected to the utility grid shall meet all codes and requirements including ESR requirements. A written letter of compliance must accompany the application.

(i) Permanent power sources shall be concealed from public view and comply with all applicable provisions of the national electrical code.

(j) No WECS shall be installed or erected in the Town unless by a licensed contractor licensed to do business in the state of Utah, or as required by the Town.

(k) The applicant shall obtain certification by a registered engineer as to the safety of equipment and installation.

(l) All footings and foundation shall conform to the building codes and be inspected by the Town.

(4) Safety Measures:

(a) There shall be sufficient safety measures to prevent the tower from becoming a climbing hazard.

(b) No WECS shall be permitted unless equipped with an automatic braking, governing, or feather system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, or turbine components.

(c) Procedures for emergency shutdown of the power generation units shall be established and posted prominently and permanently within three feet (3') of the meter panel.

(5) Abandonment and Removal:

If the WECS remains non-functional or inoperative for a continuous period of ninety (90) days, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at the owner's expense after a demolition permit has been obtained. Removal includes the entire structure including foundations to below natural grade, and transmission equipment.

Chapter 8.22

NON-CONFORMING USES AND STRUCTURES

Sections:

- 8.22.01 Purpose of Nonconforming Use and Structures Provisions.**
- 8.22.02 Definitions.**
- 8.22.03 Nonconforming Uses-Continuation And Abandonment.**
- 8.22.04 Nonconforming Structures.**
- 8.22.05 Change in Status of Non-Conforming Use.**
- 8.22.06 Reconstruction of Non-Conforming Structure Partially Destroyed.**
- 8.22.07 Nonconforming Use of Open Land.**
- 8.22.08 Nonconforming Lot of Record Determination.**
- 8.22.09 Nonconforming Lot of Record.**
- 8.22.10 Nonconforming Subdivision.**

Section 8.22.01 Purpose of Nonconforming Use and Structures Provisions.

The purpose of this chapter is to control and gradually eliminate those uses of land or structures, which although legal at the time of their establishment or erection, do not now conform to the land use regulations of the district within which they are situated. Such uses and structures shall be deemed nonconforming. Any structure or use which was a permitted use or structure built prior to enactment of this title, but which is now designated by this title as a conditional use, shall not be considered a nonconforming use, and shall not be subject to the provisions of this chapter.

Section 8.22.02 Definitions.

(1) "Nonconforming structure" means a structure that legally existed before its current zoning designation, and because of subsequent zoning changes does not conform to the setback, height restrictions, or other regulations governing the use.

(2) "Nonconforming use" means a use of land that legally existed before the current land use regulations and has been maintained continuously since the time the land use regulation governing the land became effective, and because of subsequent zoning changes does not conform to the land use regulations that govern the land.

(3) "Nonconforming Lot of Record" A lot or parcel of land lawfully established and maintained but which no longer conforms to the width and area requirements of the zone in which it is located.

Section 8.22.03 Nonconforming Uses - Continuation And Abandonment.

A nonconforming use lawfully existing on the effective date of this title may be continued. A nonconforming use may be extended throughout the existing building provided no structural alteration of the building is proposed or made for purposes of the extension. A person engaging in a nonconforming use may not expand the character of that use to include new or additional uses. If a nonconforming use is discontinued for a continuous period of more than twelve (12) months, any future use of such land shall conform to the provisions of the zone in which it is located.

Section 8.22.04 Nonconforming Structures.

A nonconforming structure may continue provided no additions or enlargements are made thereto and no structural alterations are made therein that would increase the height or existing footprint of the building. This section shall not be construed to prohibit maintenance of an existing building.

Section 8.22.05 Change in Status of Nonconforming Use.

A nonconforming use may be replaced by an equally restrictive or more restrictive nonconforming use subject to the approval of the Planning Commission. After a change to an equally or more restrictive use is in effect, the pre-existing nonconforming use shall be deemed vacated, abandoned, and divested. The determination of whether a change is to a more or less restrictive use shall be made by the planning staff.

Section 8.22.06 Reconstruction of Nonconforming Structure Partially Destroyed.

A nonconforming building destroyed to the extent of not more than fifty percent (50%) of its reasonable replacement value at the time of its destruction by fire, explosion, or other casualty or act of God or public enemy, may be restored, but may not be enlarged, and the occupancy or use of such building or part thereof which existed at the time of such partial destruction may be continued subject to all of the provisions of this Town of Daniel Land Use and Development Code. Deterioration due to age is not considered appropriate grounds to be permitted to retain a nonconforming status if it is rebuilt for that reason.

Section 8.22.07 Nonconforming Use of Open Land.

A nonconforming use of land lawfully existing on the effective date of this title may be continued, provided such nonconforming use shall not be expanded or extended into any other portion of open land or into a conforming or nonconforming structure.

Section 8.22.08 Nonconforming Lot of Record Determination.

The burden of proof for providing the information for determining a nonconforming lot of record rests upon the property owner or its representative. A nonconforming lot of record is determined by making one (1) or more of the following findings by the planning director:

- (1) The lot was created prior to the enactment of zoning and has not decreased in size since the creation of the said lot;
- (2) The lot was created legally under the standards existing at the time of its creation; and
- (3) A document provided by the Wasatch County planning staff (or the Daniel Planning Commission, as applicable) stating that the lot is a lot of record.

Section 8.22.09 Nonconforming Lot of Record.

Nonconforming lots of record are exempt from lot area and lot width requirements. Nonconforming lots of record shall have access on a road built to Town of Daniel standards and shall comply with all other development standards applicable to the particular zone the nonconforming lot of record is located in. A nonconforming lot of record does not guarantee a building permit.

Section 8.22.10 Nonconforming Subdivision.

A subdivision that existed prior to the enactment of the existing subdivision standards, but does not comply with the current requirements of the zone. Lots in a nonconforming subdivision may be developed subject to current building, fire, health, and safety laws.

Chapter 8.23

CONDITIONAL USE - GENERAL PROCEDURES

Sections:

- | | |
|----------------|--|
| 8.23.01 | Purpose. |
| 8.23.02 | Procedure. |
| 8.23.03 | Determination of Jurisdiction |
| 8.23.04 | Minimum General Application Requirements. |
| 8.23.05 | Notice/Posting of Matters to be Determined by Staff. |
| 8.23.06 | Transferability, Time for Performance, Expiration, Modification and Revocation. |
| 8.23.07 | General Standards and Findings Required. |

Section 8.23.01 Purpose.

Although each zone attempts to identify permitted land uses that are generally compatible with each other and to assign compatible land uses to specific zoning districts, there are land uses that are more intensive and produce special impacts, which can be made compatible only through conditional

regulation. If properly and carefully planned, these conditional uses may become compatible and appropriate.

Section 8.23.02 Procedure.

(1) The Planning Commission may, subject to procedures and standard set forth in this chapter, grant, conditionally grant, or deny any application for a conditional use permit. As delegated by the Planning Commission, the planning staff may process requests for specified conditional use permits.

(2) Upon receipt of an application, the planning staff will, within a reasonable time, review all proposed conditional use requests and determine whether the application must be processed by planning staff or the Planning Commission.

(3) If an application for a conditional use is referred to the Planning Commission for hearing and determination, planning staff shall prepare a staff report for the Planning Commission. The report may include a recommendation for approval or denial and suggest conditions to preserve the character of the zone, and to mitigate potential adverse effects of the conditional use. If the planning staff believes that no reasonable mitigation measures would adequately preserve the character of the zone, and meet the required findings of the requested conditional use, the planning staff shall recommend denial of the conditional use permit.

(4) If an application for a conditional use is referred to planning staff for determination, the planning staff may approve or deny such application, or may refer the matter to the Planning Commission.

Section 8.23.03 Determination of Jurisdiction.

The Planning Commission hereby delegates to the planning staff, the following conditional use requests for administrative action, unless negative responses are received from neighboring property owners:

(1) Cell towers or other communication facilities if the applications are for stealth or co-location.

(2) Utility buildings and structures.

(3) Utility lines that do not exceed thirty six (36) KVA, are less than thirty-five feet (35') in height and consists of a single pole.

(4) Bed and Breakfast uses may be processed by the planning staff if the application is for five (5) bedrooms or less and there will be no food service to anyone other than overnight guests.

(5) Kennels, catteries, animal hospitals.

(6) Small scale subdivisions.

(7) Lot combinations.

(8) Minor plat amendments.

(9) Building permits within fifty feet (50') from flood zone & wetlands.

(10) Temporary uses.

(11) Any accessory building with a foot print larger than 1,500 square feet.

Section 8.23.04 Minimum General Application Requirements.

An applicant shall file ten (10) copies of a completed conditional use application and the following information. If items listed are determined to be unnecessary in a specific circumstance, the planning staff may waive the requirement.

Conversely, if additional information is needed in a specific circumstance, the planning staff may request reasonable additional information:

- (1) A site plan showing the existing conditions, including any existing buildings prior to any demolition or grading, and showing the north arrow and scale;
- (2) A plan identifying the subject site in relation to adjoining public streets, residential uses, and the neighborhood in which it is located with north arrow and scale;
- (3) The boundaries of the site and any easements of record or known prescriptive easements;
- (4) Topography with contours shown at intervals of not more than two feet (2');
- (5) Vegetation type and location;
- (6) Soil type and load carrying capacity information;
- (7) One hundred (100) year flood plain and high ground water areas, known spring and seep areas, and ditches or canals;
- (8) All existing roads, fences, irrigation ditches, and drainage facilities;
- (9) Location of public utility facilities and easements;
- (10) Site plan of the proposed conditional use showing building locations and proposed landscaping;
- (11) Proposed road locations and other circulation features;
- (12) Proposed finished grade;
- (13) Proposed drainage, drainage works, retaining walls, and erosion control plans;
- (14) Proposed location of all site improvements such as plazas, tennis courts, pools or similar improvements;
- (15) Proposed easements for new utility services or relocated utility services;
- (16) Designations by proposed ownership of areas shown on site plan as being part of a condominium unit, common area, dedicated open space;
- (17) General architectural concept elevation profile drawings of proposed buildings;
- (18) Lighting and signage plans;
- (19) View-shed analysis or photo-simulations;
- (20) A preliminary title report showing title to the property vested in the applicant, the encumbrances, covenants, easements, and other matters affecting the title, and a legal description of the site, with attached copies of any covenants or easements mentioned in the title report;
- (21) A development schedule indicating phased development, if any, and the estimated completion date for the project;

(22) Stamped addressed envelopes for all property owners within five hundred feet (500') of any boundary of the subject property with their current mailing addresses as shown from the most recently available Wasatch County tax assessment rolls, except that if the subject property is a condominium which has an owner's association, the name and address of the owner's association is sufficient in lieu of each owner;

(23) A general description of the project, the prospective tenants or occupants, whether condominium ownership, time share ownership, or nightly rental uses are proposed, and the proposed property management structure for any timeshare or nightly rentals;

(24) Proposed location of any satellite receiving stations; and

(25) Other information as may be reasonably useful or necessary for the meaningful review of the project, as requested by the planning staff.

Section 8.23.05 Notice/Posting of Matters to be Determined by Staff.

Upon receipt of a complete application for a conditional use and payment of all applicable fees, and after appropriate staff review, planning staff shall:

(1) Prepare a written notice containing a summary of the information included in the application, and inviting comments or objections to be submitted to the planning staff within ten (10) days of the date the notice is published.

(2) Mail the notice to all owners whose real property adjoins or lies within five hundred feet (500') of all parts of the parcel on which the proposed conditional use is to be established (hereafter the "affected owners"). The Town of Daniel may send this notice to the last known address of the owner as listed on the Wasatch County tax assessment rolls.

If no objections are received and the conditional use is one that has been delegated to planning staff for determination, planning staff may deny the permit, grant the permit, or grant the permit with specified conditions. If objections are received, planning staff shall refer the matter to the Planning Commission for a public hearing.

Notice of this hearing shall be provided to all affected property owners within five hundred feet (500') and published in a newspaper of general circulation not less than fourteen (14) days before the date of the public hearing. Planning Commission motions shall list all conditions of approval specifically.

Section 8.23.06 Transferability, Time for Performance, Expiration, Modification and Revocation.

(1) Transferability. A conditional use permit is transferable with the title to the underlying property so that an applicant may convey or assign an approved project without losing the approval so long as all conditions continue to be met. The applicant cannot transfer the permit off the site on which the approval was granted.

(2) Time for Performance of Conditions. All conditions set forth in the conditional use permit must be fully performed prior to the commencement of the use or occupancy of the structure, and during and throughout the continued use or occupancy of the structure. In the event that certain conditions cannot be fully performed prior to commencement of the use or occupancy, the applicant shall apply to the issuing department for an exception to this requirement. An exception shall not be granted

unless a date is set for performance and a cash bond in the amount of one hundred twenty-five percent (125%) of the estimated cost of performance is posted with the Town of Daniel. As conditions are met by the applicant, a proportionate share of the performance bond may be released up to a maximum of one-half of the amount of the bond. The Town of Daniel shall retain the remaining fifty percent (50%) until full completion of all conditions. In no circumstances shall the installation of improvements take longer than one (1) year from the date the conditional use permit is granted.

(3) Expiration. Unless otherwise specified in the motion granting a conditional use permit, a permit that has not been utilized within twelve (12) months from the approval date shall become null and void by operation of law. Once any portion of the conditional use permit is utilized, the conditions related thereto become immediately operative and must be strictly obeyed. Utilization shall be construed to mean pouring of concrete, or commencement of framing on construction, or commencement of the use or uses for which the permit was granted.

(4) Modification or Revocation of Conditional Use Permit. The Planning Commission shall hold a hearing upon the question of modification or revocation of a conditional use permit granted pursuant to the provisions of this section. Notice of said hearing shall be made at the same time and in the same manner as required to obtain the conditional use permit. A conditional use permit may be modified or revoked if the Planning Commission finds one or more of the following:

- (a) The use permit was obtained by mistake of fact, misrepresentation or fraud;
- (b) The use for which the permit was granted is not being exercised;
- (c) The use for which the use permit was granted has ceased or has been suspended for six (6) months;
- (d) The conditions imposed upon said use permit have not been complied with, or maintained;
- (e) The use produces impacts not anticipated, recognized or foreseen during the approval process, and these impacts cannot be mitigated so as to meet the general standards and findings required for issuance of the conditional use permit;
- (f) The use has been so expanded or intensified that the impacts have exceeded those foreseen during the approval process, and these impacts cannot be mitigated so as to meet the general standards and findings required for issuance of the conditional use permit;
- (g) The use is detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity, except that a change in the market value of real estate shall not be considered an injury to property. In the event that this paragraph applies to the point where it is determined by the provisions of the Daniel Municipal Code that a nuisance exists, abatement of the nuisance shall be an available remedy.

(5) Appeals. Any appeals to decisions made by the planning staff on conditional uses must be forwarded to the Planning Commission. The Board of Adjustment shall hear any appeals to the decision of the Planning Commission regarding the issuance or denial of a conditional use permit.

Section 8.23.07 General Standards and Findings Required.

These standards shall be in addition to any standards set forth in this Land Use Ordinance for the zoning district wherein the proposed conditional use will be established. If there is a conflict between these standards and those set forth for the appropriate zoning district, the more specific standard control.

The Town of Daniel shall not issue a conditional use permit unless the issuing department or commission finds:

- (1) The application complies with all requirements of this title;
- (2) The business shall maintain a business license if required;
- (3) The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation;
- (4) The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions;
- (5) The use is consistent with the Town of Daniel General Plan;
- (6) The effects of any future expansion in use or scale can be and will be mitigated through conditions;
- (7) All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors such as drainage, erosion, soil stability, wildlife impacts, dust, odor, noise, and vibrations have been adequately mitigated through conditions;
- (8) The use will not place an unreasonable financial burden on the Town of Daniel or place significant impacts on the Town of Daniel or surrounding properties, without adequate mitigation of those impacts; and
- (9) The use will not adversely affect the health, safety or welfare of the residents and visitors of the Town of Daniel.
- (10) Any land uses requiring a building permit shall conform to the International Uniform Building Code standard.

Chapter 8.24

TEMPORARY USES

Sections:

- | | |
|----------------|---|
| 8.24.01 | Purpose. |
| 8.24.02 | Jurisdiction. |
| 8.24.03 | Application. |
| 8.24.04 | Uses-General Listing. |
| 8.24.05 | No Continuing Rights. |
| 8.24.06 | Findings Required. |
| 8.24.07 | Regulations Relating to Specific Temporary Uses. |

Section 8.24.01 Purpose.

The purpose of this chapter is to establish methods whereby the Town of Daniel is able to permit temporary uses that, with appropriate conditions, are compatible to the zone, that would be beneficial to the residents of the Town of Daniel, and to avoid conflict between the use of land for permanent uses and the use of land for activities performed in connection with the temporary use. This chapter is to set forth regulations, which govern the operation of certain transitory or seasonal uses in a manner, which would be compatible with the General Plan policies of the Town of Daniel.

Section 8.24.02 Jurisdiction.

Application for a temporary use permit shall be made to the planning staff, and shall be treated and processed in the same manner as conditional uses to be approved by the planning staff for any use specifically listed herein. The Planning Commission, who may approve, approve conditionally or deny any such use based upon the criteria contained in this chapter, must approve any application for a use not specifically listed here.

Section 8.24.03 Application.

Applications shall be submitted to the planning staff for processing. Each application shall contain the following information:

- (1) A description of the property to be used, rented, or leased for the temporary use, including all information necessary to accurately portray the property.
- (2) A description of the proposed use.
- (3) Sufficient information to determine the setback requirements, sanitary facilities, and availability of parking space to service the proposed use.
- (4) The name, address and phone number of the applicant along with the name of the person who is responsible to work with the Town of Daniel for compliance.
- (5) A map showing boundaries of the proposed site and the surrounding property within one thousand feet (1,000'), with the names and addresses of all property owners abutting the property where the "temporary use" or "structure" is to be located.
- (6) A statement of the proposed time period and hours of operation of such use.
- (7) A copy of any liability insurance policy which may be required to be amended to include protection for the Town of Daniel, if deemed necessary.

Section 8.24.04 Uses-General Listing.

The following are some of the temporary uses that may be considered and approved or denied by the planning staff, and are subject to the following specific regulations and time limits, in addition to the regulations of any zone in which the use is located. Land uses that are not listed herein as temporary uses may be considered by the Planning Commission as temporary uses:

- (1) Large gatherings. Land uses which are subject to the Municipal/County Large Public Assembly Regulations as well as certain Municipal/County/State Health Department Mass Gathering Ordinance regulations.
- (2) Carnival or circus.
- (3) Development sales office.
- (4) Filming locations for movies or television.
- (5) Community entertainment events or other temporary gatherings not constituting a large public gathering, but requiring a permit.
- (6) Other short-term uses that are similar and fit within any of the above categories and are determined to be beneficial to residents of the Town of Daniel may be processed through the planning staff:
 - (a) Fireworks stands;
 - (b) Christmas tree lots;
 - (c) Agricultural sales; and
 - (d) Seasonal nurseries.
- (7) Uses which do not fit appropriately into any of the above categories may be applied for, but must be determined by the Planning Commission after considering if the use would be beneficial to the residents of the Town of Daniel and meets the findings required in this chapter.

Section 8.24.05 No Continuing Rights.

Approvals in any year for any period of time do not create any right to approval of the same or similar use for the same or similar period of time in any subsequent years. Reasonable conditions or a requirement for a bond to assure timely removal of the temporary use may be attached to any approval, and conditions may be changed in subsequent approvals to address any concerns that may have arisen in the past.

Section 8.24.06 Findings Required.

Before a temporary use permit shall be issued, it must be shown:

- (1) The temporary use is not an incompatible use in the zone and will be conducted without unreasonable interference with the permanent uses of neighboring property.
- (2) The temporary use occupation shall obtain a business license.
- (3) That the business does not store flammable or hazardous materials or carry on any annoying or hazardous activity which could result in any danger or annoyance to surrounding properties, including fire, noise, heavy traffic for the neighborhood when compared to existing permanent uses in the neighborhood. (Exception may be made for fireworks stands if granted only in a commercial or industrial zone and approved by the fire marshal.)

- (4) The physical appearance, traffic and other activities in connection with the temporary use do not unreasonably depreciate surrounding property values as determined by the planning staff.
- (5) There is adequate off-street parking and a safe entrance to such parking with adequate sight distance and access to and from such parking only through forward motion. Vehicles cannot back onto street.
- (6) All signs must meet the requirements of the sign regulations.
- (7) The applicant shall have sufficient liability insurance for the requested use or event.
- (8) Bonding may be required to insure the site is left clean and in good order.

Section 8.24.07 Regulations Relating to Specific Temporary Uses.

(1) Large Public Gatherings. Are subject to the requirements of the provisions of the large public assembly regulations as well as any regulations set forth by the Wasatch County Health Department relating to mass gatherings.

(2) Carnival or Circus. When authorized by the planning staff, a temporary use permit for a carnival or circus may be issued in any zone for a period not longer than fifteen (15) days. Reasonable conditions may be attached to any approval.

(3) Christmas Tree Sales. A temporary use permit may be issued by the planning staff for the display and open-lot sales of Christmas trees for a period not longer than forty-five (45) days. Reasonable conditions may be attached to any approval.

(4) Firewood Sales. A temporary use permit may be issued for the sale of firewood cut by the seller, for a period not to exceed one hundred eighty (180) days at a site, which does not use public property. Reasonable conditions may be attached to any approval.

(5) Filming. A temporary use permit may be issued for the filming for television or movies for a period of time not to exceed ninety (90) days, but may be renewed for an additional ninety (90) days if approved. If any site is to use public property, special arrangements must be made for such use with the Town of Daniel. Reasonable conditions may be attached to any approval.

(6) Community Entertainment Events. Other temporary gatherings not constituting a large public assembly may be granted for a period of time not to exceed thirty (30) days.

(7) Development Sales Office. A sales office may be granted by the planning staff for either a temporary building to be used as a sales office, or the use of a model to be used as a sales office. Such uses may be permitted as a conditional use with a specified period of time listed as one (1) of the conditions. Bonding for removal or restoration of any garage conversions may be required as part of the approval. Any other reasonable conditions may be imposed by the planning staff to mitigate any adverse impacts to the neighborhood.

(8) Fireworks Stands. Permits for fireworks stands or fireworks displays shall be administered by the fire marshal, but a temporary use permit must be obtained from the planning staff. Any application for such permit shall meet the requirements of Section 8.24.06 of this chapter and shall be made by the property owner or his authorized agent.

(9) Seasonal Nurseries.

Chapter 8.25

HOME OCCUPATIONS

Sections:

- 8.25.01 Purpose.**
- 8.25.02 Approval Period.**
- 8.25.03 Application.**
- 8.25.04 Business License Required.**
- 8.25.05 Annual Renewal and Review of Business License and Home Occupation Permit.**
- 8.25.06 Home Occupation Standards.**

Section 8.25.01 Purpose.

The purpose of this chapter is to provide an opportunity for small businesses to conduct a small business within the operator's residence. Any home occupation shall not change the character of the home or neighborhood and will co-exist with residential uses without creating conflict with the neighboring residential uses.

Section 8.25.02 Approval Period.

A home occupation permit shall be issued by the planning staff for a one (1) year period, only after the home occupation has been determined to meet the requirements of this chapter. Conditions may be attached to any permit approval or renewal and are subject to annual review. Approvals in any year do not perpetuate the right to operate such uses in subsequent years. New permit applications and renewals shall comply with the requirements that are in effect at the time of application.

Section 8.25.03 Application.

Applications for a home occupation permit shall be made to the planning staff. The applicant shall provide the following information and satisfy the following conditions before the renewal or issuance of a permit. If the application is for a renewal and no changes have occurred, the planning staff may waive all or part of the following requirements upon receipt of a written statement:

- (1) Home occupations shall not alter the residential character of the premise or unreasonably disturb the peace and quiet of the neighborhood. This includes radio and television reception of the neighboring property, nor detract from the residential character of the neighborhood by reason of color, design, materials, construction, lighting, sounds, and noises or vibrations traffic.
- (2) Home occupations shall be in complete conformity with this title, fire, building, plumbing, electrical, health and all other applicable state and municipal ordinances.

- (3) Home occupations shall not cause a demand for Town of Daniel or utility services or community facilities in excess of those usually and customarily provided for residential uses.
- (4) The applicant shall provide a description of the property to be used for the home occupation. This shall include all information necessary to accurately portray the property.
- (5) The applicant shall provide a description of the proposed use, including, but not limited to location of the use, type of business, and work performed at the location.
- (6) A site plan shall be provided to the Planning Staff to determine the yard requirements, sanitary facilities, and availability of parking space to service the proposed use, ingress and egress, and landscaping. The site plan should also show the surrounding property within five hundred feet (500') with the names and addresses of all property owners abutting the property.
- (7) The name, address and phone number of the responsible person or applicant shall be provided to the Town of Daniel for compliance.
- (8) All applicants shall state the proposed time period of such use.
- (9) The applicant shall show in writing the proposed occupation will be located entirely within the residence and will not require the use of outside storage or accessory buildings.
- (10) Any home occupation shall not impact the residential traffic.

Section 8.25.04 Business License Required.

The applicant shall obtain and keep a current business license for a home occupation in addition to the permit granted by the planning staff. Such business license will not be approved by the planning staff unless and until a home occupation permit is granted.

Section 8.25.05 Annual Renewal and Review of Business License and Home Occupation Permit.

The home occupation may be inspected each year prior to renewal of the business license to determine if the business remains in compliance with this chapter. If complaints are received, the business license and home occupation permit is subject to further review and may be revoked.

Section 8.25.06 Home Occupation Standards.

The regulations of this section have been established to avoid conflict between the use of land for dwellings and the use of land for activities performed in connection with the occupation.

(1) General Requirements. Before a business license shall be issued for a home occupation, the following must be shown:

- (a) A home occupation may be permitted in the RA-5, M and P-160 Zones;
- (b) The home occupation is conducted entirely within the residential dwelling and is carried on in the dwelling only by members of the residing family;

- (c) The home occupation does not involve the use of any accessory buildings or yard space for storage or activities outside of the dwelling not normally associated with residential use;
- (d) One (1) commercial vehicle, not exceeding one (1) ton rated capacity, may be allowed;
- (e) The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling;
- (f) Signs are limited to one (1) non-flashing, non-illuminated sign not larger in area than ten (10) square feet; (amended 4-7-2008)
- (g) Not more than the equivalent of fifteen percent (15%) of the ground floor area of the dwelling is devoted to the home occupation;
- (h) When necessary, the home occupation shall be registered with the applicable state license division or department;
- (i) Entrance to the home occupation from outside shall be by the same entrances normally used by the residing family; and
- (j) The existence of a home occupation is not discernable to neighboring residents except for the home occupation sign and the residential character of the neighborhood has not been compromised.

Chapter 8.26

SIGN REGULATIONS.

Sections:

| | |
|----------------|--|
| 8.26.01 | Intent. |
| 8.26.02 | Purpose and Scope. |
| 8.26.03 | Interpretation. |
| 8.26.04 | Definitions. |
| 8.26.05 | Enforcement and Penalties. |
| 8.26.06 | Nonconforming Signs. |
| 8.26.07 | Prohibited Sign Devices. |
| 8.26.08 | Signs Allowed Without a Permit. |
| 8.26.09 | Signs Requiring a Permit. |
| 8.26.10 | Permit Process. |
| 8.26.11 | Site Plan Design and Review. |
| 8.26.12 | Required Information. |
| 8.26.13 | Permit Tag. |
| 8.26.14 | Safety and Location Standards. |

- 8.26.15** **Measurement of Regulated Sign Area.**
- 8.26.16** **Exhibit #1 "Sign Area" Chart.**
- 8.26.17** **Exhibit #2 "Visibility Triangle" Chart.**
- 8.26.18** **Exhibit #3 "Sign Ladder" Chart.**
- 8.26.19** **Ordinance 99-07**

Section 8.26.01 Intent.

It is the purpose and intent of this chapter to regulate signs and to authorize the use of signs that are compatible with their surroundings, are legible under the circumstances in which they are seen, are effective in indexing the environment, and are conducive to promoting traffic and pedestrian safety and the convenience and enjoyment of public travel by preventing visual distraction; protecting pedestrians; attracting tourists to the Town of Daniel; preserving and enhancing property values; establishing first-class business and commercial districts; and eliminating fire hazards.

It is also the intention and purpose of this chapter to promote short and long term civic beauty and order by establishing standards and regulations for sign design, location, size, type, compatibility, and aesthetics. By doing so it is hoped that this ordinance will help create streetscapes that are functional and attractive to both residents of Daniel as well as visitors.

Section 8.26.02 Purpose and Scope.

The intent is to regulate the design and placement of commercial and governmental identification/communication devices and structures that are built specifically to identify, inform, and direct patrons to a particular merchant, store, establishment, or service. It is not the intent of this ordinance to regulate the content of public speech.

The regulations of this chapter are intended to apply to both on-premises and off-premises signs, but do not apply to hand-held placards and other similar devices traditionally used for public protest and the exercise of free speech. Any non-commercial message may be substituted for any commercial message permitted under this ordinance.

Section 8.26.03 Interpretation.

In interpreting and applying the provisions of this chapter, the sign regulations contained herein are declared to be the maximum allowable for the purposes set forth. If the planning director determines that an application needs further interpretation, he may request that the Planning Commission review the proposal. If the applicant wishes to propose or retain a sign that exceeds ordinance standards, he may apply to the Board of Adjustment for a variance as outlined in Chapter 15 of this title.

Section 8.26.04 Definitions.

All definitions are attempted to be clearly written within the paragraph pertaining to such work within the body of this chapter, but those not precisely defined within the body of the chapter shall be defined by the definitions within this Section. If any word is not clearly defined, the generally accepted meaning of such word shall apply.

(1) Abandoned Sign. Any sign applicable to use that has been discontinued for a period of forty-five (45) days.

(2) Alterations. Alterations as applied to a sign means change or rearrangement in the structural parts or its design, whether by extending on a side, by increasing in area or height, or in moving from one location or position to another. It also means changing the copy of a sign to name a new business or type of business.

(3) Animated Sign. A sign that involves motion or rotation of any part or display of flashing, chasing or intermittent lights.

(4) Artistic or Decorative Sign. A sign placed on the base of a statue, sculpture, monument or approved object other than the display of an item to be sold or traded.

(5) Awning Sign. A roofed structure constructed of fabric, canvas, vinyl, or metal so as to extend outward from the building providing a functional protective shield for doors, windows, and other openings with supports extending back to the building.

(6) Billboard. A large sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

(7) Building. A building for retail businesses may be defined as an independent unit regardless if it is connected by a common wall. For other business establishments such as office, industrial, research and development and manufacturing, a building may be defined as an independent building without common walls.

(8) Planning Director. Refers to the director of the planning staff, who shall be, if another is not appointed by the Legislative Body of the Town of Daniel, the chair of the Planning Commission.

(9) Freestanding Sign. A sign which is not supported by a building, but rather a separate structure consisting of a pole or poles, that incorporates the design and building materials used in the construction of, or accenting the architectural theme of the building(s) that the sign will identify.

(10) Identification Sign. A sign identifying an apartment complex, condominium complex, residence, school, church or other non-sales use.

(11) Illuminated Sign. Any sign which has characters, letters, logos, designs, or other outlines illuminated by interior or exterior lights, luminous tubes, neon, or similar devices.

(12) Logo. A reproducible image or design, which serves to represent a business or company's identity.

(13) Monument Sign. A low profile ground mounted sign with at least a one (1) foot enclosed or solid base (usually brick or stone), meant to serve as a primary identification sign for the purpose of advertising a commercial use.

(14) Nonconforming Sign. Any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this ordinance and any amendments hereto and which fails to conform to all applicable regulations and restrictions of this ordinance.

(15) On-Premises Signs. A sign that directs attention to a business, commodity, service or entertainment that is conducted, sold or offered on the premises where the sign is located.

(16) Off-Premises Signs. A sign that directs attention to a business, commodity, service or entertainment that is not, other than incidentally, conducted, sold or offered on the premises where the sign is located.

(17) Projecting Sign. A sign characterized by its attachment at an angle to the face of the building as opposed to being mounted flat on the surface of the building.

(18) Promotional Signs:

(a) Development. Signs indicating the sales, lease, or rental of commercial units or on-premises signs advertising the existence of a new development whether residential, commercial or mixed use.

(b) Retail Sales. Signs that are placed temporarily to advertise a special sales event. This can include holiday sales signs.

(19) Public Necessity Sign. A municipal, county or state sign for the purpose of identifying streets, highways, walkways, detours, road work or otherwise.

(20) Roof Sign. A sign located on the roof or above a building or face of a wall which projects above the height of the roof or the face of the wall.

(21) Sign Area. The area of a sign and shall be considered to include all lettering, working and accompanying designs or symbols, and any background material. Where a sign consists of individual letters or symbols attached to or painted on a building, wall, window or background, the area of the sign shall be considered to be the area of the smallest rectangle that encompasses all such letters or symbols.

(22) Snipe Sign. A sign for which a permit is required and has not been obtained, and which is tacked, nailed, posted or otherwise attached to poles, trees, fences, sticks, or other objects, with a message appearing thereon.

(23) Suspended Sign. A sign which hangs from the eve of a roof or architectural feature of a building, parallel to the wall of the building, or on an approved support, hanging perpendicular to the building, but not extending over the sidewalk.

(24) Temporary Sign. A sign that is intended for use during specified periods of time, including individual real estate signs and construction signs.

(25) Vehicle Sign. A sign placed, added to, or painted on a vehicle or trailer that is parked or located in such a manner as that its sole purpose is to act as a sign or advertisement, not transportation.

(26) Wall Sign. A sign mounted or flush on the façade of a building, identifying the building, a business, a profession, or industry and occupants.

(27) Wind Sign. Any sign inflated by or displayed by wind or air movement.

(28) Window Sign. A sign attached to or painted upon a window or door, or located within a building so as to be visible through a window or door from the outside of the building.

Section 8.26.05 Enforcement and Penalties.

Any sign not expressly allowed by this chapter is prohibited. The planning director or his authorized representatives shall be vested with the duty of enforcing this chapter and in performance of such duty, shall be empowered and directed to:

(1) Issue Permits. To issue permits to construct, alter, or repair signs, which conform to the provisions of this title. The expiration date for such permits shall be one hundred and eighty (180) days from issuance, to allow sufficient time to complete the construction, alteration, or repairs.

(2) Determine Conformance. To ascertain that all signs, constructions and reconstructions or modifications of existing signs are built, altered, modified or constructed in conformance with this chapter by conducting an initial inspection or re-inspection upon the completion of construction, erection, re-erection, or modification of any sign for which a permit has been issued and an inspection request is made. This shall also include the inspection of temporary electrical signs. The planning director may authorize the building official to make such inspections.

(3) Legal Action. The planning director or his authorized representative shall be empowered to institute any appropriate action or proceeding in any case where any sign is illegally erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in any case where any sign is used in violation of any Town of Daniel ordinance, by issuing notices by mail and posting of such notices upon the sign for the specified period of time as follows:

(a) Issuing a Written Notice of Violation. A Notice of Violation may be issued to the person who owns the property upon which the sign is located or the person having charge or control or benefit of any sign found to be unsafe, dangerous or in violation of this title, particularly when the Town of Daniel is contemplating removal of said sign. Notice may be mailed to the property owner's address as contained in the county tax assessment rolls and posted upon the sign for five (5) working days prior to removal. Such official may also issue criminal citations and swear to information against violators.

(b) Removal of Dangerous Sign. If an unsafe or dangerous sign is not repaired or made safe within five (5) working days after giving said notice, the planning director or his authorized representative may at once abate and remove the sign, and the person having charge, control or benefit of any such sign shall pay to the Town of Daniel within thirty (30) calendar days after written notice is mailed to such person, the costs incurred in such removal. In the event the planning director determines there is imminent danger the sign may be removed without prior notice, but such notice shall then be mailed immediately.

(c) Abate and Remove Illegal Sign. If a permanent sign is installed without a permit, or is otherwise illegal as defined by this Title, and is not made conforming within thirty (30) calendar days after written notice has been given, the planning director or his authorized representative may at once abate and remove the sign. If the name and/or address of the owner cannot be reasonably determined, notice may be given by posting such notice upon the sign itself for the thirty (30) day period. The person responsible for any such illegal sign shall be liable for the cost incurred in the removal thereof and the Town of Daniel is authorized to effect the collection of said cost.

(d) Removal of Temporary Sign. If a temporary sign is posted upon private property without a permit or is otherwise illegal as defined by this title, the planning director may provide a written notice to abate or remove said temporary sign. The time period for removal of such sign shall not exceed seventy-two (72) hours. All costs pertaining to the removal of said sign shall be borne by the property owner and/or persons or company responsible for product or service that is advertised by the sign. The Town of Daniel is authorized to effect the collection of such costs.

(e) Removal of Sign on Public Property. Any sign posted upon public property may be removed by the Town of Daniel without prior notice. In that event, the sign must be retained by the Town of Daniel for a period of thirty (30) calendar days prior to destruction, to allow the owner to claim such sign if desired. Failure of the Town of Daniel to remove said signs shall not constitute approval of the illegal placement of any such signs, nor waive the right to later remove the sign. Any costs associated with the removal of such signs shall be paid by the person responsible for such posting. The Town of Daniel is authorized to effect the collection of such costs.

(f) Removal of Abandoned Sign. Each sign, which is non-maintained, abandoned, or identified as a discontinued use shall be removed within forty-five (45) calendar days after a written notice or posting on such sign, a notice of non-maintenance, abandonment, or discontinuance as described in this chapter. All costs of such removal shall be paid by the owner of such sign.

(g) Right to Appeal. Any person who has been ordered to alter or remove any sign or has had a sign removed by the Town of Daniel, or any person whose application for a sign permit has been denied, may appeal to the Board of Adjustment by serving written notice to the planning director within ten (10) days of the order or denial, except in the case of a removal on the grounds of safety, the filing of such appeal shall stay the removal of such sign pending the outcome of the appeal to the Board of Adjustment.

(4) Penalties. It shall be unlawful for any person to violate any of the provisions of this chapter. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of the provisions of this chapter shall be guilty of a Class "C" Misdemeanor, and upon conviction thereof may be punished by a fine or imprisonment in the Wasatch County Jail. Each and every day a violation occurs shall constitute a separate offense.

Section 8.26.06 Nonconforming Signs.

(1) Definition. Any advertising structure or sign which was lawfully erected and maintained prior to this ordinance or any amendments hereto, or if it fails to conform to all applicable regulations and restrictions of this ordinance.

(2) Previous Illegally Placed Signs. Previous illegal signs shall not be grandfathered in under this chapter.

(3) Regulation, Containment, and Elimination. In order to minimize confusion and unfair competitive disadvantage to those businesses that are required to satisfy the current sign ordinance standards, the Town of Daniel intends to apply firm regulation of existing nonconforming signs with a view to their eventual elimination. This goal shall be achieved by strictly construing limits on change, expansion, alteration, abandonment and restoration. Excluding normal maintenance and repair, a nonconforming sign shall not be moved, altered (including face changes) or enlarged unless it is brought into complete compliance with this chapter. The following alterations are exempt from this provision:

- (a) Face changes in nonconforming multi-tenant signs, to reflect a change of tenants only; and
- (b) Copy changes in nonconforming permanent signs, which were originally approved by the Town of Daniel with a changeable copy feature.

(4) Abandonment. Within forty-five (45) calendar days after vacation of existing business, any on-site nonconforming signs must be removed or brought into compliance by the property owner. If removal

or compliance does not occur, The Town of Daniel may, after giving notice to the owner, have the entire nonconforming sign (both face and structure) removed at the expense of the owner.

(5) Variances. Upon application by the sign owner or business, the Board of Adjustment may grant a variance, if appropriate. The variance may allow the retention, alteration, movement, or expansion of a nonconforming sign.

Section 8.26.07 Prohibited Sign Devices.

The following signs and devices used to attract pedestrian or vehicular attention are prohibited in any zone in the Town of Daniel. Additionally, any sign not specifically allowed under this ordinance is prohibited.

- (1) Hot or cold air balloons or inflatables except those specifically allowed by this ordinance for temporary signs as part of a grand opening or special promotion.
- (2) Any sign that flashes, blinks, uses chaser lights, or moves in any way, animate or inanimate. Subtle lighting changes of low intensity are allowed if approved. (Commercial signs may be approved with time/temperature or electronic message center capability.)
- (3) Statuary bearing the likeness or suggestion of any product or logo.
- (4) Projecting signs.
- (5) Roof signs or fence signs.
- (6) Wind signs.
- (7) Snipe signs.
- (8) Temporary signs except those allowed specifically by this ordinance.
- (9) Any truck, trailer, or other vehicle conspicuously or regularly parked on or off-premises with an advertising message or logo displayed to attract attention to a business, product or promotion. The planning director or his authorized representative may require the removal of same if, in his opinion, such a vehicle is being utilized for advertising purposes.
- (10) Graffiti.
- (11) Spotlights directed into the night sky except as part of an approved promotional period for temporary signs.
- (12) Off-Premises signs except as specifically allowed herein.
- (13) Signs on public property, including, but not limited to public utility poles, public bridges, or within any public right-of-way unless specifically approved herein for a public purpose. However, nothing in this section shall apply to the installation of a plaque in a sidewalk commemorating an historical, cultural, or artistic event, location, or personality for which the Town of Daniel has granted written permission, nor shall this section apply to the painting of house numbers upon curbs.
- (14) "A"-frame or sandwich board signs.
- (15) Portable signs.

Section 8.26.08 Signs Allowed Without a Permit.

The following signs are allowed in any zone indicated, on private property with the consent of the owner, without the requirement of a sign permit. If there is any deviation from the strict requirements of this section, the applicant must apply for a permit, and the planning director will determine if a review by the Planning Commission is required.

(1) Directional or Instructional Signs. Signs which provide direction or instruction and are located entirely on-premises and which do not in any way advertise a business shall not exceed four (4) square feet in area or four feet (4') in height. These signs may identify restrooms, public telephones, walkways, or shall provide direction such as parking lot entrance and exit signs and those of a similar nature.

(2) No Trespassing or No Dumping Signs. No trespassing or no dumping signs may be posted not closer than two hundred feet (200') and each sign shall not exceed four (4) square feet. If more signs are requested, the planning director or his authorized representative may allow more if he finds that more are required to prevent violation.

(3) Plaques or Name Plates. Plaques or name plates no more than two (2) square feet are allowed when fastened directly to the building.

(4) Symbols or Insignia. Religious symbols, commemorative plaques of recognized historical agencies; or identification emblems of religious orders or historical agencies, provided that no such sign shall exceed eight (8) square feet in area; and provided further that all such signs be placed flat against the building.

(5) Institutional Signs. Churches, public schools, public utility companies, libraries, governmental buildings, parks, public golf courses, etc., are allowed one (1) monument sign not exceeding thirty-two (32) square feet. If the institution has frontage on more than one (1) arterial street, then an additional sign of the same size is allowed.

(6) Flags. The flags, emblems, or insignia of any nation, state, county or municipality, or Olympics organization, not exceeding twenty (20) square feet each, may be flown in tandem with each other.

(7) Public Necessity Signs. Installed by a unit of the government for control of traffic and other regulatory purposes.

(8) Holiday Decorations. Must be non-commercial in nature, clearly incidental and associated with any national, local or religious holiday, and contained entirely within the boundary of the private property on which they are erected. They must be placed to avoid confusion and traffic hazards, and removed within a reasonable period after the holiday is over.

(9) Temporary Holiday Signs. A business (in the Industrial or Commercial Zone only) may advertise a special service, product or sale on the premises of the business during the following holiday periods without a permit:

- (a) President's Day, (February 5 days);
- (b) Easter, (March or April 5 days);
- (c) Memorial Day, (May 5 days);
- (d) July 4th, (July 5 days);
- (e) July 24th, (July 5 days);
- (f) Labor Day, (September 5 days);

- (g) Halloween, (October 5 days);
 - (h) Veterans Day, (November 5 days);
 - (i) Thanksgiving, (November 5 days);
 - (j) Hanukkah, Christmas & New Years, (21 days starting December 15th and ending January 2nd);
- and
- (k) One banner sign is allowed during those periods in addition to the normal signage, mounted on the building, and not exceeding fifteen percent (15%) of the size of area of the side of the building.

(10) Changing Copy. The changing of the message on a permitted sign that has an approved marquee, reader board, electronic message, or other replaceable copy area.

(11) Political or Campaign Signs. Candidates for public office or measures on election ballots as follows:

- (a) May not be erected earlier than thirty (30) days prior to a primary election, and must be removed by the Monday following the general election. Candidates who lose in a primary election must remove their signs by the Monday following the primary election;
- (b) Shall not exceed sixty-four (64) square feet in area and, if freestanding, shall not exceed eight feet (8') in height;
- (c) May not be placed on roofs, fences, public property, in a public right-of-way, or in any manner which would impede traffic visibility or safety; and
- (d) May not be placed closer than one hundred fifty feet (150') from any building where an official voting station is located.

(12) On-Premise Real Estate Signs. Individual properties (not developments), advertising the sale, rent or lease of property may be placed as follows:

- (a) One (1) sign per street frontage up to one hundred feet (100').
- (b) Shall not exceed six (6) square feet and six feet (6') in height, unless the street frontage exceeds one hundred feet (100').
- (c) For frontages exceeding one hundred feet (100') but less than three hundred feet (300'), one (1) sign may be placed up to sixteen (16) square feet and no more than six feet (6') tall.
- (d) For frontages exceeding three hundred feet (300') one sign may be placed up to thirty-two (32) square feet and no taller than six feet (6').
- (e) On or off-premises open house real estate signs not exceeding nine (9) square feet may be placed only on private property, with the permission of the property owner. They shall not be attached to trees, poles, in rights-of-way, or other public property, and shall be displayed only during those hours in which the house is open for actual inspection. No open house may be exhibited between the hours of 7:00 p.m. and 7:00 a.m.

(13) On-Premise Home Occupation Signs. One (1) non-illuminated flat wall sign not over two (2) square feet in size which identifies the name of the business is allowed without a permit. No other forms of advertising are allowed for a home occupation.

(14) Garage Sale Signs. Must be placed on private property with the consent of the owner. May not exceed four (4) square feet in area, may not exceed three (3) signs total within the Town of Daniel, and

may not be posted more than forty-eight (48) hours prior to nor twenty-four (24) hours after the time of the sale. The sale may not last longer than forty-eight (48) hours.

Section 8.26.09 Signs Requiring a Permit.

Any sign not specifically allowed in Section 8.26.08 above, shall comply with the adopted building code.

(1) Purpose-Streetscape. The streetscape is the combination of vehicles, buildings, signs, landscaping, roads, utility poles, etc. that dominate the view of the driver or pedestrian. The streetscape tells residents and visitors how the Town of Daniel as a whole feels about the environment, safety, aesthetics, and its sense of order, among other things. A useful, attractive, and safe streetscape is one that necessarily regulates the size, location, and design of business signs. Because a proliferation of poorly designed, oversized, and inappropriately located signs in commercial and industrial areas can be detrimental to the achievement of effective, safe and attractive streetscapes, it is important that the permanent signs in these areas receive approval (permits) from the Town of Daniel.

Commercial and industrial uses are generally more intensive than those found in residential zones. Since these uses are designed, by size, location and style to attract attention and provide services to the public, they generally need signage to achieve that end. Business signs of any kind in residential neighborhoods can diminish the quality of life for which those zones were specifically created. However, there may be some residential uses that merit a sign, though much smaller and more subdued than in commercial or industrial zones.

Therefore, it is the intent and purpose of this section to outline regulations and design standards for signs in both commercial/industrial and residential areas that will allow the business to identify itself while allowing the Town of Daniel to create and maintain safe and aesthetically pleasing streetscapes regardless of zone.

(2) Sign Theme Required. All multi-tenant centers/buildings must submit a proposal for all on-premises signs to the Planning Commission for design and placement approval. When the premises of the multi-tenant parcel is five (5) acres or more, and has frontage of two hundred feet (200') or more, sign approvals may vary from the regulations set forth herein. In that event, such signs shall be considered as a conditional use, providing there is a finding that the proposed sign exceptions are not in conflict with the purpose and intent of this ordinance; and are in architectural harmony with uses adjacent to the development; and with the understanding that the existing signage may be required to be altered or removed.

(3) On-Premises Freestanding Signs. Parcels less than ten (10) acres shall not be allowed any freestanding signs except as described in (2) above for multi-tenant centers. No freestanding signs are permitted on parcels less than five (5) acres. All freestanding signs must have pole covers approved by the planning director.

(4) Ten (10) acres or more. The planning director may approve one freestanding sign per street frontage. No freestanding sign shall be allowed for any planned center or parcel that has less than two hundred feet (200') of street frontage. Sign height shall be determined by using the formula of a base height of six (6) for the first tenant, and for each additional tenant in a multi-tenant center, an additional two feet (2') in height may be added to a maximum height of twenty-five feet (25').

(5) Distance from Corner. Signs must be at least one hundred feet (100') from any corner, unless monument (minimum sixty feet (60') from corner unless special traffic safety study).

(6) Sign Area. Sign area shall be determined using the graph attached entitled "Sign Area".

(7) Changeable Copy. Reader boards, changeable copy areas, and electronic message centers are allowed, but discouraged. No such device shall exceed fifty percent (50%) of the total sign copy area of the sign.

(8) Monument Signs. The following standards shall apply:

(a) Sign Area. Sign area shall be determined using the (graph attached, entitled "Sign Area") formula for determining the exact allowable sign area which is thirty-two (32) square feet + (plus) one (1) square foot per one (1) lineal foot of street frontage over fifty feet (50'), to a maximum size of eighty (80) square feet;

(b) Minimum Street Frontage. Monument signs are allowed for any size parcel provided that the parcel has at least fifty feet (50') of street frontage;

(c) Two Street Frontages. Single tenant parcels with two (2) street frontages are allowed a sign on each street provided they are separated by at least one hundred feet (100') measured diagonally across the property from center to center of both signs. It is also required that both signs be of the same size;

(d) Visibility Triangle. No signs shall be located within a sixty foot (60') triangular area of each street corner (the area described on the attached "Visibility Triangle" chart), without a review by a traffic engineer appointed by the Town of Daniel to review the issue to determine the safety of the placement of such sign. The applicant will be required to pay all costs of the hiring of the traffic engineer;

(e) Monument Signs for Planned Commercial Centers.

(i) Monument signs shall have a logo/identification theme as part of the sign.

(ii) Planned commercial centers with two (2) or more street frontages are allowed one (1) sign on each street frontage. The signs must be separated by at least one hundred feet (100') measured diagonally across the property from the center of each sign.

(iii) The area of the sign is determined by using the "Sign Area" chart considering the length of the frontage along which the sign is to be placed, including the frontage of any freestanding buildings included within the planned commercial center.

(iv) In the case of the development of a planned commercial center on multiple parcels of property having common frontages, regardless of the number of separately owned parcels or buildings of separate occupancy within the planned commercial center, the frontage shall be considered to be the composite of the entire commonly-used parcels or buildings and not the frontage of each individual business or occupancy. The over-all frontage shall be used to calculate allowable sign area for the center identification sign.

(v) Notwithstanding the center identification sign, a freestanding building within an approved planned commercial center may request a monument sign for the individual business provided the lot is contiguous to a major arterial street and has at least one hundred feet (100') of street frontage. Such sign may be approved by the planning director upon a determination that the sign is not in conflict with the intent and purpose of this ordinance.

(vi) Freestanding buildings with two (2) street frontages are allowed one monument sign on each frontage provided such sign shall be placed no closer than one hundred feet (100') as

measured diagonally across the property from center of sign to center of sign. Additionally, the sign may not be placed closer than one hundred feet (100') from any other sign located on the same side of the street.

(f) Pedestal Required. Monument signs must have at least a one (1) foot pedestal, and the illuminated cabinet may not exceed five feet (5') in height, for a total of six feet (6') in height. The height to the top of the sign measured from the street curb may vary depending upon landscaping and berming, but the combined height of the sign and berming/landscaping may not exceed nine feet (9'). If berming is used to raise the height of the sign above six feet (6'), the entire frontage of the property must be randomly bermed. The sign base shall be landscaped.

(9) Wall Signs. Wall signs should be the primary form of identification for business uses in the Town of Daniel. Each business is entitled to one (1) wall sign if the following criteria are met:

(a) Area. The sign may not occupy more than, whichever is less, of the flat wall area. If a sloping façade or roof exists, the sign may not exceed fifteen percent (15%) or six hundred (600) square feet, whichever is less, of that area. A wall sign may not use a combination of both flat and sloping areas in calculating the fifteen percent (15%). On a sloping roof the vertical projection is used to calculate area, not actual length of the slope.

(b) Multiple Sign Area. The fifteen percent (15%) area of the primary wall and five percent (5%) of all secondary walls may be divided into more than one (1) sign with the approval of the Planning Commission under the following guidelines and restrictions:

(i) The signs blend with the aesthetics of the building and surrounding natural and manmade environment;

(ii) The color, style, size, scale and proportion enhances the exterior of the building and does not place too much bulk and external distraction on the exterior of the building;

(iii) The number of signs are appropriate to the scale of the building;

(iv) The maximum wall signs on any given wall, including multi-tenant buildings, shall be seven (7), unless the Planning Commission finds that an additional sign is consistent with the criteria contained in subsections (i) through (iii) above; and

(v) Multiple walls signs shall utilize individual lettering and logos only. No multiple cabinet signs or combination of cabinet and individual lettering signs shall be approved.

(c) Painted signs applied directly to any building face must have specific approval of the planning director.

(d) Walls signs with changeable copy, reader board, or electronic message capability are not allowed.

(e) Businesses with exposure on two (2) sides may be allowed fifteen percent (15%) on one (1) side and five percent (5%) maximum on the second side. No more than two (2) sides of the building may contain signs.

(f) Office buildings with small offices inside must have a tenant identification center sign, rather than individual signs for each tenant.

(g) Signs shall be attached so that on all sides the appearance is such that they appear to be part of the building itself, with no visible support structures such as guy wires or braces.

(h) No part of the sign structure shall project above the highest part of the wall upon which the sign is mounted. Nor shall any part of the sign project more than eighteen inches (18") from the face of the building to which it is attached.

(10) Suspended Signs. Permitted in place of wall signs are allowed if the architecture of the building or planned center lends itself to that design and a sign theme is submitted and approved by the Planning Commission. The following shall apply:

- (a) May not exceed fifteen percent (15%) of flat wall of the tenant space;
- (b) May not project beyond the canopy or facade to which it is attached;
- (c) Must have at least eight-inch (8") clearance above the sidewalk or landscaped area over which it hangs; and
- (d) There must be at least five feet (5') horizontal distance on both sides between suspended signs.

(11) Awning Signs. Only allowed under the following circumstances:

- (a) Must fully comply with the sign standards;
- (b) If in a planned center or multi-tenant center, must conform to an approved sign theme;
- (c) Limited to the first story only;
- (d) Must function as awnings over a doorway, walkway, window, etc.
- (e) No above sloping or mansard roofs;
- (f) Area of sign limited to fifteen (15) percent of wall area on primary wall and five (5) percent if a secondary wall is also used;
- (g) Copy on the awning limited to forty (40) percent of awning;
- (h) Illuminated, translucent vinyl awnings are not permitted. Translucent accents sewn into opaque canvas or acrylic awnings are permitted;
- (i) Shall not project out from the wall more than eight (8) feet nor less than two (2) feet, except for awnings over an entrance walkway which leads to the main entrance, if compatible with the architecture of the building;
- (j) Shall not project above the highest part of the vertical wall on the first floor;
- (k) There shall be a minimum clearance of seven (7) feet to the bottom of the valance and eight (8) feet to the frame above the sidewalk; and
- (l) Must be maintained in a clean, safe, and attractive condition; failure to do so will result in revocation of the sign permit.

(12) Gas Station Canopies. Signs for canopies over gas islands are regulated as follows:

- (a) Maximum Sign Area.** Sign copy, corporate logos, etc., may be a maximum of fifteen (15) percent of one face of the canopy;
- (b) No More than Three Sides.** Up to three (3) sides of the canopy may be used for signs;
- (c) Maximum Height.** The height to the top of the canopy may not exceed twenty (20) feet from grade and no canopy fascia may exceed four (4) feet in height;

(d) Maximum Font Size. Individual letters, logos or symbols may not exceed four (4) feet in height and may not project out from the surface of the canopy more than eighteen (18) inches, or project above or below the canopy; and

(e) Gas Prices. Gas prices are allowed on the monument sign or below the canopy over the pumps. They are not allowed on the canopy itself. One (1) double faced sign not over four (4) square feet for each type of fuel sold is allowed per gas island up to a maximum of four (4) sets.

(13) Temporary On-Premise Signs (located on a single lot during a building phase). Individual lots may have one (1) sign, not exceeding sixteen (16) square feet nor six (6) feet in height, announcing the name of the construction company, lender, landscaper company, architect, etc. that is contributing to the building effort for that lot. The sign may not be placed more than five (5) days prior to beginning construction for which a valid building permit has been issued. The sign must be removed prior to occupancy of any portion of the building.

(14) Development Promotional Signs. May be placed on the premises of each development or approved unit sites in any residential or mixed-use zone. The total size allowed for the signs depends upon the acreage contained in the development, or the phase of the development, as described below:

(a) One to ten (1-10) acres of land in the phase being advertised, may have one (1) sign not over thirty-two (32) square feet or two (2) signs of not over sixteen (16) square feet, and not higher than seven (7) feet tall;

(b) Eleven to twenty (11-20) acres of land in the phase being advertised may have one sign not over sixty-four (64) square feet or two (2) signs not over thirty-two (32) square feet and not higher than seven (7) feet tall;

(c) Twenty-one to forty (21-40) acres of land in the phase being advertised may have one (1) sign not over ninety-six (96) square feet or two (2) signs not over forty-eight (48) square feet and not higher than eleven (11) feet tall;

(d) Forty-one (41) and over acres of land in the phase being advertised may have one (1) sign not over one hundred twenty-eight (128) square feet or two (2) signs of not over sixty-four (64) square feet, and not higher than fifteen (15) feet tall;

(e) On development parcels over two hundred and fifty (250) acres in size the planning director may allow one (1) sign not over fifteen (15) feet in height and up to one hundred twenty-eight (128) square feet for every five hundred (500) feet of street frontage;

(f) No such signs may be placed until such time as the Town of Daniel has granted preliminary approval for the phase to be advertised, and such signs must be removed upon the sale of the last unit in the phase being advertised or two (2) years, whichever is shorter. Two (2) additional one (1) year extensions may be granted by the planning director after reviewing the appearance of the sign as to maintenance and the conformance with the chapter. In no event shall such signs remain in place for longer than four (4) years; and

(g) Must comply with any requirements of the building code adopted by the Town of Daniel.

(15) Commercial or Industrial Developments. On-Premise signs promoting the development may be placed on the premises of each development having five (5) or more units in any commercial or industrial zone, under the following regulations:

(a) One to fifteen (1-15) units may have one (1) sign not over thirty-two (32) square feet and not higher than seven (7) feet tall;

(b) Sixteen to thirty (16-30) units may have one (1) sign not over sixty-four (64) square feet and not higher than seven (7) feet tall;

(c) Thirty-one to sixty (31-60) units may have one (1) sign not over ninety-six (96) square feet and not higher than eleven (11) feet tall;

(d) Sixty one (61) or more units may have one (1) sign not over one hundred twenty-eight (128) square feet and not higher than fifteen (15) feet tall.

(e) If the street frontage of the property exceeds one hundred (100) feet, then the total area of the sign permitted for that development may be divided into two (2) signs provided they are placed no closer than one hundred (100) feet apart;

(f) The development must have preliminary approval prior to placement of the sign or signs and the signs must be removed upon sale of the last unit or two (2) years, whichever is shorter. Two (2) additional one (1) year extensions may be granted by the planning director after reviewing the appearance of the sign as to maintenance and the conformance with our then existing sign ordinance. In no event shall such signs remain in place for longer than four (4) years; and

(g) Must comply with any requirements of the building code adopted by the Town of Daniel.

(16) Window Signs. Signs which are painted on or temporarily affixed to a window surface and cover no more than twenty (20) percent of the total window area on the face of the building unit to which the sign is affixed. Window signs may only be used on one (1) side of the unit. These signs are allowed only in a commercial, industrial, or mixed use zone.

(17) Off-Premise Directional Signs. No off-premise signs are permitted except for sign ladders (example shown on graphic attached entitled "Sign Ladders"), which have been created by the Town of Daniel and placed on strategic corners on public property, to point the way to businesses that are not located on the premises of the sign. These signs can be placed in any zone upon approval of the Planning Commission:

(a) Number of Sign Ladders. The Town of Daniel shall place no more sign ladders than deemed appropriate by the Planning Commission at the intersection of arterial and major collector roads, and no more than one (1) sign ladder shall be placed on any corner at any intersection;

(b) Pole Height and Attachments. The height of the base pole for each sign shall not exceed twelve (12) feet and may not contain more than eight (8) attachment signs, which shall be uniform in size measuring no more than twelve (12) inches by thirty (30) inches.

(c) Priority for Placement. The attachment signs shall be placed on the basis of first application has first priority for a choice of placement in one location. If there are insufficient spaces available at any location, the later applicants will be offered placement in other locations before any business is permitted a second location, provided, however, if an application is accepted after placements have been awarded for that cycle, the late application will either be offered a site that has not been reserved and is still available, or must wait until the next cycle.

(d) Review of Placement. The signs will be reviewed for placement of attachment signs once every six (6) months, in March and September of each year. Applications must be submitted before March 1st and September 1st of each year to ensure consideration for placement during that cycle. Applications will be date and time stamped to establish priority and may be filed at any

time during the year. Once placement has been obtained the applicant may retain placement until the placement is again reviewed, regardless of new applicants who apply after the site has been awarded to an applicant. If any business advertised on such attachment sign closes business, the attachment sign will be removed and will not be replaced by another sign until the next review cycle.

(e) Payment of Fees. The applicant must pay the appropriate sign fee adopted by the Town of Daniel legislative body at the time of submission of the application. This fee will include a fee for the creation of the sign extension or the replacement of faded or damaged sign extensions previously used. The determination of whether a new extension sign is needed or not will be at the sole discretion of the planning director. In addition to any fee that might be necessary for the creation of a sign extension, there shall be charged a fee, as established by the Town of Daniel legislative body, for the administration of the sign program.

(f) Drawings Required. The applicant will be required to provide a drawing of the requested attachment sign. The size, color and type of style will be considered by the planning director while considering a uniform, attractive, readable sign theme that will not create a traffic hazard or any greater advertising advantage for one (1) sign than the other. Any business wishing to include a logo on their sign shall submit a drawing of the desired logo and its proposed location on the sign attachment, along with their application. All colors and type sizes of letters will be uniform. Type styles may vary to allow for recognition of typestyles normally used for that particular business. Logos may be colored in a color consistent with the normal color of the logo. Other than the logo and/or the name of the business and a directional arrow, there shall be no other advertising copy allowed on the sign.

(g) Effect of Existing Illegal Signs. No applicant will be considered for placement on a sign ladder if they are exhibiting illegal signs under this chapter.

(18) Temporary Signs Requiring a Permit.

(a) Type and Placement. Shall not be placed in, on or over a public right-of way, may not contain any blinking or flashing or moving parts, may not block visibility or create a safety hazard or nuisance of any kind. They may not be attached to telephone poles, fences or trees, but may be firmly secured to the building, an existing sign or the ground. No off-premise temporary signs are allowed except those specifically noted and regulated for real estate purposes for a single lot or during the hours of an open house.

(i) Grand Opening Signs. May not continue more than sixty (60) days during the first year of operation of the business. A combination banner and portable sign may be approved. The size and location must comply with permanent signage requirements for that zone.

(ii) Special Promotion Periods. A business may apply for three (3) special promotion periods during the calendar year, not to exceed seven (7) days each, unless periods are combined to run consecutively.

(iii) Going Out of Business. For a period not to exceed ninety (90) days, only once for any business license.

(iv) Inflatables. Hot or cold advertising air balloons or inflatables.

Section 8.26.10 Permit Process.

(1) Sign Permit Required. No person shall erect, install, or paint any sign, or change the face of any sign whether it be temporary or permanent in nature, without obtaining a sign permit from the planning staff, except as outlined in this chapter. This includes new signs, signs to be added to existing buildings or uses, and existing signs that are to be enlarged, changed or modified.

(2) Permit Issuance Before Sign Placement. Any new or existing signs installed or maintained without a permit except as allowed under this chapter, will be required to be removed or will be charged a penalty fee of one hundred dollars (\$100.00) or double the applicable sign permit fee, whichever is greater, at the time the owner/operator of the sign makes application for a sign permit with the planning staff. This paragraph does not limit the ability of the Town of Daniel to require the signs to be removed or to prosecute any criminal penalties for placement of the illegal sign.

(3) Permits For Prior Non-Conforming Signs. All existing signs that do not conform to this chapter, but are allowed as prior non-conforming signs, must obtain a sign sticker from the planning staff prior to May 1, 2000. The obtaining of this sticker will create a record of eligible non-conforming signs and confirm the non-conforming use until such time as the sign must be updated under this chapter. Any non-conforming sign that does not display a sticker confirming the non-conforming eligibility prior to May 1, 2000 shall lose its eligibility as a non-conforming sign and will be required to be updated to conform with this chapter. There will be no application fee required to obtain a non-conforming eligibility sticker except for the actual cost of the manufacturing of the sticker itself. Such stickers must be displayed in the lower left-hand corner of each sign.

Section 8.26.11 Site Plan Design and Review.

(1) Signs to be reviewed as Part of Development Review Process. When new buildings or developments are presented for Site Plan Review, signs proposed for the development shall be reviewed concurrently by staff. All planned centers and multi-tenant buildings must submit a sign theme for approval by the Planning Commission. The center must have an approved sign theme before any sign permits will be issued. If a plan for a sign package is not submitted at site plan review, which is encouraged, the developer will be notified of sign ordinance standards and expected to submit plans that will adhere to the code.

(2) Sign Design. Applicants for sign permits should give serious consideration to the following elements when submitting plans for signs:

- (a) Architectural compatibility;
- (b) Color and style;
- (c) Size, scale, proportion and balance;
- (d) Location;
- (e) Landscaping; and
- (f) If the planning staff believes that the application for a sign permit has not considered the above listed criteria and shown such consideration in the submitted plans, the application may be submitted to the Planning Commission for further approval/denial.

Section 8.26.12 Required Information.

(1) Monument and Freestanding Signs.

- (a) Plot plan showing the relationship of the sign to buildings, property lines, existing signs, setback from public rights-of-way, intersections, easements and driveways;
- (b) Two (2) accurately dimensioned, scaled drawings showing height, color, square foot dimensions, landscaping, sign composition, type of illumination, and how the sign will appear from the street;
- (c) Details of sign construction including electrical plan, foundation scheme, and value of the sign; and
- (d) Number of acres and length of lineal frontage of the property.

(2) Wall Signs.

- (a) Two (2) scaled drawings showing square foot dimensions of both the building and the sign, sign composition, and type of illumination;
- (b) A profile drawing of how the sign will appear from the street/parking area and on the building; and
- (c) Details of sign construction and attachment including electrical plan.

(3) Temporary Signs.

- (a) Plot plan showing the relationship of the sign(s) to buildings, property lines, setbacks from public rights-of-way, intersections, easements and driveways; and
- (b) Length of period for display, type of request.

(4) Additional Information Required.

- (a) Proof of current Town of Daniel business license;
- (b) Business address and phone number;
- (c) Address of property owner and phone number;
- (d) General or electrical contractor name, address, phone and license number;
- (e) Value of sign;
- (f) A statement by the building official indicating whether a building permit is required for the erection of the proposed sign; and
- (g) Any other information which is requested in the approved application form.

Section 8.26.13 Permit Tag.

(1) Sign Permit Required. No person shall erect, install, or paint any sign, or change the face of any sign whether it be temporary or permanent in nature, without obtaining a sign permit from the planning staff, except as outlined in this chapter. This includes new signs, signs to be added to existing buildings or uses, and existing signs that are to be enlarged, changed or modified. Failure to comply renders each such sign illegal and subject to criminal penalties.

(2) Erection of Sign Without a Permit. Any new or existing signs installed or maintained without a permit except as allowed under this chapter, will be required to be removed or if allowed to remain and obtain a permit, will be charged a penalty fee of one hundred dollars (\$100.00) or double the

applicable sign permit fee, whichever is greater, at the time the owner/operator of the sign makes application for a sign permit with the planning staff.

(3) Permit Required for Prior Non-Conforming Signs. All existing signs, which do not conform to this chapter, but are allowed as prior non-conforming signs, must obtain a sign sticker from the planning staff prior to April 1, 2000. The obtaining of this sticker will create a record of eligible non-conforming signs and confirm the non-conforming use until such time as the sign must be updated under this chapter. Any non-conforming sign that does not display a sticker confirming the non-conforming eligibility prior to May 1, 2000 shall lose its eligibility as a non-conforming sign and will be required to be updated to conform with this chapter. There will be no application fee required to obtain a non-conforming eligibility sticker except for the actual cost of the manufacturing of the sticker itself. Such stickers must be displayed in the lower left-hand corner of each sign.

Section 8.26.14 Safety and Location Standards.

(1) Standards of Construction.

(a) Must Comply with Codes. All signs erected in the Town of Daniel shall comply with the building code adopted by the Town of Daniel and the Town of Daniel sign standard effective at the time the permit is issued;

(b) Licensed Contractor for Electrical. No sign, fixture or device involving electrical wiring or connections shall be erected or installed in the Town of Daniel except by a licensed and bonded contractor;

(c) Engineering. All signs shall be engineered to demonstrate conformance with the applicable provisions of the building code adopted by the Town of Daniel;

(d) Materials. All signs must be built of durable and permanent materials; and

(e) Underground Power. Permanent power sources for signs must be concealed underground away from public view.

(2) Traffic Safety. No sign or other advertising structure shall be erected which in any manner may be confused with an official traffic sign or signal, or which bears words normally used in such signs, (i.e., stop, go slow, caution, danger, warning, etc.). No sign or any advertising structure shall be erected when by reason of its size, location, shape, content, coloring, or manner of illumination might be confused as a traffic control device. No sign shall have lighting, which impairs the vision of anyone traveling upon a public street or distracts any driver so as to create a public nuisance or safety hazard. Specifically, no sign or group of signs may exceed one (1) foot candle in brightness as measured at the property line.

(3) Clear View of Intersecting Streets. No sign more than three (3) feet in height above the top of the curb (or the centerline of the street if there is no curb) shall be erected at any intersection for vehicular traffic within a triangular area formed by the intersection of straight lines extended from the back of the curb (or future curb) and a line connecting them at points sixty (60) feet from the intersection of the lines. Monument signs may be erected in the above-mentioned area if they are less than three (3) feet above the curb grade to the top of the sign. The Planning Commission must approve any removal of landscaping in order to accomplish that objective. See attached "Visibility Triangle" exhibit. Any deviations from these requirements must be reviewed and approved by the

planning staff after conferring with other departments of the Town of Daniel. Decisions of the planning staff may be appealed to the Board of Adjustment.

(4) Specific Clearance and Location Requirements. The following rules apply for all signs:

- (a) Freestanding signs shall not extend over any pedestrian or vehicular access area unless specifically approved by the planning staff;
- (b) No part of any sign shall interfere with the use of any fire escape, exit, required stairway, door ventilator, or window;
- (c) No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the state of Utah or its agencies;
- (d) No sign shall be located on publicly owned land or inside street rights-of-way, except signs owned and erected by permission of an authorized public agency or specifically authorized herein;
- (e) High profile (freestanding) and low profile signs shall be located at least their height in distance from side property lines in order to prevent damage to adjacent land in case a sign is toppled by accident or an act of God; and
- (f) Low profile (monument) signs shall be set back at least three (3) feet from the front sidewalk or right-of-way reserved for any future sidewalk, and from all driveways.

(5) Maintenance. Every sign shall be kept in complete operating condition. The landscaped area in which any sign is placed shall be kept free from weeds, garbage and debris. Landscaping shall also be maintained. "Maintenance" includes the repair of facades where signs have been removed, the painting, cleaning, repairing of the sign. "Maintenance" does not include structural alterations, cosmetic or style changes or enlargements of face changes.

(6) Landscaping. All freestanding or monument detached signs installed in Daniel must be incorporated into a landscape design or planter box. Exceptions to this rule must be approved by the Planning Commission. The Planning Commission must also approve any permanent removal of landscaping for the purpose of situating a sign.

(7) Pole Covers. All on-premises freestanding signs must have the structural supports covered or concealed with pole covers (pylon covers) at least twenty four (24) inches wide. The actual structural supports shall not be exposed, and the covers must be architecturally and aesthetically designed to match the building.

(8) Foundations. All signs must be permanently mounted on foundations and footings that conform to the building code adopted by Daniel.

(9) Pedestal Required. All monument signs must have at least a one (1) foot opaque pedestal designed as part of the foundation, which conceals any pole support. The pedestal should run at least fifty (50) percent of the horizontal length of the sign, and there may not be any exposed space between the pedestal and the ground or landscaped area. The planning director may review and approve/deny any variation to the pedestal base requirement.

(10) Lighting. The light from the illumination of signs shall be carefully directed so that the light is not obtrusive or a nuisance to adjacent properties particularly residential areas.

(11) Building Identification. All buildings shall be identified with a numbered or lettered street address in addition to option business identification. The letters or numbers shall be at least four (4)

inches in height and shall be placed in a location where they are readily located and readable from the street.

Section 8.26.15 Measurement of Regulated Sign Area.

(1) Wall Signs. Sign copy mounted or painted on a background panel or area painted, textured or constructed as a background for the sign copy shall be measured as that area contained within the outside dimensions of the background panel or surface which contains sign copy, logos, etc. They are by definition wall signs in their entirety and as such may not exceed fifteen (15) percent of the wall area. For sign copy mounted as individual letters and/or graphics against a wall or fascia of a building or other structure that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy the area shall be defined as the area included within the smallest six (6) sided polygon that will enclose all sign area. For sign area on an illuminated sign or illuminated architectural element of a building, the entire illuminated surface or illuminated architectural element that contains sign copy shall be counted as sign area.

(2) Monument Signs. The regulated area of a monument sign shall include all parts of the sign or structure that contains identification and information, or if illuminated, the entire illuminated area.

(3) Multiple Face Signs.

(a) Single Panel. Measure the area of the single face only.

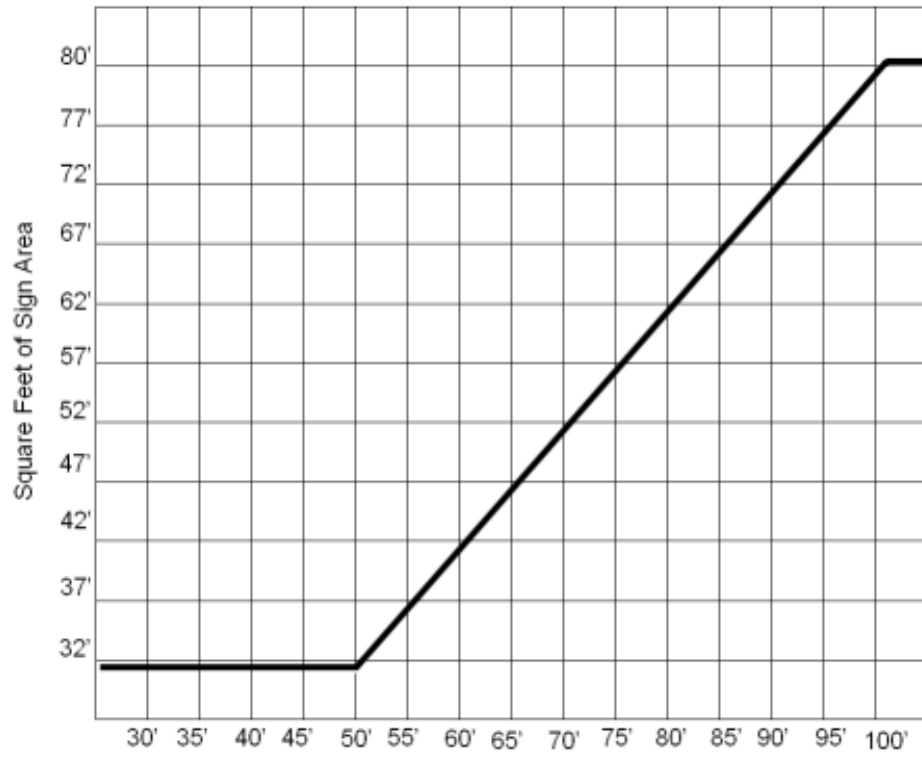
(b) Double Panel. If the interior angle between the two (2) faces is forty five (45) degrees or less, the area to be measured will be the area of one (1) face only (the largest). If the angle between the two (2) sign faces is greater than forty-five (45) degrees, the sign area to be measured will be the sum of the area of the two (2) faces.

(c) Three or More. The Sign Area shall be the sum of the areas of the three (3) or more faces.

(4) Freestanding Signs. The regulated area of a freestanding sign shall include all parts of the sign or structure that contains words or symbols and information. The height of a freestanding sign shall be the distance from the highest point of the sign to the top of the curb or sidewalk or crown of the street when there is no curb or sidewalk.

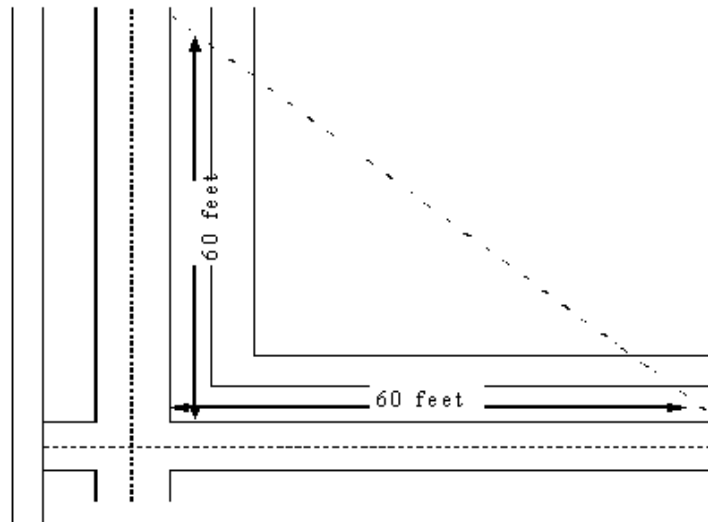
(5) Other Sign Shapes. Allowed but not encouraged. For spherical, free-form, sculptural or other non-planer signs, special approval must be granted by the Planning Commission and the area shall be the sum of the areas of the four (4) vertical sides of the smallest polyhedron that will encompass the sign structure.

Section 8.26.16. Exhibit #1 "Sign Area" Chart.



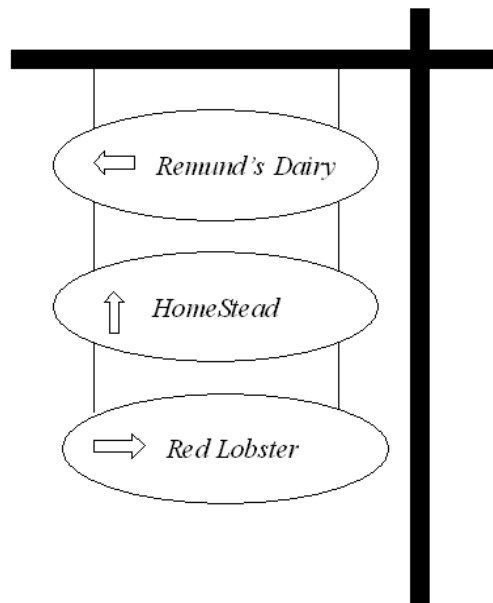
Section 8.26.17 Exhibit #2 "Visibility Triangle" Chart.

Sign Visibility Triangle
Sixty (60) feet from edge of right-of-way



Section 8.26.18 Exhibit #3 "Sign Ladder" Chart.

"Sign Ladder"



Section 8.26.19 Ordinance 99-07.

This Chapter was first enacted as Ordinance 99-07 (12/27/99) and is codified as part of this ordinance.

Chapter 8.27

DEVELOPMENT STANDARDS

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| 8.27.30 | Property Access Requirements. |

- 8.27.31 Cul-de-sacs.**
- 8.27.32 Nuisance Strip**

Section 8.27.01 Purpose.

The purpose of this chapter is to establish the standards and regulations for specific developments, whether small scale or large scale, and whether permitted by right in the zone or whether additional density is granted as a conditional use for meeting standards set forth in the Planned Performance Development Sections.

Section 8.27.02 Development Review Committee Created.

- (1) In order to more effectively facilitate the review and processing of development applications, there is hereby created a Development Review Committee.
- (2) The Development Review Committee is composed of representatives from:
 - (a) The planning staff;
 - (b) The engineering department;
 - (c) The water resource department;
 - (d) The fire marshal's office;
 - (e) The health department;
 - (f) The public works department;
 - [(g) The sheriff's department;]
 - [(h) The county surveyor]
 - (i) Special service districts;
 - (j) Any other party having pertinent information, when requested by the planning director.
- (3) The planning director or its designee shall chair this committee.

Section 8.27.03 Scope.

Any person, partnership, firm, corporation or other business entity wishing to develop within the incorporated area of the Town of Daniel shall comply with the provisions of this chapter.

Section 8.27.04 Type of Developments.

The following are types of developments that are considered by this Title. The following developments are required to attend a pre-application conference prior to making application to the Planning Commission.

(1) Small-Scale Development. A development consisting of no more than five (5) lots, units or Equivalent Residential Units, which is processed through the planning staff without the necessity of having a hearing before the Planning Commission.

(2) Farm Preservation Development. A development consisting of not more than five (5) lots including a lot which is a minimum of 20 acres. Farm preservation developments shall follow the same process as a small scale development.

(3) Large Scale Development. A development consisting of more than five (5) lots, units or Equivalent Residential Units, which must be processed by staff and brought before the Planning Commission for their recommendation prior to a hearing before the Town of Daniel legislative body.

(4) Planned Performance Development. A Development that is encouraged to use imaginative, efficient utilization of land as well as consolidation of open spaces and clustering of the dwelling units. Density in the planned performance development is determined by additional amenities and open space. (See 8.29)

Section 8.27.05 General Submittal Requirements.

The General Submittal Requirements are not inclusive. Additional information can be found under each type of development.

The General Submittal Requirement Package shall contain a submittal of the development application in a form which complies with the following:

(1) The plans shall be drawn to a scale not smaller than one inch equals one hundred feet (1" = 100'), and shall show the following:

- (a) Project name and address;
- (b) North point, scale, date;
- (c) A copy of the record of survey filed with the Wasatch County surveyor's office;
 - (i) In the event that the development has multiple phases, the proposed plat shall show the recorded file number of the record of survey and/or paper copy of the survey;
- (d) A copy of the coordinate sheet which shall show the following:
 - (i) The courses and distance of the proposed development/subdivision boundary and the error of closure;
 - (ii) The area of the lot in square feet and acres, and the error of closure for each lot within the plat;
- (e) All open spaces and roadways are to be considered as individual parcels and treated as such.
- (f) Names, addresses, and telephone numbers of developer, engineer, and current and prospective owners;
- (g) Nearest section corner tie, township(s) and range(s);

- (h) Acreage, property dimensions, project perimeter, legal description;
- (i) All proposed phases of the development, numbered and defined, with approximate timetable for development;
- (j) Location of entire development in relation to surrounding neighborhoods and developments (include names of adjacent subdivisions and developments, adjacent property owners' names and addresses, and adjacent land uses and buildings);
- (k) Existing topography with a contour interval of two (2) feet;
- (l) Grading plans illustrating cut and fill limits and limits of disturbance and landscaping plans including topographic lines.
- (m) Existing and proposed lot lines, easements, walkways, streets and rights-of-way (public and private), including widths, names, and numbers, on subject and surrounding areas; proposed dedications of public use areas; existing and proposed curb, gutter, and sidewalk. Sidewalks may not be required in all residential areas, but should be noted on the plans if proposed by the developer or if required by the Town of Daniel after initial review. Commercial or mixed use areas will require sidewalks;
- (n) Existing waterways (including irrigation), significant vegetation, and natural features of the land;
- (o) Sensitive lands, including slopes over twenty five (25) percent, flood hazard areas, fault line setback areas, wetlands, high water table areas, landslide areas, alluvial fan, flood debris flow, or collapsible soil hazard areas, shallow ground-water areas, stream or drainage corridor setback areas, springs, seeps or surface water areas, detention basin areas, established road and utility corridors, ridge line areas and geologic hazards;
- (p) Soils testing and geotechnical analysis as required by the Town of Daniel;
- (q) Existing and proposed infrastructure including all fire hydrants, water and sewer lines, storm sewer system, and all utilities, including but not limited to electricity, natural gas, telephone, cable television;
- (r) Proposed layout of all public and private streets, if any, including profiles (same scale as site plan) and cross-sections (same as Town of Daniel standards, at an interval of one hundred (100) feet (or as determined by the Town of Daniel planner));
- (s) Location and elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures;
- (t) For commercial or mixed use projects, a landscaping plan illustrating evergreen / deciduous plant massing, planting materials, irrigation plans revegetation areas, limits of disturbance, etc. For residential single-family projects the following will be required;
 - (i) A calculation of the amount of water that will be needed on the land for landscaping purposes;
 - (ii) A plant materials list;
 - (iii) An irrigation, sprinkling system design plan;
 - (iv) A plan for the revegetation of cuts and fills;

(u) Drainage plans illustrating that the development as planned does not impose adverse impacts to the drainage system or increase the sediment contribution to receiving waters. The drainage plan will illustrate methods of controlling runoff, directing flow and detaining or retaining water. Methods in preparing the necessary items to be contained in the drainage plan are described in *A Guide for Erosion and Sediment Control for Wasatch County*. The drainage plan shall include the following:

- (i) Site Description;
- (ii) Development Plan;
- (iii) Drainage Assessment; and
- (iv) Storm Water Pollution Prevention Plan.

(v) Parking, access and loading plan, including required bus pullouts and/or other proposed mass transit plans;

(w) Unit configuration footprints and typical architectural elevations;

(x) Tabulation of projected ERU's, as described in the plan, number of housing units by type with the number of bedrooms, parking stalls provided, building square footage, building footprint square footage, open space acreage and percentage, landscape acreage and percentage, hard surface acreage and percentage;

(y) View shed analysis illustrating existing and proposed views from selected vantage points. Compatibility to the surrounding environment and development, along with color, scale, and massing will be key elements evaluated. Any combination of vantage points may be required to be analyzed. (See Appendix 4 – Viewing Platform Map) Visual assessments (from relevant designated vantage points as directed by the Daniel Planning Commission or its appointee) depicting conditions before and after the proposed development. These shall include the proposed location, size, design, landscaping, and other visual features of the project to assist in analyzing the potential aesthetic impact and most advantageous location of structures and other improvements to reduce any adverse impacts. The visual assessment shall be conducted using techniques as approved by the Daniel Planning Commission or its appointee, including but not limited to sketches, models, hand-enhanced photographs, and computerized images. Selection of the appropriate technique will depend on the size of the development and the visual sensitivity of the proposed development site.

(z) Any additional information which the Town of Daniel planner and/or Planning Commission may reasonably require in a specific instance. Where a developer owns or controls more land than he or she wishes to develop immediately, the Town of Daniel may require that a preliminary plan of the whole area be submitted, in which case the developer shall indicate the portion to be developed immediately and the portion to be held for future development.

Section 8.27.06 Small Scale Development Regulations.

Division of land into five (5) or fewer parcels and/or the development of five (5) or fewer parcels or ERUs may be processed as a small-scale development provided the parcels meet the minimum lot size for the zone.

(1) Developments to be in the Same Zone. Each of the lots in a development must be located entirely within the same zone in which the development is anticipated.

(2) Minimum Lot Size to Qualify. Lots smaller than the acreage required in the underlying zone cannot be processed as a small-scale subdivision.

(3) Sewer and Water Requirements. Lots less than five acres must be connected to a public sewer system. All lots must prove adequate water rights for culinary use as well as sufficient water to irrigate any land which has been historically irrigated.

(4) Compliance with this Title. Any small or large-scale development must meet the requirements of this title, regarding lighting, landscaping, emissions, signs, environmental regulations, or any other section of this title that is applicable to the development.

(5) Further Division. Further division of any lot after a total of five (5) lots, units or ERUs have been created must be processed as a large scale development.

(6) Geologic Hazards. Small scale developments may be required to provide geotechnical analysis as part of the subdivision or development approval. See Chapter 8.17.

Section 8.27.07 Process For Developing Small Scale Developments.

In order to develop a small scale development in any zone, the developer must go through the following procedures:

(1) Developer must submit a complete application for a small scale development and pay the application fee.

(2) Developer must prepare a preliminary drawing of the proposed plat, containing all items required by the provisions of this title, and submit any plans or studies required under this title.

(3) Developer must schedule an appointment with planning staff to review the application and the preliminary plat.

(4) If application is completed, the planning staff shall take the preliminary plat to the next available meeting of the Development Review Committee for comment. The planning staff shall advise the developer of modifications or if additional information is required. Any appeal of a decision of the Development Review Committee shall be forwarded to Planning Commission for consideration.

(5) Developer shall make whatever modifications to the preliminary plat required by planning staff and the Development Review Committee, and shall prepare a final plat on paper to be reviewed by the county surveyor's office. If the surveyor's office does not have any changes that need to be made, a Mylar may be submitted.

(6) If planning staff and the Development Review Committee approve the final plat, the developer shall obtain the necessary signatures of the owner and lien holders, before a notary public. The signed final plat shall then be returned to the planning staff.

(7) The planning staff shall then circulate the final plat within the Town of Daniel and special service districts and obtain the necessary signatures of such departments, including the Mayor.

(8) The Daniel Planning Commission or its appointee shall forward the final plat and documents to the office of the town recorder and/or the Wasatch County recorder for recording. All fees must be

paid by the developer at the time of recording. If the final plat is not recorded within one (1) year of receiving final approval from the Planning Commission, the approval shall expire.

(9) Any appeal of a decision of the Development Review Committee shall be forwarded to the Planning Commission for consideration.

(10) The subdivision boundary monuments must be in place and verified before filing the plat.

Section 8.27.08 Farm Preservation.

(1) Intent. The intent of the farm preservation subdivision is to encourage the continuance of viable farming operations by allowing parcels to be split off of a larger farm pieces and allow development with standards that are not as strict as a standard development. By allowing a lesser standard, the intent is for the farmer to be able to have a more manageable piece of property, allow family members an affordable parcel so they can afford to live close to the farm and provide the opportunity for raising of money to continue an agricultural pursuit.

(2) Requirements.

- (a) All of the property must be in a RA-5 zoning district.
- (b) Farm preservation subdivisions cannot contain more than a total of 5 lots.
- (c) At least one (1) of the lots must be twenty (20) acres and remain in agricultural pursuits and must qualify for greenbelt status under the property tax laws.
- (d) All of the lots must meet the frontage requirement for the zone they are located in.
- (e) All roads must meet the road standards required for the traffic volume.
- (f) Homes may be on septic tanks as long as the density of the development does not exceed one (1) septic tank for every five (5) acres (gross acreage).
- (g) Parcels cannot be further subdivided.
- (h) A deed restriction must be recorded on the 20-acre farm preservation parcel requiring the parcel to remain agricultural and not allowing further subdivision for a period of ten (10) years.
- (i) A plat must be recorded with "Farm Preservation subdivision," in the title.
- (j) Property proposed for development must be owned by the property owner or immediate family with three (3) degrees of consanguinity for a minimum of seven (7) years prior to application for subdivision.
- (k) If the farm preservation piece is proposed to be developed all lots including existing smaller lots must tie onto sewer and water.

Section 8.27.09 Large Scale Development Regulations.

The process for developing any large scale development is as follows:

(1) Sewer and Water Requirements. Developments more dense than five (5) acres per dwelling must be connected to a public sewer system. All lots must provide adequate water rights for the culinary use as well as sufficient water to irrigate any land that has been historically irrigated.

(2) Compliance With this Title. Any large scale development must meet the requirements of this title regarding lighting, landscaping, emissions, signs, environmental regulations, or any other section that indicates applicability to the development being considered.

(3) Process for Developing Large Scale Developments.

(a) Concept Plan. All large scale developments are required to submit a concept plan to be reviewed by the Development Review Committee.

(b) Planned Performance Development. Planned performance developments shall receive master plan, density, and overall preliminary approval under one application. Density shall be established by determining physical and infrastructure constraints (see 8.27.24) of the site and coming up with a feasible number of buildable lots. In zones that allow density bonuses, the density shall be used as a base. After master plan and density approval the process shall follow the large-scale development requirements.

(c) Preliminary Approval. Developer shall submit a complete application form for the type of development requested and pay the appropriate application fee, along with the preliminary plans and drawings and any documents or other items required for the development type. Preliminary approvals shall be for the entire property.

(d) Review For Completeness. The planning staff shall review the application to determine if the application is complete. This review shall not be a review as to the quality of the application, but only to determine if all required items have been provided.

(e) If Incomplete. If the application is found to be incomplete, the planning staff will notify the developer and advise the developer of the additional items that are necessary to make the application complete.

(f) If Complete. If the application is found to be complete, the planning staff will notify the developer in writing of that fact, and place the item on the next Development Review Committee agenda.

(g) Development Review. The planning staff shall distribute the drawings and other appropriate documents to the Development Review Committee and any other appropriate persons or entities for review and comment on the proposal. The planning staff shall advise the developer of any issues that need to be addressed or modified to satisfy the requirements for the development. If deemed appropriate by the planning staff, an appointment will be made for the developer to discuss issues directly with the Development Review Committee. The Development Review Committee will then make recommendations to the Planning Commission for approval, denial, and/or conditions to be placed on any approval.

(h) Placement on Agenda. The planning staff shall, after an item is determined to be complete and has been distributed to the various members of the Development Review Committee, place the matter on the agenda for appearance before the Planning Commission. The planning staff shall then write a report to the Planning Commission taking into consideration the recommendations of the Development Review Committee. If at any time issues are found that have not been satisfactorily addressed, the item may be pulled off the agenda.

(i) Planning Commission. The Planning Commission will hold a hearing, after proper public notice, and will allow for public comment on the matter. If Planning Commission makes a recommendation for approval, the proposal will be forwarded to the Town of Daniel legislative body.

(j) Town of Daniel Legislative Body. After receipt of the recommendation of the Planning Commission, and performance of any conditions that are required to be completed before a hearing before the Town of Daniel legislative body, the planning staff shall publish any necessary notice and place the matter on the next available agenda for a public hearing before the Town of Daniel legislative body. The Town of Daniel legislative body shall hold a public hearing and solicit public comments on the matter. Unless continued to a later hearing, the Town of Daniel legislative body shall issue their decision on the matter. The decision may be to approve, approve with conditions, or to deny the application. If the Town of Daniel legislative body considers any substantial changes to the development that were not considered by the Planning Commission, the matter shall be referred back to the Planning Commission to consider such substantial changes.

(k) Final Approval Process. Prior to the expiration of the preliminary approval, the developer shall submit an application for final approval. The application for final approval will be considered by the Planning Commission without a public hearing by the Town of Daniel legislative body so long as the final plan has not deviated from the approved preliminary plan or if determined by the planning director that any proposed changes are in keeping with the approved preliminary plan. The plat will be signed by the mayor.

(l) Plat Recordation. After receiving final approval, but prior to expiration thereof, the developer shall submit the final plat and all necessary final documents, bonds and/or development agreements, which have been signed and notarized by the owner, lien holder, and surveyor, as necessary, to the planning staff for processing. Prior to the recording of the plat, the subdivision boundary monuments must be placed and all lots staked. An inspection will be performed by the Town of Daniel planning staff to verify compliance. The planning staff will obtain any signatures necessary from any municipal department, county department, or special service district. The planning staff shall take the plat and documents to the county recorder for recording. All recording fees shall be paid by the developer. Any outstanding fees not yet paid by the developer must be paid prior to recording.

(4) Concept Application Requirements. The following items shall be submitted as part of the concept plan.

- (a) Location of the entire development in relation to surrounding neighborhoods and developments (include names of adjacent developments, adjacent property owners' names and addresses, and adjacent land uses and buildings);
- (b) Existing waterways (including irrigation), significant vegetation, and natural features of the land;
- (c) Existing and proposed infrastructure including all fire hydrants, water and sewer lines, storm sewer system, and all utilities, including but not limited to electricity, natural gas, telephone, cable television;
- (d) Proposed layout of all public and private streets;
- (e) Tour of the site with the planning staff; and
- (f) Any additional information that the Town of Daniel planner and/or Planning Commission may reasonably require in a specific instance. Where a developer owns or controls more land than he or she wishes to develop immediately, the Town of Daniel requires that a conceptual plan of the entire area be submitted, in which case the developer shall indicate the portion to be developed immediately and the portion to be held for future development.

(5) Preliminary Application Requirements.

(a) Preliminary Application. The following items shall be submitted with the preliminary application, along with any other plans or plat requirements of this title:

- (i) Show name and address of development and developer's engineer;
- (ii) Plan in D size sheets (24" x 36");
- (iii) Boundary lines of the tract of land to be subdivided shown in heavy lines;
- (iv) Vicinity Map;
- (v) All proposed phases of the development, numbered and defined, with approximate timetable for development;
- (vi) Existing topography with a contour interval of two (2) feet;
- (vii) Grading plans illustrating cut and fill limits and limits of disturbance and landscaping plans including topographic lines, and evidencing conformance with this title;
- (viii) Existing and proposed lot lines, easements, walkways, streets and rights-of-way (public and private), including widths, street names, and numbers, on subject and surrounding areas; proposed dedications of public use areas; existing and proposed curb, gutter, and sidewalk and trail system, including cross-section of trails proposed. Commercial or mixed-use areas will require sidewalks;
- (ix) Soils testing and geotechnical analysis as required by this title;
- (x) Existing and proposed infrastructure including all fire hydrants, water and sewer lines, storm sewer system, and all utilities, including but not limited to electricity, natural gas, telephone, and cable television;
- (xi) Proposed layout of all public and private streets, if any, including profiles (same scale as site plan) and cross-sections;
- (xii) Location and elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures;
- (xiii) A landscaping plan as required in this Title illustrating evergreen/deciduous plant massing, planting materials, irrigation plans revegetation areas, limits of disturbance, etc.;
- (xiv) Drainage plans as per *A Guide for Erosion and Sediment Control for Wasatch County, Appendix E*, See Appendix 5. The drainage plan shall include the following:
 - (A) Site description;
 - (B) Development plan;
 - (C) Drainage assessment;
 - (D) Storm water; and
 - (E) Pollution prevention plan.
- (xv) Environmental Constraints Analysis. Slopes over thirty (30) percent, flood hazard areas, fault line setback areas, wetlands, high water table areas, landslide areas, alluvial fan, flood debris flow, or collapsible soil hazard areas, shallow ground-water areas, stream or drainage

corridor setback areas, springs, seeps or surface water areas, detention basin areas, established road and utility corridors, ridgeline areas and geologic hazards;

(xvi) Parking, access and loading plan, including required bus pullouts and/or other proposed mass transit plans;

(xvii) Unit configuration footprints and typical architectural elevations;

(xviii) Tabulation of projected ERUs, as described in the plan, number of housing units by type with the number of bedrooms, parking stalls provided, building square footage, building footprint square footage, open space acreage and percentage, landscape acreage and percentage, hard surface acreage and percentage;

(xix) View shed analysis illustrating existing and proposed views from selected vantage points;

(xx) Any additional information that the Town of Daniel planner and/or Planning Commission may reasonably require in a specific instance. Where a developer owns or controls more land than he or she wishes to develop immediately, the Town of Daniel requires that a overall preliminary plan of the whole area be submitted, in which case the developer shall indicate the portion to be developed immediately and the portion to be held for future development;

(xxi) Fiscal analysis; and

(xxii) Site assessment information. All important aspects of the site are to be documented. This includes but is not limited to the following: Historic/cultural, vegetation, geologic features etc. If information is found, a mitigation plan may be necessary.

(b) Preliminary Documentation: The preliminary documentation shall include the following documents that shall be prepared in accordance with Town of Daniel standards, and shall be submitted in accordance with the requirements of this title, or any amendment thereto, with the required application fees. A sample of many of such documents may be obtained through the planning office, if requested. These documents shall be a draft copy of each document, which shall be reviewed and the final copies will be submitted with the Final documentation when application is made for final approval.

(i) Draft copy of Articles of Incorporation and Bylaws of the Property Owners Association;

(ii) Draft copy of declaration of covenants, conditions, restrictions and management policies;

(iii) Documentation of ownership of or permanent right to sufficient water to meet the culinary and outside irrigation needs of the development as required herein.

(iv) Will serve letters from irrigation companies or provider of outside irrigation. Such letters should indicate terms and conditions of service and impacts to the company's facilities.

(v) Letters from affected entities stating concerns and requirements including the following:

(A) Special service district and/or other appropriate agency, indicating the availability of water, water service, sewer service, extended fire, extended police, schools, garbage collection and disposal, roads maintenance, trails maintenance, open space management, storm water detention, telephone service, electric service, natural gas, and other municipal type services;

- (vi) A draft copy of an open space and common area maintenance agreement; and
- (vii) A draft copy of a plan for assuring that any services agreed to be provided by the development will continue to be provided by the development on an ongoing basis without becoming a burden to the Town of Daniel.
- (viii) Draft copy of the proposed development agreement.

(c) Final Application Requirements. The final plans must first evidence how the final plans conform to the preliminary plans and any conditions for preliminary approval and such plans must also include the following:

- (i) Development name and address;
- (ii) North point, scale (not smaller than 1" = 100'), date;
- (iii) Development phase number, if a phased project;
- (iv) Names, addresses, and telephone numbers of developer, engineer, and current owners;
- (v) Nearest section corner tie, township(s), and range(s);
- (vi) Lot lines, dimensions and area; adjacent lots and phases;
- (vii) Existing and proposed easements, walkways, trails, streets, and rights-of-way (public and private), and trails, including widths, names, and numbers; proposed dedications of public use areas; existing and proposed curb, gutter and sidewalk (public and private);
- (viii) Existing waterways (including irrigation and piping);
- (ix) Topography (contours at two-foot (2') intervals) and site drainage plan which illustrate existing and proposed conditions;
- (x) Existing vegetation to remain on development and natural features of the land;
- (xi) Sensitive lands including, but not limited to slopes over thirty (30) percent, flood hazard boundary, wetlands, high water table areas, and geologic hazards;
- (xii) Soils testing and analysis. Geotechnical studies as required by this title;
- (xiii) UDOT approval for access to state roads; approval of Wasatch County flood control and the Daniel Planning Commission; approval of Army Corps of Engineers in wetlands or high water table areas; approvals of power, gas, telephone and cable companies where easements are proposed and service is required;
- (xiv) Final grading plans illustrating cut and fill limits and limits of disturbance;
- (xv) Temporary construction erosion control plan;
- (xvi) Final drainage plan illustrating methods of controlling runoff, directing water flow, and detention / retention areas;
- (xvii) Existing and proposed utilities including, fire hydrants, water and sewer lines, and storm sewer system;
- (xviii) Location and elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures including materials and colors;
- (xix) Landscaping plan with irrigation system and plant species and sizes;
- (xx) Parking, access, and loading plan;

- (xxi) Lighting plan;
- (xxii) Signage plans shall comply with Daniel Sign Regulations as found in this title;
- (xxiii) Architectural plans (floor plans, elevation, with materials);
- (xxiv) Tabulation of ERUs, as defined by the plan, number of housing units by type and square footage, with the number of bedrooms, parking stalls provided, building square footage, building footprint square footage, open space acreage and percentage, landscape acreage and percentage, hard surface acreage and percentage;
- (xxv) Special service district approval letter; and
- (xxvi) Mitigating measures (to conform with the Daniel Land Use Code and design standards as found in this document), and any other information as required by the Town of Daniel as a condition of approval.
- (xxvii) Water rights that are being dedicated to the development or an indication how water service will be made.

(d) Final Documentation. The following official documents prepared in a manner that will fully present information required as part of this title on forms:

- (i) Articles of Incorporation and Bylaws of the association;
- (ii) Declaration of covenants, conditions, restrictions, and management policies;
- (iii) Maintenance agreement between the developers, Property Owners Association, SSD, and/or the Town of Daniel, providing for the establishment of an impound account as a means of assuring proper maintenance of the development;
- (iv) Open space agreement acceptable to the Town of Daniel;
- (v) Affordable housing agreement approved by Town of Daniel;
- (vi) Schools and civic agreement approved by Town of Daniel;
- (vii) Itemized estimates of the cost of constructing all required improvements to be constructed in the development. The developer shall also submit a report to the Planning Commission pertaining to the source or sources of the construction funds;
- (viii) A statement from the State Health Department, through the County Health Department, granting engineering approval of the development pertaining to water and sewer facilities if not publicly owned;
- (ix) A final form of the development agreement, as adopted by the Town of Daniel, (see Appendix 7) showing assurances to the Town of Daniel that the services to be provided by the development will continue to be provided by the development on an ongoing basis and will not require the Town of Daniel to take over services in areas outside of the planned urban services areas, and become a financial burden on the Town of Daniel; and
- (x) Vicinity map on the plat.

Section 8.27.11 Final Plat Requirements.

(1) A final plat shall be prepared for all developments. Each plat shall consist of a sheet of approved mylar having outside or rim line dimensions of twenty-four (24) inches by thirty-six (36) inches. The borderline of the plat shall be drawn in heavy lines, leaving a margin of at least one and one-half ($1\frac{1}{2}$) inches on the left-hand side of the sheet for binding, and at least one-half ($1\frac{1}{2}$) on the other three sides of the sheet. The plat shall be so drawn that the top of the sheet is either the north or east, whichever accommodates the drawings best. All lines, dimensions, and markings shall be made on the mylar with approved waterproof black "India Drawing Ink", or equivalent. Font size shall be ten (10) points or larger. The actual map shall be drawn to a scale within the range of one inch equals ten (10) feet ($1"=10'$), to one inch equals one hundred feet ($1"=100'$), unless approved otherwise by the planning department. Details and the workmanship on finished drawings shall be neat, clean cut, and readable. A poorly drawn or illegible plat is sufficient cause for rejection. The final drawings or plats shall contain the following information:

- (a) Subdivision name and the general location of the development;
- (b) A north point and scale on the drawing and the date;
- (c) Accurately drawn boundaries, showing the proper bearings and division, properly tied into state plane coordinates and tied to no less than two (2) known section monuments. These lines should be heavier than street and lot lines to clearly define said development boundaries. Also provided with the plat shall be a closure sheet of the subdivision boundary as well as for each lot within the subdivision;
- (d) The names, widths, lengths, bearings and curve data on center lines of all proposed public streets, alleys or easements; also the boundaries, bearings and dimensions of all portions within the development, as intended to be dedicated to the use of the public; the lines, dimensions, bearings, and numbers of all lots, and other parcels reserved for any reason within the development. All lots and parcels are to be numbered consecutively under a definite system. All proposed streets shall be named or numbered in accordance with the street naming and numbering system of the Town of Daniel;
- (e) The location of existing water courses;
- (f) The location of all required monuments;
- (g) The description and locations of all monuments set and established by the Town of Daniel, the county or the United States government that are adjacent or near to the proposed development;
- (h) Address block with addresses as assigned by the GIS department;
- (i) A notice of potentially harmful conditions where such conditions exist;
- (j) A ten-foot ($10'$) public utility easement on all sides of the lot.
- (k) A form of certification for the following:
 - (i) Owner's dedications;
 - (ii) Owner's surveyor's certificate of accuracy of survey;
 - (iii) County surveyor's approval;
 - (iv) Planning Commission approval;

(v) Omitted.

(vi) Mayor's approval of the plat and the acceptance of dedications of public lands, streets and easements;

(vii) County fire marshal's approval;

(viii) Town attorney's approval as to form;

(ix) Wasatch County health department approval;

(x) Wasatch County affordable housing approval;

(xi) Utility will-serve letters;

(xii) Wasatch County weed board approval;

(xiii) Omitted;

(xvii);

(xviii) Engineering department approval;

(xix) Notary public's acknowledgement.

Section 8.27.12 Omitted.

Section 8.27.13 No Sale of Lots Until Final Approval.

Lot(s), in a development that have not received final approval according to the requirements contained in this title, may not be sold, advertised for sale, or offered for sale in any manner until after the plat has been recorded.

Section 8.27.14 Grading Permit.

A grading permit shall not be issued for any on-site work, of a proposed development, until such time as the Planning Commission shall grant final approval for the development.

[Section 8.27.15 Flag Lot Standards.

Flag lots are not encouraged, but may be approved as part of a development if the following standards are met; (see Figure 1 of Appendix 2 for flag lot example).

(1) Flag lots shall have a minimum of fifty (50) feet of frontage on a road built to Town of Daniel standards.

(2) The acreage contained within the "flag" portion of the lot must meet the minimum lot size requirements without considering the acreage contained within the "pole" area.

(3) The length of the "pole" area may not exceed two hundred fifty (250) feet, and may require special conditions relating to fire safety including special fire turnaround areas, sprinklers or other requirements set by the fire marshal for safety reasons.

(4) Setback requirements for front setbacks must be counted only from the front edge of the "flag" portion without considering any of the "pole".

(5) Side setback requirements may be set as a condition considering whether the "pole" area is likely to be needed as a road through the property to reach other properties or other roads. This shall be considered at the time of creation of the lot itself as well as at the time of the request for the building permit.

(6) The "Pole" portion of the lot shall be part of the lot and not an easement.

(7) A flag lot cannot be created from a illegally divided lot or an existing platted subdivision.

(8) A maximum of ten (10) percent of the overall development may be flag lots.

(9) Flag lots are only allowed in areas where topography does not allow all lots to have the required frontage on a road. Flag lots in flat areas will not be allowed.

(10) Any land area contained within the "pole" that is not part of the access road must be landscaped and maintained in an attractive manner. A plan must be submitted to the planning staff and approved as part of the conditional use request.

(11) The shape of a flag lot must be approved by the planning staff as part of the conditional use approval. Doglegs and jagged, irregular shapes are not acceptable.

(12) Driveways shall be a minimum of twenty feet 20') wide with compacted road base.]

Section 8.27.16 Omitted.

Section 8.27.17 Omitted.

Section 8.27.18 Slopes.

Slopes over thirty (30) percent are not considered buildable. Lots must have a minimum of five thousand (5,000) square feet of contiguous area under thirty (30) percent natural slope.

Section 8.27.19 Completion of Site Improvements Before Building Permits.

Building permits, including footing and foundation permits for lots in new developments, shall not be issued until all required improvements in the development to be installed or completed by the developer are accepted in writing by the Town of Daniel. Upon a showing of good cause and adequate protection for the Town of Daniel, this regulation may be waived or amended on a case-by-case basis for attached single-family, multi-family, commercial, industrial or institutional development, by approval of the Town of Daniel planning staff or the building official.

Section 8.27.20 Bonds Guaranteeing Construction of Improvements.

(1) Definitions.

(a) "Performance Bond" is an instrument, in a form approved by the Town of Daniel, with a sum not fixed as a penalty binding the developer to the Town of Daniel, to complete certain actions according to the standards in this code and the Wasatch County Standards Handbook, and any other applicable regulation or condition imposed by the Town of Daniel as a condition of approval, conditioned however, that the payment of the penalty may be avoided by the performance by the developer of the acts agreed to in the bond documents. The performance bond must include protection for the Town of Daniel against the developer's failure to perform all of the actions specified by the Town of Daniel legislative body. The bond may consist of one of the following: cash deposited with the Town of Daniel, an escrow fund, an irrevocable letter of credit, or a surety bond. Cash deposits, escrow funds, or irrevocable letters of credit must in an amount equal to one hundred ten (110) percent of actual cost of performance. Due to additional costs of collection, a surety bond must in an amount equal to one hundred fifty (150) percent of actual cost of performance and must be from a company licensed and in good standing with the Utah State Insurance Department and approved by the Town of Daniel.

(b) "Warranty Bond" is an instrument, approved by the Town of Daniel, with a sum fixed guaranteeing the quality and/or conformance of completed and accepted improvements or other promised performance according to the standards in this code, the Wasatch County Standards Handbook, and any other applicable regulation or condition imposed by the Town of Daniel as a condition of approval. The warranty bond must provide that in the event the completed and accepted improvements or other promised performance covered by the bond fail, or are found to be less than the accepted standard during the term of the bond, that the Town of Daniel has the right to require repair and or replacement, and in the event of failure by the developer to adequately respond, the Town of Daniel shall have the right to recover against the warranty bond and repair or replace the covered improvements or other promised performance.

(2) Performance Bonding Required. A performance bond shall be posted with the Daniel Planning Commission in a principal amount of one hundred ten (110) percent of the total estimated cost of any improvement or other performance required by or promised to the Town of Daniel as part of the development. The bond may consist of either cash or an irrevocable letter of credit on a form approved by the Town of Daniel. The estimated cost shall be based upon the estimate of the planning staff who shall take in to account some or all of the following factors when making his estimate:

- (a) The developer's engineering estimate;
- (b) The estimate of any reviewing engineer;
- (c) The average cost paid for the same type of performance in the past; and
- (d) Any other relevant information.

(3) Failure of Performance, Extension of Time. In the event that any performance covered by a performance bond required is not completed within the time period allowed for under the performance bond, the developer may petition the Town of Daniel for an extension of time in which to complete the required performance. A one-year extension of time may be granted by the Town of Daniel upon application by the developer, upon a showing of good cause and diligent effort by the developer to complete the required improvements within the two year period, and provided such application is submitted at least sixty (60) days prior to the expiration of the performance bond, and

the issuer of the bond is willing to extend the time of the assurance. The bond amount shall be increased ten (10) percent for each year extension granted by the Town of Daniel. If at the end of the performance bond term, the Daniel Planning Commission determines that the required improvements or other promised performance has not been completed according to the Town of Daniel, its ordinances, rules, policies and procedures, and other requirements placed upon the developer, the Town of Daniel, in its sole discretion, may:

- (a) Refuse to accept the improvement(s) or other performance and require the developer to bring the improvement(s) or other performance to Town of Daniel standards as outlined in the Town of Daniel standards;
- (b) Receive any part of the bond which is necessary to complete the promised performance or to repair any inadequate performance and proceed with work to bring the performance to Town of Daniel standards as outlined in the Town of Daniel standards; and
- (c) Release the performance bond and require an extended warranty on the improvement(s) or other promised performance as provided in this chapter.

(4) Warranty Bonding. Upon completion of the required improvements or other performance subject to a performance bond, the developer shall petition the Town of Daniel for release of the performance bonds. The developer, prior to release of the performance bond, shall obtain a warranty bond warranting the required improvements or other promised performance for a minimum of two (2) years following the date of acceptance of the improvements, by the Town of Daniel. The warranty bond shall be in the amount of fifty (50) percent of the actual cost of the required improvement or other promised performance. In the event the required improvement or other promised performance is not completed in a satisfactory manner, the Town of Daniel may, at its discretion, for good cause, require an extended warranty of up to five (5) years. The warranty bond provided for herein shall be required in order to insure that the improvements are installed pursuant to the approved plans, are structurally sound, and that no further replacements or repairs are required.

(5) Amount of Bonds.

- (a) Performance bonds required by this Section must have a face amount of at least one hundred ten (110) percent of the value of the Town of Daniel engineer's current estimate of the improvements to be completed. Developer may not draw against the bond for the completion of the required improvements or other promised performance. However, as work is completed, the developer may replace his performance bond with bonds from the Contractor who performed the work. The contractor's bonds shall name the Town of Daniel as a beneficiary. The developer's performance bond may be released in an amount equal to the approved contractor's bond. The Town of Daniel may approve partial releases of the performance bond prior to final release. Each release must be approved by the Town of Daniel planning director and the town attorney. When the number of releases exceed two (2), a one hundred dollar (\$100.00) fee will be assessed for each release thereafter to cover any administrative costs. The releases approved by the Town of Daniel shall not exceed the contractor's bond and shall not exceed the percentage of work completed and, at no time prior to final acceptance of the improvements by the Town of Daniel may the total amount of bond be allowed to be reduced lower than one hundred ten percent (110%) of the value of the Town of Daniel engineer's estimate of the improvement(s) or other promised performance.

(b) Warranty bonds required herein must have a face amount of at least fifty (50) percent of the value of the Town of Daniel engineer's current estimate of the improvements to be warranted. Developer may not draw against the warranty bond for any purpose other than the replacement or repair of improvements as required and approved by Town of Daniel. At no time prior to expiration of the warranty period warranty bond amount be allowed to be reduced by Town of Daniel approved draws lower than twenty five (25) percent of the value of the Town of Daniel planning staff's estimate of the improvements to be warranted.

(6) Approval of Bonds. Any bond submitted to the Town of Daniel, pursuant to section 8.27.20 of the Daniel Municipal Code, must be on a form approved by the Town of Daniel and must be submitted to the Town of Daniel department requesting the bond and approved by such department as meeting the requirements of this code. Property bonds will not be acceptable in any form.

(7) Duration of Bonds.

(a) Performance bonds for infrastructure required by this section shall have duration of two (2) years from the date of final approval of the development by the mayor. Bonds for landscaping or other requirements may have a different duration. All improvements must be completed by the date set in the bond, according to Town of Daniel approved plans and specifications.

(b) Warranty bonds required by this chapter shall have a period of two (2) years, or such longer time as required by the Town of Daniel pursuant to a condition attached to any approval.

(8) Procedure for Filing Bonds. Applicants shall file a performance bond with the planning staff. This may be cash or an irrevocable letter of credit in a form approved by the Town of Daniel. The bond will be released according to the terms and the requirements of this chapter and upon application by the developer, and approval of the Town of Daniel planning staff that required the bond.

(9) Supervision and Inspection. A representative of the Town of Daniel shall, from time-to-time, inspect or cause to be inspected all work done which is covered by a performance or warranty bond. Notification shall be given to the building official at least forty-eight (48) hours prior to any requested inspection. The performance or warranty bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this ordinance.

(10) Landscaping, fencing, open space, amenities. Bonds shall be filed for improvement of landscaping, open space, fencing, and amenities. The planning staff shall only release bonds upon completion of improvements in conformance with the approved plans.

Section 8.27.21 Ridgeline/View Shed Regulations.

(1) Purpose. It is the intent of this section to protect the valuable views of the ridgelines of Wasatch County by providing regulations, which will limit the building of structures that protrude above primary and secondary ridgelines, or will mitigate the appearance of such structures if prevention is not possible.

(2) Applicability. These regulations apply to all land use applications in Wasatch County for which any portion of a proposed structure protrudes above ridgelines when viewed from the designated viewing platforms as shown on the adopted viewing platform map. Any rezoning, proposed development, or building permit shall be subject to compliance with these regulations, irrespective of whether specific reference to the regulations is made in this title.

In the event of an overlapping or conflicting requirement of this chapter and other provisions or regulations in the Wasatch County Code, the more restrictive provision shall apply. All proposals that may be located within the primary or secondary ridgeline areas are subject to conditional use approval.

(3) Definitions.

(a) Ridgeline Development Classification. Significant ridgelines are the ridgelines that surround or visually dominate the valley landscape either through their size in relation to the hillside or mountain terrain of which they are a part; their visual dominance as characterized by a silhouetting appearance against the sky; as a significant natural backdrop feature or separation of communities; through visual dominance due to proximity and view from existing development or major corridors; or as an area of significant ecological, historical or cultural importance such as those which connect park or trail systems.

(b) Primary Ridgelines. Primary ridgelines are those ridgelines that are characterized by any combination of significant ridgeline criteria as identified in ridgeline development classification.

(c) Secondary Ridgelines. Secondary ridgelines are those ridgelines that are characterized by any combination of significant ridgeline criteria as identified in the ridgeline development classification above. Secondary ridgelines are secondary in nature to primary ridgelines due to the following features:

- (i) Smaller size and prominence of a feature or branch of a primary ridgeline; and
- (ii) Silhouette of a ridgeline against the open sky on a smaller size hill or silhouette of a ridgeline on a smaller hill which is back-dropped by a significant ridgeline.

(d) Viewing Platforms. Viewing platforms are specific site located throughout the county in areas where the greatest number of the general public would see any ridgelines in question. Viewing platforms are shown on the viewing platform map, which is on file in the planning and zoning office and attached as Appendix 4 of this title.

(e) Visual Assessment model. A visual assessment model is a computer 3-D image that will be run by the GIS Department from the four (4) closest viewing platforms to any given project. The 3-D image will be used to determine if the proposed development will be considered to be on a ridgeline.

(4) Requirements and procedures.

(a) Proposed developments. Proposed developments shall locate lots and building pads so that structures will not violate the ridgeline. At the time a development is proposed the Wasatch County GIS department will run a visual assessment model from the four (4) closest viewing platforms. If the proposed development is considered to be on a ridgeline the developer shall submit photo-simulations, drawings, computer modeling, or some other means that will allow a determination to be made by the Planning Commission that structures will be built below the ridgeline. The photo-simulations, computer modeling, or drawings shall be done from the same four (4) closest viewing platforms as the visual assessment model. In the event that there are not four (4) viewing platforms in the area the closest single viewing platform shall be used or the planning staff may determine additional appropriate viewing platforms.

(b) Existing platted lots or lots of record. Existing platted lots or lots of record shall be a conditional use that will be applied for with the building permit. The Planning Commission may set reasonable conditions to mitigate the visual impacts as designated in Section 8 (Design

Guidelines) of this chapter. Existing platted lots or lots of record are those lots that were platted and recorded prior to the adoption of this title. It shall be the responsibility of the applicant to notify the planning department of their intent to build in the location of a ridgeline at which time a visual assessment model will be run from the four (4) closest viewing platforms to determine if the proposed structure is on a ridgeline. As part of the conditional use application building renderings, colors, materials, photo-simulations, computer modeling or drawings shall be submitted.

(c) Appeals. Appeals to the decision of the Planning Commission will be made to the Board of Adjustment.

(5) Viewing Platforms. Viewing platforms are to be located where a proposed building site or development would be viewed by the greatest number of persons, usually from a public right-of-way. The following viewing platforms shall be used to determine if a structure violates the ridgeline:

(a) Highway 6.

- (i) Soldier Summit.

(b) Highway 32.

- (i) From the viewpoints at Mile Markers 5, 6 and 8;
- (ii) From the viewpoint at 7487 East;

(c) Lower River Road.

- (i) Spring Hollow Lane;
- (ii) 1000 East; and
- (iii) South Willow Way.

(d) Highway 35.

- (i) Mile Markers 5, 8, 9 and 10;
- (ii) Forest Service boundary; and
- (iii) Bench Creek Road.

(e) Highway 40.

- (i) Intersection of River Road;
- (ii) Daniels Summit Lodge;
- (iii) Mile Marker 38, Mile Marker 39, Mile Marker 42, Mile Marker 43, Mile Marker 48;
- (iv) Soldier Creek turnoff by Mile Marker 51;
- (v) Mile Marker 52, Mile Marker 54, Mile Marker 55;
- (vi) Lookout point across from Pine Hollow subdivision on the east side of the Strawberry Reservoir;
- (vii) Coyote Canyon Road;
- (viii) Mill Road;
- (ix) Little Sweden Road; and

(x) Highway 189, Provo Canyon Road.

(f) Highway 113.

(i) Highway 189 by Charleston;

(ii) Fisherman's access at the Provo River; Tate Lane; and

(iii) Southfield Road.

(g) Highway 189.

(i) Intersection of 3000 South;

(ii) Deer Creek Dam;

(iii) Deer Creek State Park entrance;

(iv) Mile Marker 19;

(v) Mile Marker 21 - (Wallsburg turnoff);

(vi) Mile Markers 22 - 26; and

(vii) Intersection of Southfield Road.

(h) Main Canyon Road (Wallsburg).

(i) Starks Lane;

(ii) Cassior Ranch entrance;

(iii) Little Valley Road; and

(iv) 501 Main Canyon Road (by the LDS Church).

(i) Other Miscellaneous Sites.

(i) Memorial Hill;

(ii) Intersection of River Road and Dutch Canyon Road;

(iii) Intersection of Cascade Springs Drive and Stringtown Road;

(iv) 1365 East Center Street;

(v) Intersection of Lake Creek Road and 3600 East;

(vi) Intersection of Lake Creek Road and 4800 East;

(vii) Intersection of Lake Creek Road and Big Pole Canyon;

(viii) Intersection of Center Creek and 1800 East;

(ix) Intersection of Mill Road and 1200 South;

(x) Intersection of 4200 East and 1200 South;

(xi) Intersection of 3365 East and 1200 South;

(xii) Intersection of 2400 East and Center Street;

(xiii) Intersection of Little Sweden Road and Daniel Road;

(xiv) Intersection of Daniel Road and 3000 South;

- (xv) Intesection of 3000 South and Big Hollow Road;
- (xvi) Intersection of 3000 South and Southfield Road; and
- (xvii) Intersection of Daniel Road and Teancum Road.

(j) Jordanelle Basin Overlay Zone.

- (i) From the Mayflower interchange or from the visitor's center at Hailstone State Park;
- (ii) From the water near the middle of the north arm of the Jordanelle Reservoir.
- (iii) From the viewpoint overlooking the dam along the road to Francis (SR-32) located on the south side of the Jordanelle Reservoir;
- (iv) From the viewpoint along the road to Kamas (SR 248) located on the northeast side of the Jordanelle Reservoir;
- (v) From the intersection of SR 248 and old US Highway; and
- (vi) From the Peoa/Oakley turnoff on SR 248.

(k) Visual assessments (from relevant designated vantage points as directed by the Wasatch County Planner) depicting conditions before and after the proposed development. These shall include the proposed location, size, design, landscaping, and other visual features of the project to assist in analyzing the potential aesthetic impact and most advantageous location of structures and other improvements to reduce any adverse impacts. The visual assessment shall be conducted using techniques as approved by the county planner, including but not limited to sketches, models, hand-enhanced photographs, and computerized images. Selection of the appropriate technique will depend on the size of the development and the visual sensitivity of the proposed development site.

(l) Areas of the county that do not have a designated viewing platform will be determined by the planning department at the time a proposal is anticipated.

(6) Design Guidelines. The following design guidelines shall apply to any buildings constructed within the ridgeline.

(a) Colors/Reflectivity. All structures and accessory uses shall be constructed and maintained so that predominate exterior wall colors (including the colors of basement walls on the downhill side of the structure) and roof surfacing materials:

- (i) Repeat the colors found most commonly in the land and vegetation around the building (earth tone),
- (ii) Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them shall not be used as predominant colors on any fence, wall or roof surface.

(b) Vegetation. Planning staff shall review the appearance of the structure and make a determination of any reasonable number of trees and shrubs which may be necessary to mitigate the placement of the structure or basement wall from the viewing platforms.

- (i) All trees installed to meet the requirements of this subsection shall be of coniferous species, shall be a minimum of eight (8) feet tall when planted, and shall be planted before a certificate of occupancy is issued for the primary structure, or if that is not possible due to

planting season or weather conditions, then within one (1) month of the planting season for the species. A bond may be required to insure the planting.

(ii) To the maximum degree feasible, during grading, all existing mature vegetation with a height of more than five (5) feet, other than noxious plants and weeds, shall be preserved.

(iii) Concurrently with the building permit approval process, the property owner submitting such plan may request approval of a vegetation plan in which the vegetation requirements for certain lots or tracts may be increased, decreased or deleted, to reflect the degree of visibility of structures located in various portions of the development.

(iv) The owner may request alternative placement of landscaping on certain lots and tracts if such placement provides adequate mitigation of the visual impact of the roofline of the primary structure.

(v) Landscaping required by this section shall be credited against the landscaping requirements imposed by any other section of the code, or the specific planned development plan.

(c) Floodlighting. Floodlights shall not be used to light all or any portion of any primary or accessory structure facade, and all outdoor light sources mounted on poles, buildings or trees to illuminate streets, sidewalks, walkways, parking lots, or other outdoor areas shall use full cutoff light fixtures. For purposes of this section, a "full cutoff light fixture" is one in which no more than twenty-five (25) percent of the total output is emitted at ninety (90) degrees from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries. Exterior lighting in the hillside or skyline/ridgeline areas shall be shielded from direct point source view from any and all community viewing platforms. Whenever reasonable, motion detectors should be considered to determine if their use would lessen the amount of time lights would actually be in use on the hillside areas.

(d) Exposed Basements. On the side of each primary and accessory structure facing the nearest viewing platform as determined by the planning department, no basement wall shall be exposed for more than one-half of its height, unless a vegetated berm at least three feet (3') in height is constructed between such basement and the property line closest to the nearest viewing platform. Excessively high basement walls on downhill sides of slopes will be reviewed on a case-by-case basis. The planning staff may require trees and shrubs of a coniferous variety to be planted to mitigate the visibility of any basement wall that can be seen from any viewing platform.

(e) View Shed Analysis. View shed analysis illustrating existing and proposed views from selected vantage points. The county planner has or will identify several vantage points which the applicant is required to prepare a view shed analysis. Compatibility to the surrounding environment and development, along with color, scale, and massing will be key elements evaluated. The visual assessment shall be conducted using techniques as approved by the county planner, including but not limited to sketches, models, hand-enhanced photographs, and computerized images. Selection of the appropriate technique will depend on the size of the development and the visual sensitivity of the proposed development site. The location of buildings shown on the visual assessment shall coincide with the proposed building pads of the proposed buildings, as well as the maximum size of the buildings proposed.

Section 8.27.22 Development Agreements.

The mayor, with the approval of the Town of Daniel legislative body, may enter into a development agreement with individuals or entities. Development agreements may be recorded at a master plan level, site plan, or at a final plat approval or all phases of approval.

(1) Maintenance Obligations. Any development which pursuant to Town of Daniel ordinances, conditions of approval or agreement requires ongoing maintenance obligations to be performed by the developer must comply with the following. (a) Identify the homeowners' association or other entity intended to undertake the ongoing maintenance obligations. (b) Provide all legal documentation necessary for such entity including binding agreement to provide continued maintenance. (c) Provide a cash, escrow or letter of credit bond sufficient to pay for the estimated cost, as approved by the Town of Daniel, to provide said maintenance for twenty-five (25) years. The bond may be released once a homeowners' association or other ongoing entity is sufficiently established, as determined by the planning director, to carry out the maintenance obligations.

(a) Transfer Maintenance Obligations. It is anticipated that developer will transfer certain maintenance obligations to the homeowners' association. The association shall be a non-profit corporation formed in accordance with the state and federal law. The association shall have authority to impose fees sufficient to perform the maintenance obligations transferred to it.

(b) Written Transfer Agreement Required. In the event developer transfers developer's maintenance obligations to the homeowners' association, developer shall do so by written transfer agreement approved by the Town of Daniel.

Section 8.27.23 Physical Constraints Restrictions.

The Town of Daniel will not allow building or development in the following areas:

- (1) Natural slopes over thirty (30) percent grade (natural slopes over twenty-five (25) percent require special studies for stability); each lot must have a contiguous building area that is a minimum of five thousand (5,000) square feet at thirty (30) percent or below natural grade;
- (2) Fault lines and fault line setback zones;
- (3) Wetlands (scrub-shrub and emergent);
- (4) Within two hundred feet (200') of waters of the U.S.;
- (5) Landslide hazard areas;
- (6) One hundred (100) year stream flood hazard;
- (7) Alluvial-fan-flood debris flow, and collapsible soil hazards;
- (8) Shallow ground-water hazards;
- (9) Stream/drainage corridor setbacks;
- (10) Areas of springs and seeps;
- (11) Surface water;
- (12) Recommended locations for detention basins;
- (13) Established road and utility corridors; and

- (14) On or near ridgelines, in accordance with general ridgeline/view-shed standards.

Section 8.27.24 Physical Constraints Analysis Requirements.

The following is required for a Physical Constraints Analysis:

- (1) The project will not consist of any building envelopes on natural or manmade slopes over thirty (30) percent grade;
- (2) The project will not show any structures within fifty feet (50') of any fault line;
- (3) The project will not consist of activities on or disturbance of any wetland areas, except as approved by the Army Corps of Engineers;
- (4) The project will not contain any platted lot within any landslide hazard areas unless approved by the Planning Commission as part of the open space area;
- (5) The project will not consist of any development within any flood hazard area, except as provided in Section 8.28.04 of this title;
- (6) The project will not consist of any development within any shallow-ground water hazard areas, areas of springs or seeps or surface water areas;
- (7) The project will not consist of any development within any areas that are recommended locations for detention basins or established road and utility corridors;
- (8) The project will avoid any development that will protrude above any ridgelines, except as provided in Section 8.27.20;
- (9) Full geotechnical evaluation of the site; and
- (10) All proposed density for projects shall be approved by the Planning Commission and legislative body.

Section 8.27.25 Outside Water Issues.

(1) Access to Irrigation Facilities.

- (a) Pressurized. If a parcel, which is currently serviced by a pressurized secondary irrigation system, is subdivided, the developer shall provide the necessary easements and infrastructure to provide such service to each lot.

(2) Irrigation Facility Encroachment Protection.

- (a) No irrigation facility, easement or right-of-way shall be encroached upon either overhead, on the surface or underground without the express, written permission of the owner of the facility. Examples of these encroachments include, but are not limited to the construction of bridges, utility crossings, fences, roadways, sidewalks, curb and gutter, overhead cables, structures, etc.
- (b) Developers shall recognize and protect all existing easements and rights-of-way for irrigation facilities and shall identify them on the preliminary and final plats.

(c) Where existing easements are only prescriptive, developers shall dedicate and convey an easement, to the owner of the facility, of sufficient length and width to allow historic irrigation and maintenance activities to continue.

(3) Irrigation Facility Improvements.

(a) Equalization ponds. To assure that proper service can be maintained, developers may be required to participate in the costs of off-site equalization ponds.

(b) To protect the health and safety of residents and the stability of land and structures, developments adjacent to, immediately downstream of or containing open, unlined canals or ditches may be required to pay for the cost of lining or piping the canals or ditches.

(4) Relocation of Existing Irrigation Facilities. All costs associated with the relocation of existing irrigation facilities to facilitate or accommodate a development shall be borne by the developer. Such relocation shall meet the standards of the owner and operator of the irrigation facility.

(5) Bank Stability. No work, which may compromise the stability of a ditch or canal bank, shall be allowed. Any landscaping shall not include any deep-rooted vegetation and shall not occur within canal easements or right-of-ways without the written permission of the canal owner and operator.

(6) Fencing. Installation and maintenance of any fencing adjacent to open canals or ditches shall be the responsibility of the developer and/or landowner.

(7) Drainage. No drainage of any kind shall be directed to or allowed to flow into an irrigation facility without the express written permission of the owner and operator of the irrigation facility.

Section 8.27.26 Power and Telephone Utilities.

All electric, television, telephone utility extension to and in new subdivision/development shall be installed underground to utility company specifications, except in those locations where utility companies determine, and the Planning Commission concurs that it is impractical due to steep terrain, inaccessible location, or other physical constraints with the land.

Section 8.27.27 Street Standards

Projects that are located on or next to a collector or arterial street shall be designed and developed so the public street continues through the project in a logical, safe manner. Projects that are located at the end of stubbed local public streets will be required to extend the street through the development based on the proposed circulation needs of the area (the adapted local street plan) as determined by the Planning Commission, upon recommendation of the planning staff shall determine if the street should be extended as a through street or as a cul-de-sac.

Section 8.27.28 Roads and Intersections.

(1) New Streets To Be Dedicated. All new streets which are to be dedicated and accepted by the Town of Daniel or which are required as a condition of approval for any development must be built to current Town of Daniel road standards. Streets shall be planned as public streets unless approval is

given for a private street as part of the approval for the development. Private streets will rarely be approved for purposes of gating a community for exclusivity. Private streets may only be approved when the findings show a valid purpose that serves the general public as a whole. Private streets shall be dedicated to the homeowners' association.

(2) Block Length/Through Street Requirements. Maximum block lengths shall be one thousand, three hundred feet (1,300') and minimum block lengths shall be four hundred feet (400'). Block lengths shall be measured from existing streets. Developments that are required to provide a through street shall build the street to the required public standard and as a through street even if the development is proposed to be private or gated. Through streets shall connect higher classification streets and provide a traffic network. Through streets will not be required if due to topography a through street is not feasible.

(3) Private, Gated Communities. Private gated communities shall only be considered when the following apply to the development:

- (a) The project does not have a required through street within the project as noted in the previous section.
- (b) Due to topography, streets stubbed out to adjoining properties are not possible.
- (c) Every gated entrance shall be required to provide a knox box lock or an electronic system that can be activated by emergency sirens.

(4) Clear Visibility at Intersecting Streets. In all zones, no obstruction to view in excess of three feet (3') in height above road grade shall be placed on any corner lot within a triangular area formed by the streets at the property line and a line connecting them at points twenty-five feet (25') from the intersection of the street lines (See Figure 5 of Appendix 2), except a reasonable number of trees pruned enough to permit automobile drivers an unobstructed view. This shall not require changes in the natural grade on the site. If a sign is proposed to be placed near an intersection, different standards may apply. See Chapter 8.26 regarding signs.

(5) Street Lengths. Cul-de-sacs shall not exceed one thousand three hundred feet (1,300') in length and shall have a turn-around with a diameter of eighty feet (80'). Dead-ends or cul-de-sacs are not intended to be longer than one thousand three hundred feet (1,300') without joining with another street to create a block that allows a separate ingress and egress.

Section 8.27.29 Relation to Adjoining Streets.

The arrangement of streets in new developments shall make provisions for the continuation of existing stub streets in adjoining developments (or their proper protection where adjoining land is not subdivided/ developed). All streets connecting into existing streets shall be the same or greater width (but in no case less than the required minimum width) unless, variations are deemed necessary by the Planning Commission. The Planning Commission may determine that access should be provided to adjoining property for orderly development and in accordance with the local street plan. If the developer is required to provide access to adjoining property, the proposed streets shall be extended by dedication and installation of all required improvement to the boundary of the development. (See Street Plan 8.02.12)

Section 8.27.30 Property Access Requirements.

(1) Must Prove Right to Access. No building permit in a new subdivision shall be issued for a building that is to be constructed on a lot or parcel that does not either abut a dedicated public street or highway, or a private roadway, built to Town of Daniel standards that is either owned by the property owner requesting the permit, dedicated to the Town of Daniel, or has a recorded right-of-way sufficient to meet Town of Daniel standards.

(2) Access to Business Uses. Private roads providing access to professional, commercial or industrial properties shall not go through properties zoned for residential use.

(3) Two Access Points. At least two (2) routes for ingress and egress from any large-scale development thirty-five (35) or more ERU's /units) shall be provided that allows access to a State road (State maintained road) or a public class 'B' road (as identified by the Town of Daniel and/or by Wasatch County) at two (2) separate points. If the class B road is gravel, the road as well as the access points must be brought up to the Town of Daniel standard.

(4) Maximum Number of Units Served by Private Driveway. There shall be no more than three (3) units/lots using a private driveway for access.

Section 8.27.31 Cul-de-sacs.

Cul-de-sacs are discouraged, but may be used only where unusual drainage, topography, or land ownership configurations exist which make other designs undesirable or impossible; and where street plans for the area do not require through circulation.

8.27.32 Nuisance Strip.

No subdivision or development shall be approved in which a nuisance strip is proposed. (See Nuisance Strip definition 8.04.02 (137).

Chapter 8.28

ENVIRONMENTAL REGULATIONS

Sections:

- | | |
|----------------|---|
| 8.28.01 | Purpose. |
| 8.28.02 | Prohibition of Undesirable Emissions. |
| 8.28.03 | Water Quality. |
| 8.28.04 | Stream Corridor/Wetland Development Standards. |
| 8.28.05 | Wildlife Habitat Protection. |

8.28.06 Culinary Water Source Protection.

8.28.07 Erosion Control.

Section 8.28.01 Purpose.

The purpose of this chapter is to establish restrictions on the development of environmentally sensitive land and set forth standards to protect persons or property from geologic or flooding hazards.

Section 8.28.02 Prohibition of Undesirable Emissions.

(1) Air Pollution. All uses shall not emit an excessive amount or dangerous degree of fumes, dust, smoke, or other form of air pollution. Any use that causes sufficient odor to constitute a nuisance is hereby prohibited. A determination of nuisance due to odor may be established either by a court of competent jurisdiction or by the Town of Daniel legislative body holding a public hearing.

(2) Heat or Radiation. All uses shall not emit an excessive or dangerous degree of heat, or radiation.

(3) Vibration. No use shall generate vibration that is perceptible offsite or damaging to surrounding property.

(4) Sound.

(a) Sound shall not be generated to the extent that it is transmitted beyond the lot boundaries.

(b) Exterior electronic two-way conversation systems at any commercial/industrial location shall be allowed so long as the volume of such systems shall be maintained at a level that any message or conversation is not intelligible beyond the property line at any time.

(c) Exterior paging or public address systems, including telephone and music connections, shall not be allowed at any commercial or industrial location. Existing public address systems may remain as they have been installed but shall not be expanded. Exterior public address systems at any institutional, park, or community use shall specifically be considered in the conditional use approval. Temporary public address systems for public celebrations or rallies shall be exempt from these regulations.

(d) All electrical and mechanical systems installed at any commercial/industrial location that is adjacent to a residential use shall provide a buffer such that the equipment cannot be seen or heard above the average noise levels in the area.

(e) All service areas including loading/unloading and garbage or recycled materials pick up shall be located, buffered and operated such that adjacent residential uses will not be disturbed by the use thereof.

(5) Light. See Chapter 8.21 for regulations regarding outdoor lighting.

Section 8.28.03 Water Quality.

(1) Any use shall be prohibited in the Town of Daniel that emits or discharges liquids or solid material onto the soil or water in amounts that exceeds the standards prescribed by the Utah State Division of Water Quality.

(2) All developments must comply with the requirements of the State of Utah Department of Water Quality regarding the obtaining of a storm water permit.

(3) No septic system may be constructed or otherwise be placed within two hundred feet (200') of any existing septic system.

(4) Septic systems will only be allowed on parcels of land that are five (5) acres or larger and the property line is more than three hundred feet (300') from a public sewer collection.

(5) The sewer/septic system regulations found herein are in addition to any regulations set forth by the Wasatch County Health Department. In the event of a conflict, the more stringent regulations shall control, subject to the discretion of the legislative body of the Town of Daniel.

Section 8.28.04 Stream Corridor/Wetland Development Standards.

The following requirements and standards are intended to promote, preserve, and enhance important hydrologic, biological, ecological, aesthetic, and recreational, and educational functions that stream corridors, associated riparian areas, and wetlands provide. The intent of this chapter shall be to avoid damage to life and property due to floods. Any property located within the FEMA Flood Hazard Zone A boundary map, as indicated on the adopted map, shall conform to this section.

(1) No development or construction activity, including vegetation removal, grading, excavation, filling, or drainage, shall occur on jurisdictional wetlands without approval from U.S. Army Corps of Engineers and as further outlined herein.

(2) Wetlands may be included as part of any subdivision or development lot. Wetlands may be included as part of the lot provided there is sufficient buildable area outside wetland areas to accommodate the proposed use.

(3) No person shall engage in any activity that will disturb remove, fill, dredge, clear, destroy, or alter any area, including vegetation, within stream channel, wetlands, and their setbacks as set forth below, except as may be expressly allowed in this chapter.

(4) Setbacks shall be as follows for stream channel and wetlands:

(a) Stream Channel and Wetlands. All buildings, accessory structures, and parking areas or lots shall be set back at least fifty feet (50') horizontally (map distance) from the delineated edge of a wetland unless approved as a conditional use.

(b) All existing vegetation within the stream corridor or wetland setback area shall be preserved, and where necessary to provide adequate screening, or to repair damaged riparian areas, supplemented with additional native or adapted planting and landscaping.

(5) No dwelling, addition or other building used for human habitation shall be constructed within fifty feet (50') of the high water mark of a stream corridor except after a conditional use permit has been authorized by the Planning Commission. The Planning Commission shall not authorize a permit therefore unless the following can be shown:

(a) Adequate measures will be taken to protect both the building and other property from damage due to floods;

(b) That a flood elevation study has been performed by a qualified engineer, licensed in the state of Utah;

(c) All construction and additions to residential structures within the FEMA Flood Zone A shall have the lowest floor including basements elevated one foot (1') above the highest one hundred (100) year flood elevation.

Section 8.28.05 Wildlife Habitat Protection.

Wildlife studies may be required in any large-scale development being planned within any foothill, canyon or rural area, prior to any development, to determine the presence of critical or important wildlife habitat. The foothills and canyon areas provide important wildlife habitat for a wide variety of animal and bird species. As a result of past development activities, many habitat areas have been impaired, altered, or fragmented. The following requirements have been developed to promote and preserve valuable wildlife habitats and to protect them from adverse effects and potentially irreversible impacts.

(1) Applicability.

(a) The requirements of this chapter shall apply to large-scale (more than five (5) lots or units) developments being planned on property that contains wildlife habitats designated as critical and high value use areas. If information is not available, a wildlife study should be done to make this determination. The planning staff may have this study reviewed by the Utah State Division of Wildlife Resources.

(b) Maintain buffers between areas dominated by human activities and core areas of wildlife habitat.

(c) Facilitate wildlife movement across areas dominated by human activities by maintaining connections between open space parcels on adjacent and near-by parcels, locating roads and recreational trails away from natural travel corridors used by wildlife such as riparian areas and prohibiting fencing types that inhibit the movement of wildlife species, except directly adjacent to the structures in order to protect adjacent landscaping features.

(d) Mimic features of the local natural lands vegetation in developed areas by retaining pre-development, high quality habitat to the maximum extent feasible, including large patches of natural, vegetated areas that have not yet been fragmented by roads or residential development; minimizing the levels of disturbance to trees, the under story, and other structural landscape features during construction; designing lots in a fashion consistent with local natural habitats by landscaping with native vegetation; enhancing the habitat value of degraded pre-development landscapes.

(e) Clustering of development to limit the areas to be disturbed.

Section 8.28.06 Culinary Water Source Protection.

Within the Town of Daniel no pollution sources or contamination sources as defined in the Utah Administrative Code for Drinking Water Source Protection shall be allowed in any areas defined as "Source Protection Zone One" as identified on maps maintained by the Wasatch County GIS Department and no potential contamination sources shall be allowed in any areas defined as "Source Protection Zone Two" as identified on maps maintained by the Wasatch County GIS Department unless design standards

are implemented to prevent contamination discharge and approved by the Utah State Division of Drinking Water.

Section 8.28.07 Erosion Control.

Erosion Control shall be in compliance with this chapter and appendix five (5) of this title.

(1) Drainage/Snow Melt Plan. Surface water from rooftops shall not be allowed to drain directly onto adjacent lots, except after written agreement between the owners of such lots.

(2) Detention/Storm Water Facilities. Where detention basins and other storm and erosion control facilities may be required, any negative visual and aesthetic impacts on the natural landscape and topography shall be minimized to the maximum extent feasible. It is required that all such facilities are designed to fit naturally and attractively into the environment.

(3) Design Requirements. Required storm water run-off collection facilities shall be designed so as to retain storm water run-off on development sites for a sufficient length of time so as to prevent flooding and erosion during storm water run-off flow periods except in areas where master storm drainage systems have been approved.

(4) Divert Surface Water. Required storm water run-off collection facilities shall be so designed as to divert surface water away from cut faces or sloping surfaces of a fill. French drains are not acceptable.

(5) Pavement Designs with Curb and Gutter. All improvements shall prevent water from flowing off roadways, except at planned, approved areas.

(6) Stabilization Below Discharge Point. Natural drainage shall be rip-rapped or otherwise stabilized to the satisfaction of the planning staff below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.

(7) Waste Material from Construction. Shall not be used as rip rap to control stream bank and channel erosion. Soil and other solid materials, shall not be deposited within a natural or manmade drainage course nor within irrigation channels.

(8) Catchment Ponds. Sediment catchment ponds may be required to be constructed downstream from each development, unless sediment retention facilities are otherwise provided.

(9) Grade of Exposed Slopes. No cut or fill slope that is created as part of the constructing of any roadway, whether public or privately owned, shall exceed the critical angle of repose.

(10) Cuts and Fills. Cuts and fills shall be as minimal as possible. Any cuts and fills necessary to create a building pad shall be done to allow the building to fit more naturally into the slope. Where possible all cuts and fills shall be revegetated.

(11) Limits of Disturbance. Limits of disturbance (LOD) for developments shall be established to show the specific area(s) of a site in which construction and development activity must be contained. In establishing LOD, the following criteria and standards shall be considered and applied:

(a) Minimize visual impacts from the development, including but not limited to screening from adjacent and downhill properties, ridgeline area protection, and protection of scenic views.

(b) Erosion prevention and control, including but not limited to protection of steep slopes and natural drainage channels.

(c) Fire prevention and safety, including but not limited to, location of trees and vegetation near structures.

(d) Preservation of significant trees or vegetation.

(e) Conservation of water, including but not limited to, preservation of existing native vegetation, reduction in amounts of irrigated areas, and similar considerations.

(f) Wildlife habitat protection, including but not limited to, preservation of critical wildlife habitat and identified migration corridors and routes.

(g) Endangered plant life.

(h) Stream corridor and wetland protection and buffering.

(i) Preservation of the maximum amount of natural topography, tree cover, and vegetation.

(12) Limits of Disturbance may be Noncontiguous. Limits of disturbance (LOD) necessary to accommodate proposed development may be noncontiguous in order to best meet the criteria and standards set forth in this section.

(13) Maximum Area of Disturbance Applicable in the (M) Mountain Zone and (P-160) Preservation Zone.

(a) For lots or parcels less than one acre in size, the limits of disturbance for an individual single family use and any accessory structure shall not exceed ten thousand (10,000) square feet, unless significant existing site vegetation is retained or remedial revegetation and land reclamation improvements which substantially advance the purposes of this chapter have been proposed and will be implemented on the site in accordance with a revegetation and land reclamation plan. In such cases, the limits of disturbance for lots or parcels less than one acre in size may be increased up to, but not to exceed, fifteen thousand (15,000) square feet.

(b) For lots or parcels one acre in size or greater, the LOD for an individual single family use and any accessory structure shall not exceed twelve thousand (12,000) square feet unless the conditions above are satisfied, in which case the LOD may be increased to eighteen thousand (18,000) square feet.

(14) Revegetation and Land Reclamation. Any slope exposed or created during development of project shall be landscaped or revegetated with native adapted trees and other native or adapted plant material. New vegetation shall be equivalent to or exceed the amount of erosion control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(a) On slopes of twenty-five (25) percent or greater plant materials shall be selected that will minimize erosion and reduce surface runoff.

(b) Topsoil that is removed during construction shall be conserved for later use on areas requiring revegetation or landscaping. The applicant shall also indicate an acceptable time frame for revegetation that takes into account optimal seasonal growing conditions.

(c) Limits of disturbance as established herein shall be shown on the final plans for developments and shall be clearly delineated on site with fencing, or other materials or methods approved by the planning staff prior to the commencement of excavation, grading, or construction activities.

(d) Within the limits of disturbance, fencing, at a minimum, should be placed around each significant tree and around stands of twelve (12) or more smaller trees a distance equal to the size of the individual or outermost tree's drip zone.

(e) No construction, grading, equipment or material storage, or any other activity shall be allowed outside the limits of disturbance, and the fencing shall remain in place until all land alteration, construction, and development activities are completed.

(f) Fill placed directly on the roots shall not exceed a maximum of six inches (6") in depth.

(g) If fill creates a tree well or depression around a tree or shrub, such area shall be drained so that the vegetation is not drowned by the pooling of rainfall or irrigation.

(h) If a tree's roots must be cut, the branches shall be trimmed by an amount equal to the percent of roots that were lost.

(i) Exemptions and Requirements: No trees or vegetation shall be removed outside the approved limits of disturbance except as specifically exempted by the following.

(i) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways, intersections, or for the purpose of performing authorized field survey work, are not prohibited.

(ii) In areas determined by the fire marshal as being highly susceptible to fire hazards, vegetation up to thirty feet (30') from the perimeter of a structure shall be selectively pruned and thinned for fire protection purposes.

(j) No trees or vegetation shall be removed for the purpose of providing open views to or from structures on a site.

(k) When native trees are removed from either inside or outside the established limits of disturbance, the applicant or developer shall replace such tree(s) on the lot, either inside or outside the established limits of disturbance, according to the following schedule and requirements:

(i) A significant deciduous tree that is removed shall be replaced by a tree with a minimum size of two and one half inch (2 ½") caliper.

(ii) A significant coniferous tree that is removed shall be replaced by a tree with a minimum height of eight feet (8').

(iii) Acceptable replacement trees shall be determined by choosing from the list of approved plants listed on Figure 9 of Appendix 2, or by a letter from a person or firm qualified by training or experience to have expert knowledge of the subject.

(iv) Replacement trees shall be maintained through an establishment period of eighteen (18) months. The applicant shall post a bond guaranteeing the survival and health of all replacement trees during the establishment period.

(v) Non-native trees outside the limits of disturbance line shall not be removed except as agreed upon by the applicant and the Town of Daniel.

(l) Every effort shall be made to conserve topsoil that is removed during construction for later use on areas requiring vegetation or landscaping. New planting shall be protected with organic cover.

(m) All disturbed soil surfaces shall be stabilized before final acceptance by the Town of Daniel.

(n) At the termination of the bonding period, any dead plant materials required to be installed by the developer shall be replaced and a new bond issued to assure establishment of the replaced materials. Dead plants shall be replaced in perpetuity.

Chapter 8.29

Omitted.

Chapter 8.30

AFFORDABLE HOUSING REQUIREMENTS

Sections:

| | |
|----------------|--|
| 8.30.01 | Purpose. |
| 8.30.02 | Requirements. |
| 8.30.03 | Standards. |
| 8.30.04 | Paid Fees-in-Lieu of Construction. |
| 8.30.05 | Affordable Housing Agreement as a Condition of Development. |
| 8.30.06 | Enforcement. |
| 8.30.07 | Pre-existing Approvals. |
| 8.30.08 | Employee Housing Credit. |
| 8.30.09 | Severability. |
| 8.30.10 | Definitions. |
| 8.30.11 | Ordinance 02-01 |

Section 8.30.01 Purpose.

The purpose of this chapter is to ensure that developments provide a range of housing opportunities for all identifiable economic segments of the population, including households of low and moderate income. It has therefore become a requirement of development in the Town of Daniel:

(1) To require all developments of ten (10) units or more to provide units equal to ten (10) percent of the Equivalent Residential Units (ERU's) proposed for their project as affordable housing units within the development, or to pay a fee-in-lieu to Daniel to be used to assist in other ways to create affordable housing within Daniel.

(2) When approved by the Town of Daniel and the Wasatch County Housing Authority, to allow alternatives to onsite construction in order to provide a special use deemed necessary and appropriate to accomplish the purposes of affordable housing.

Section 8.30.02 Requirements.

(1) This chapter shall apply to all development of ten (10) Equivalent Residential Units (ERU's) or more as defined in this chapter. "Development" shall include the receipt of final approval for the creation of lots for sale or the construction of residential, commercial, or industrial units.

(2) An equivalent of ten (10) percent of each development to which this chapter applies shall be affordable housing through either construction of affordable housing units on-site within the development being proposed or by payment of a fee-in-lieu of construction. However, any development which, after having performed an impact study through a Town of Daniel-approved expert, can show that its impact on Daniel's affordable housing supply is different from ten (10) percent may satisfy its affordable housing requirement by complying with the findings of that study. If such impact study is to be performed, it must be completed and approved prior to receipt of preliminary approval of such development.

Section 8.30.03 Standards.

(1) The Affordable Housing units should be built within the development project site to allow for a blending of such units with market rate units.

(2) The affordable housing units should be built concurrently with market-rate units.

(3) The affordable housing units should be disbursed, not concentrated on the site.

(4) Affordable rental units shall remain restricted and affordable to the designated income group of qualified individuals for the life of the unit. Notwithstanding anything to the contrary, no affordable rental unit shall ever be approved for rental in an amount which exceeds ninety (90) percent of the rent charged at that point in time, for a comparable market unit in the same development, if any. Actual rent to be charged and later increases shall be determined in an Affordable Housing Agreement to be entered into prior to receiving final approval on any project.

(5) The design of units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials, and finished quality.

(6) One (1) affordable housing unit shall normally be consistent in size with a residence intended for a family of four (4). If the developer wishes to provide any smaller units for single tenants, no such unit shall be less than five hundred (500) square feet per tenant in size and shall receive credit for the affordable housing requirements based upon the ERU classification for that unit. Therefore, it may take three (3) or more single units to equal one (1) unit of affordable housing.

(7) Affordable housing units shall provide a mix of number of bedrooms in the affordable dwelling units in response to affordable housing demands identified by the Town of Daniel and the Wasatch County Housing Authority, so that the total ERUs provided for affordable housing equal ten (10) percent of the ERUs contained in the project, and the units being provided are of a size necessary to meet the current demand.

(8) No building permit shall be issued and no final approval granted which does not meet the requirement of this chapter.

(9) If a developer intends to build his required amount of affordable housing units at a time which is not concurrent with the building of the market-rate units, and a later construction schedule is agreed upon as part of the development approval process (not to exceed one (1) year), a bond or other financial assurance equal to one hundred ten (110) percent of the current fee-in-lieu shall be placed with the Town of Daniel to insure the building of the affordable housing units within the time agreed upon or one (1) year from final approval, whichever is sooner.

(10) The Town of Daniel, during the development approval process, may approve alternatives to the construction of new affordable housing units contained within the development where the proposed alternative supports specific housing policies and goals and assists the Town of Daniel in meeting those goals. Alternatives may include acquisition and rehabilitation of affordable housing units, conversion of existing market-rate units to affordable units, construction of special needs projects or shelters.

Section 8.30.04 Paid Fees-in-Lieu of Construction.

(1) Contributions of fees-in-lieu are considered a viable choice to building on-site, so that public and private dollars can be leveraged for more affordable housing good.

(2) The fee to be paid for each market-rate unit shall be determined by the subsidy needed to make a market-rate unit affordable to a low-income household. This subsidy shall be based upon a determination of the average subsidy that would be required to make a typical new starter home consisting of three (3) bedrooms/two (2) baths affordable to a family earning eighty (80) percent of the median gross income of the metropolitan statistical area for households of the same size.

(3) The actual fee to be charged and the method of payment shall be fixed by a schedule adopted periodically, by resolution of the Wasatch County Housing Authority and the legislative body of the Town of Daniel, based upon current costs of construction and interest rates. Said fee shall be assessed against the market-rate lots/units of a development and shall be paid by the developer.

(4) All fees-in-lieu shall be deposited in a housing trust fund. Said fund shall be administered by the legislative body of the Town of Daniel and the Wasatch County Housing Authority and shall be used for the purpose of providing funding assistance for the provision of affordable housing for rent and for sale units, as well as any reasonable costs of administration consistent with the policies and programs of the Wasatch County Housing Authority and the Town of Daniel.

(5) At the discretion of the Town of Daniel legislative body and the Housing Authority, a developer may make an irrevocable dedication of land or other non-monetary contributions of a value not less than the sum that would have been due as a fee-in-lieu, if it is determined that the non-monetary contribution will be helpful in furthering the goals and policies of this chapter. Any costs associated with such appraisal shall be borne by the developer.

Section 8.30.05 Affordable Housing Agreement as a Condition of Development.

(1) Developers, subject to this chapter, shall demonstrate compliance by executing an Affordable Housing Agreement prepared by the planning staff and submitted to the developer for execution. Agreements shall be reviewed by the Town of Daniel Planning Commission for ERU compliance and density bonus calculations, completeness and approval. The approval and execution of the Affordable Housing Agreement shall take place prior to the final approval of the development. Agreements that involve special concessions or incentives shall require the approval of the Town of Daniel legislative body prior to execution. An Affordable Housing Agreement, for which the housing requirement will be satisfied through new construction of affordable housing units, shall establish, but not be limited to, the following:

- (a) The total number of units proposed in the project;
- (b) The average selling price of a unit for each of the phases of the development;

- (c) The number of affordable units proposed;
- (d) The square footage, calculated ERUs, and number of bedrooms;
- (e) The proposed location of the units;
- (f) The schedule for production of dwelling units, both affordable and market rate;
- (g) Production cost associated with dwelling construction;
- (h) Appraisals for units;
- (i) Providing copies of plans for such units;
- (j) Security posted or to be posted prior to recording of final plat, for building of units, if construction of such units will not take place at the same time as the market rate units in a proportionate manner;
- (k) An Affordable Housing Agreement will not be required for projects which will be satisfying their affordable housing requirements through payment of a fee-in-lieu, provided such payment is made prior to final plat approval. The developer is required to provide the planning staff with a statement of the average anticipated selling price for a unit in each planned phase of the development; and
- (l) An Affordable Housing Agreement for which affordable housing requirements will be satisfied, all or in part, through a fee-in-lieu contribution other than money, shall include the method of determination, schedule and value of total fee-in-lieu contributions, which must be approved by the Town of Daniel legislative body and the Housing Authority.

Section 8.30.06 Enforcement.

- (1) The provisions of this chapter shall apply to all developers and their agents, successors and assigns proposing any development in the Town of Daniel of more than five (5) units, unless an impact study performed as described in Section 8.30.04(1,D), above, has performed and approved.
- (2) The legislative body of the Town of Daniel and/or the Housing Authority may institute any appropriate legal actions or proceedings necessary to ensure compliance with this chapter, including but not limited to actions to revoke, deny, or suspend any permit or development approval.
- (3) It shall be a class "C" misdemeanor for any individual or entity to sell or rent a restricted affordable housing unit for a sum in excess of the affordable housing rate set forth in the Affordable Housing Agreement governing that unit. Excess proceeds of an unlawful sale or unlawful rental shall be forfeited and paid to the Affordable Housing Trust Fund.

Section 8.30.07 Pre-existing Approvals.

All developments that have been approved or are presently pending approval in Wasatch County that are within the Town of Daniel, since March 1997, have been informed of the presence and contents of the existing Wasatch County Affordable Housing Plan both pending its adoption and after its adoption. They were additionally informed during all discussions of their development with the Wasatch County planning staff that they were subject to it's terms. A copy of such plan has been available since its

adoption. Therefore, all developments over five (5) units that have received any approvals within the Town of Daniel since March 30, 1997 are subject to this chapter.

Section 8.30.08 Employee Housing Credit.

Any development that conforms to the definitions of a "Resort Development" and "Employee Housing Unit" as stated in this title may receive partial credit for meeting the affordable housing requirement of Daniel, except for affordable housing requirements requiring fee-in-lieu payment by agreement between the developer and the Town of Daniel. Further, any development that conforms to the definition of a "Resort Development" and "Seasonal Employee Housing Unit", as stated in this title, may receive partial credit for meeting the affordable housing requirement of the Town of Daniel. However, the credit shall not exceed twenty five (25) percent of the total affordable housing requirement for a development or project.

Section 8.30.09 Severability.

If any of the provisions of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 8.30.10 Definitions.

(1) Affordable. Housing that costs no more than thirty (30) percent of a household's income.

(2) Affordable Housing. Housing occupied or reserved for occupancy by households with a gross household income equal to or less than eighty (80) percent of the median gross income of the metropolitan statistical area for households of the same size. Such housing cannot cost more than thirty (30) percent of a household's income.

(3) Affordable Housing Agreement. A legally binding agreement between a developer and the Town of Daniel which insures that the requirements of this chapter are satisfied.

(4) Allowable Housing Expense. The total monthly or annual recurring expenses required of a household to obtain shelter. These expenses include loan principal and interest, property and mortgage insurance, property taxes, homeowners' association dues, etc. In a rental unit only, this amount would include the cost of obtaining basic public utility services.

(5) Affordable Housing Unit. A dwelling unit that will be offered for rent or sale exclusively to, and which shall be affordable to, lower-income households as required by this chapter.

(6) Base Residential Units. The number of lots or Equivalent Residential Units (ERUs) associated with each development from which are calculated the number of affordable units to be provided or the amount of the fee-in-lieu to be paid.

(7) Conversion. The change of status of a dwelling unit from a purchased unit to a rental unit or vice versa.

(8) Employee Housing Unit.

(a) A dwelling unit which shall not be leased or rented for any period less than thirty (30) consecutive days, and shall be rented only to tenants who are full-time or seasonal employees and shall be employed by the resort. Housing provided on site for employees may include the following types:

(i) Dormitory;

(ii) Efficiency Unit; and

(iii) One (1), two (2), or three (3) bedroom apartments (up to one thousand (1,000) square feet).

(b) The compensation from the resort development employer of seasonal employee occupying seasonal employee housing units may not exceed eighty (80) percent of the Town of Daniel median income adjusted to a one (1) person household for the period of occupancy and the rental rate charged full-time employees for full employee housing units by the resort development employer may not exceed the HUD established rental rate for a SRO/studio adjusted to eighty (80) percent of a one (1) person household. The resort development employer operating full-time employee housing units shall report occupancy and qualification with the provisions of this ordinance annually to the Daniel Planning Commission and the Wasatch County Housing Authority.

(9) Equivalent Residential Unit (Also known as an "ERU"). A unit size, which represents the size of an average single family home, which comfortably houses at least four (4) people. Smaller units shall represent a portion of an equivalent residential unit (ERU). The planning staff shall make a determination of ERU calculations using the Unit Equivalent Chart contained in Appendix 2, Figure 11 of this title as a guide, which shall be subject to review by the Planning Commission and established as part of preliminary approval. For obvious reasons affordable housing needs shall be met with residential ERUs. This chart is also provided to show the ERU calculations for commercial and industrial uses for purposes of establishing the number of ERUs which must be provided to meet the requirement of affordable housing in residential ERUs.

(10) Financial Assistance. Assistance to include, but not be limited to, the subsidization of fees, infrastructure, land costs, or construction costs, the use of Community Development Block Grant (CDBG) Funds, down payment assistance, interest buy-downs, or the provision of other direct financial aid or other monetary compensation, by the Town of Daniel or the Wasatch County Housing Authority.

(11) Low Income. Eighty (80) percent or less of median family income for the Town of Daniel.

(12) Market Rate Unit. A dwelling unit where the rental rate or sales price is not restricted by requirements imposed by local, state or federal affordable housing programs.

(13) Moderate Income. Eighty-one (81) percent to one hundred twenty (120) percent of median family income for the Town of Daniel.

(14) Qualified Applicants. Applicants for Low-Income units must make eighty (80) percent or less than median family income for the Town of Daniel. Applicants for moderate-income units must make between eighty-one (81) percent and one hundred twenty (120) percent of median family income for Daniel. If all other requirements are equal, first preference shall be given to applicants who have been residents of Daniel for at least ninety (90) days prior to application. Second preference shall be given to applicants who reside elsewhere, but are employed full-time in Daniel. Third preference shall be given to applicants who neither work nor live in Daniel.

(15) Resort Development. A mixed use development consisting of a group or groups of buildings containing more than five (5) dwelling units and/or guest rooms and providing recreational activities that may include skiing, golf, horseback riding, swimming, tennis, spa, and similar activities. A resort may furnish services customarily furnished by a hotel, including a restaurant, cocktail lounge, and convention facilities.

(16) Seasonal Employee Housing Unit. A dwelling unit with the primary purpose of providing housing for seasonal employees of a resort development. Except for off-season incidental use, the unit shall not be leased or rented for any period less than thirty (30) consecutive days, and shall be rented only to tenants who are full-time or seasonal employees of the resort development shall be allowed provided that such rental does not exceed a total of ninety (90) days per annum. Seasonal employee housing units provided on site for employees may include the following types:

- (a) Dormitory;
- (b) Efficiency Unit;
- (c) One (1), two (2), or three (3) bedroom apartments no larger than one thousand (1,000) square feet.

Chapter 8.31

SEXUALLY ORIENTED BUSINESSES

Sections:

8.31.01 Location of Businesses - Restrictions.

Section 8.31.01 Location of Businesses - Restrictions.

Adult/sexually-oriented facilities and businesses only may be constructed or operated in full compliance with that certain interlocal agreement by and between the Town of Daniel and Wasatch County, a copy of which shall be available at the town recorder's office, and in full compliance with Wasatch County Code Chapter 16-31 and other applicable provisions of Wasatch County Code Title 16. Any definitions of terms in such agreement and/or provisions of the Wasatch County Code shall apply to terms included in this chapter that are not otherwise defined herein.

Section 8.31.02 Location and Land Use Restrictions.

(1) It is unlawful for any sexually-oriented business to do business at any location within the Town of Daniel not zoned for such business.

(2) Sexually-oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this chapter shall only be allowed in areas zoned for their use pursuant to this title.

Chapter 8.32

ENGINEERING DEPARTMENT.

Amd. 1/2016

Sections:

- 8.32.01 Creation of Department.**
- 8.32.02 Responsibilities of Department.**
- 8.32.03 Responsibilities of Engineering Coordinator:**
- 8.32.04 Excavation and Construction Affecting Town Roads:**
- 8.32.05 Sidewalks**
- 8.32.06 Road Grade.**
- 8.32.07 General Road Design Standards**
- 8.32.08 Road Standards**
- 8.32.09 Appendix A To Title 8.32.**
- 8.32.10 Appendix B to 8.32. Driveways and Encroachments, Requirements and Specifications:**
- 8.32.11 Appendix C to 8.32: Allowable Encroachment into a Public Road Right-of-Way:**

Section 8.32.01 Creation of Department.

There is hereby created a department of engineering. The department shall consist of one engineering coordinator, a planner, and such other employees as may be necessary to fulfill the duties of the department.

Section 8.32.02 Responsibilities of Department.

The department of engineering shall be responsible for the following functions and duties:

- (1) Coordinate the work of review engineers hired by the Town of Daniel to review proposed subdivisions and other instances in which public or private infrastructure is constructed.
- (2) Inspect the construction of all infrastructure improvements constructed in any subdivision or in any public right of way to insure construction conforms to the approved plans and specifications.
- (3) Provide for final acceptance by the Town of Daniel of public infrastructure improvements.
- (4) Authorize timely release of construction and warranty bonds issued to secure construction and proper function of infrastructure improvements.
- (5) Provide for management and operation of special service districts as authorized by the legislative body of the Town of Daniel.

Section 8.32.03 Responsibilities of Engineering Coordinator:

(1) The engineering coordinator shall be appointed by the mayor with the advice and consent of the legislative body of the Town of Daniel.

(2) Under the supervision of the Town Planning Commission, the engineering coordinator shall perform the following functions and duties:

(a) Performing all functions and duties pertaining to and necessary to fulfill the responsibilities as set forth in this Chapter.

(b) Supervising, managing and assigning employees, agents and/or delegates working in, for and with the department.

(c) Recommending to the Town Planning Commission policies and procedures for operation and management of the department.

(d) As requested, making reports to the Town Planning Commission and town legislative body regarding the management, financial status, and operation of the department.

(e) Upon request of the contractor, provide written review of development projects as to conformance with approved plans.

Section 8.32.04 Excavation and Construction Affecting Town Roads:

(1) Permit and Bond Required.

(a) Before excavating in any town road, lane, or public way, or removing any pavement or other materials forming an improvement thereon, a person shall make written application for and obtain a permit from the engineering coordinator. The application shall include a completion bond equal to 1.10 times the cost of restoring the road, lane, or public way to its condition prior to excavation. The permit shall be valid for the time shown on the permit and may be extended by the engineering coordinator for additional time.

(b) Before engaging in any construction requiring persons, equipment or materials to encroach upon a town road, lane, or public way, a person shall make written application for and obtain a permit from the engineering coordinator. The application shall include a completion bond equal to 1.10 times the cost of restoring the road, lane, or public way to its condition prior to the encroachment. The permit shall be valid for the time shown on the permit and may be extended by the engineering coordinator for additional time.

(2) Emergency Conditions. Under emergency conditions, a person may excavate in any town road, lane, or public way, or remove any pavement or other materials forming an improvement thereon, or may encroach upon a town road or public way, if doing so is necessary to prevent imminent loss of life or serious damage to property. In such emergencies, the person making the excavation or encroachment shall contact and obtain a permit from the engineering coordinator at the earliest possible time, but in no case later than the first working day following the emergency excavation or encroachment. All other provisions and specifications set forth in this section shall be applicable to excavations and encroachments arising out of emergency conditions.

(3) Winter Season. No permits for excavation or encroachment shall be issued during the winter season except in emergency conditions where the engineering coordinator determines that weather and ground

conditions are such that satisfactory back-filling and road restoration and repair may be completed. The winter season shall commence on October 15th and end on April 1st of each year unless otherwise approved by the engineering coordinator.

(4) Completion Bonds.

(a) The completion bond required for excavation and for encroachment in a town road, lane, or public way may be cash, a letter of credit from an FDIC insured financial institution or a corporate surety bond. The bond shall be valid for a period of one year to guarantee compliance with the requirements of this title. The bond shall be released upon approval of the engineering coordinator.

(b) Applicants for excavation and encroachment permits may request permission from the engineering coordinator to secure a continuing annual completion bond in lieu of separate bonds for each excavation or encroachment. Applications for such a bond shall be made before December 31 of each year and shall be valid for the next calendar year or as determined by the engineering coordinator and approved by the Planning Commission.

(5) Excavation Procedures:

(a) Any person making any excavation affecting or impacting a town road or public way shall erect and maintain about the excavation site sufficient guards, signals, barricades, and lights to give warning to approaching vehicular and pedestrian traffic. The guards, signals, barricades and lights shall remain in place until the road is restored to its original condition and all construction associated with excavation completed, including the removal of all rocks, dirt, and construction materials from the road or public way.

(b) All excavations shall be restored to ninety-five (95) percent compaction unless otherwise provided by this code.

(c) The engineering coordinator shall inspect all excavation projects to ensure that the affected or impacted town road or public way is restored to an appropriate condition in accordance with generally applicable town standards.

(d) Any person making any excavation affecting or impacting a town road or public way shall indemnify and hold harmless the town from any and all claims, liabilities, demands, or damages for any and all injuries to persons or property arising out of such excavation.

(e) If an excavator refuses to restore to a reasonable safe condition any town road or public way affected or impacted by the excavation, the engineering coordinator may cause the road or public way to be restored at the expense of the excavator.

(6) Cleaning and Operation of Excavation Equipment on Town Roads:

(a) Any person making any excavation affecting or impacting a town road or public way shall provide for a suitable process to clean the excavation equipment before operating that equipment upon any town road or public way.

(b) At or near the excavation site, the excavator shall establish a cleaning area and crew to clean mud, dirt, or rocks from the wheels and exterior body of all excavation equipment. The cleaning area shall allow for adequate drainage and shall not constitute a safety hazard to oncoming vehicular or pedestrian traffic.

(c) All trucks and equipment leaving the excavation site carrying earthen materials or loose debris shall be covered so as to prevent dropping of materials and debris on town roads and public ways.

(d) Ramps constructed over curbs and gutters shall not interfere with or block the passage of water along the gutter and shall be constructed of materials that will not erode in adverse weather conditions.

(e) Excavators under this chapter shall install erosion and run-off controls so as to prevent storm water, surface water and debris from draining, washing, or being carried onto any town road or public way.

(f) Excavators under this chapter shall be responsible for the immediate removal of mud, dirt, or debris deposited on town roads or public ways as a result of the excavation.

(g) If an excavator under this chapter fails to remove mud, dirt, and debris deposited on a town road or public way as a result of the excavation, the engineering coordinator may provide for the removal at the excavator's expense. The excavator shall be responsible for the costs of removal and any costs expended to collect, including attorney fees. The engineering coordinator may suspend the excavation permit or withhold a certificate of occupancy for any structure related to the excavation until such time as the costs of removal are paid in full.

(7) Construction Encroaching On Town Roads:

(a) Any person engaging in construction of any kind that requires persons, equipment or materials to encroach upon a town road or public way shall erect and maintain during the period of encroachment sufficient guards, signals, barricades, and lights to give warning to approaching vehicular and pedestrian traffic. The guards, signals, barricades, and lights shall remain in place until the persons, equipment, or materials are permanently removed.

(b) Any person engaging in construction of any kind that requires persons, equipment, or materials to encroach upon a town road or public way shall indemnify and hold harmless the town from any and all claims, liabilities, demands, or damages for any and all injuries to persons or property arising out of such encroachment.

(c) The application and permit shall specify the portion of the town road or public way that may be encroached upon, and hours during which this may occur.

(d) The area of permissible encroachment shall be fenced and provision shall be made for the continuation of safe pedestrian travel along the town road or public way encroached upon.

(8) Specifications for Restoration and Repair of Town Roads. The specifications and standards for restoration and repair of town roads, lanes or public ways after excavation and encroachment are contained in Appendix A, B, and C at the end of this title.

(9) Prohibited Conduct:

(a) It shall be unlawful to engage in activities regulated by this chapter without obtaining the required permit, or to engage in activities regulated by this chapter that exceed the scope of the activities authorized in the required permit.

(b) It shall be unlawful for any person subject to the provisions of this chapter to fail to erect and maintain the guards, signals, barricades, and lights around required in this chapter.

(c) It shall be unlawful for any person to knowingly, intentionally, or recklessly remove, tamper with, or destroy any guard or barricade or extinguish any signal or light erected or maintained in accordance with the requirements of this chapter.

(d) It shall be unlawful for any person responsible for an excavation affecting or impacting a town road or way to intentionally or knowingly fail or refuse to restore a town road or public way to a

reasonably safe condition after having received written notice from the engineering coordinator ordering restoration.

(e) A violation of any other provision of this chapter shall constitute a class C misdemeanor. Each day a violation of this section persists shall constitute a separate offense.

Section 8.32.05 Sidewalks.

(1) Sidewalks shall be defined as:

(a) A roadway easement right of way designed for optimal pedestrian use; or

(b) A pathway designed for safety that provides a probable logical connection among the units in the development in a configuration that discourages pedestrian traffic on the roadway.

(2) Pedestrian sidewalks shall be required in all of the following developments:

(a) High density;

(b) Commercial;

(c) An average frontage of less than two hundred feet (200'); and

(d) Multi-family residential.

(e) Unless the physical terrain such as a steep grade or hillside slope make sidewalks prohibitive or unsafe, in which case the town legislative body, upon consideration of recommendations from staff or the Planning Commission, may make an exception to these standards as long as alternative pathways are provided. The burden of demonstrating this exception is entirely upon the applicant and must be shown by a clear and convincing standard.

(3) Sidewalks shall be constructed with concrete or any other hard surface material, which has a manufacturer guaranteed life of at least twenty-five (25) years.

Section 8.32.06 Road Grade.

(1) The minimum allowed grade for all roadways is one-half (0.5) percent.

(2) The maximum allowed grades for all roadways are as follows:

(a) Minor local, the maximum grade shall not exceed twelve (12) percent;

(b) Local, the maximum grade shall not exceed ten (10) percent;

(c) Major local, the maximum grade shall not exceed ten (10) percent; and

(d) Minor collector, the maximum grade shall not exceed eight (8) percent.

(3) Physical terrain may require exceptions to the above maximum grade. The following mitigating circumstances may permit an increase in the maximum grade. The burden of meeting the criteria shall be solely upon the applicant and shall be shown by a clear and convincing standard:

(a) Terrain difficulties;

(b) Nature of materials: soil and geology;

- (c) Significant vegetation to be preserved;
 - (d) Aspect, i.e., north facing, south facing, etc.;
 - (e) Size of lots;
 - (f) Number of units serviced;
 - (g) Drainage considerations;
 - (h) Roadway classification;
 - (i) Pullouts provided, widths and spacing;
 - (j) Safety mitigation factors are added; and
 - (k) Length of exception requested.
- (4) In the event the applicant meets its burden of showing an exception, the maximum allowed grades are as follows:
- (a) Local grade shall not exceed twelve (12) percent;
 - (b) Major local grade shall not exceed ten (10) percent; and
 - (c) Minor collector grade shall not exceed eight (8) percent. However, any grade above six (6) percent requires a letter from the local school district stating that it will service the residences in that development.
- (5) Compliance with local road grade standards does not guarantee school bus service.

Section 8.32.07 General Road Design Standards

These standards shall be applied to new developments in the Town of Daniel.

- (1) Roads shall be designed at a minimum in accordance with AASHTO design criteria and per street cross section drawings shown in Section 8.32.08.
 - a. Pavement, shoulders, and sidewalks shall be designed in accordance with site specific geotechnical studies but not less than
 - i. if the CBR of the native subgrade is less than 10 then the base shall consist of
 - 1. nine (9) inches of granular borrow
 - 2. nine (9) inches of $\frac{3}{4}$ inch or 1 inch road base
 - 3. four (4) inches of asphalt
 - ii. If the CBR of the native subgrade is greater than or equal to 10 but less than 20
 - 1. nine (9) inches of $\frac{3}{4}$ inch or 1 inch road base
 - 2. four (4) inches of asphalt
 - iii. If the CBR of the native subgrade is equal to or greater than 20
 - 1. six (6) inches of $\frac{3}{4}$ inch or 1 inch road base
 - 2. four (4) inches of asphalt
 - b. All materials (native and import) shall be compacted to a minimum of 95% of the maximum dry density. Dry density shall be determined using standard laboratory methods using modified effort.

CBR values will be determined by the town engineer or by a licensed geotechnical engineer.

(2) The roadway design standards shall be the same for all publicly owned and all privately owned roadways.

(3) In road sections designated private local roadway, having ERU (Equivalent Residential Units) of 3 or less:

(a) Without curb and gutter, shall be built, as shown on Figure 1 and shall meet the following criteria:

- (i) A four foot (4') drainage swale;
- (ii) A four foot (4') shoulder;
- (iii) Two (2) twelve foot (12') recycled asphalt (rotomilled) surface lanes; and
- (iv) A four foot (4') $\frac{3}{4}$ inch road base or recycled asphalt shoulder.

(4) In road sections designated minor local roadways having ADT of 0-150:

(a) With curb and gutter, the section shall be built, as shown on Figure 2 and shall incorporate the following criteria:

- (i) A four foot (4') shoulder;
- (ii) A two and one half foot (2.5') curb and gutter;
- (iii) Two (2) twelve foot (12') paved surface lanes;
- (iv) A two and one half foot (2.5') curb and gutter; and
- (v) A four foot (4') shoulder.

(b) Without curb and gutter, shall be built, as shown on Figure 3 and shall meet the following criteria:

- (i) A four foot (4') drainage swale;
- (ii) A four foot (4') shoulder;
- (iii) Two (2) twelve foot (12') paved surface lanes; and
- (iv) A four foot (4') $\frac{3}{4}$ inch road base or recycled asphalt shoulder.

(5) In road sections designated Local roadways having ADT's of 151 to 1500:

(a) With a curb and gutter, the sections shall be built, as shown on Figure 4 and shall meet the following criteria:

- (i) A four foot (4') gravel shoulder;
- (ii) A two and one half foot (2.5') curb and gutter;
- (iii) Two (2) twelve foot (12') paved surface lanes;
- (iv) A two and one half foot (2.5') curb and gutter; and
- (v) A four foot (4') gravel shoulder.

(b) Without curb and gutter, the section shall be built, as shown on Figure 5 and shall meet the following criteria:

- (i) A four foot (4') drainage swale;
- (ii) A four foot (4') shoulder;
- (iii) Two (2) twelve foot (12') paved surface lanes; and

(iv) A four foot (4') $\frac{3}{4}$ inch road base or recycled asphalt shoulder.

(c) Road sections otherwise designated local roadways in developments sharing an average frontage of less than two hundred (200) feet shall require high density road sections.

(d) A development may obtain a modification of the strict requirement of a high density road section by demonstrating a substantial excess in provided parking spaces located in convenient areas designed to accommodate excess resident and visitation parking in a location separated from the actual roadway by landscaping or other non-parking areas or buildings. The burden of demonstrating that these excess parking spaces are likely to keep parking off the roadway is entirely upon the applicant and must be shown by a clear and convincing standard.

(6) In road sections designated Major Local roadway, having ADT's of 1501-2000:

(a) With a curb and gutter, the section shall be built, as shown on Figure 6 and shall meet the following criteria:

- (i) A four foot (4') gravel shoulder;
- (ii) A two and one half foot (2.5') curb and gutter;
- (iii) Two (2) twelve foot (12') paved surface lanes;
- (iv) A two and one half foot (2.5') curb and gutter; and
- (v) A four foot (4') gravel shoulder.

(b) Without curb and gutter, the section shall be built, as shown on Figure 7 and shall meet the following criteria:

- (i) A four foot (4') drainage swale;
- (ii) A four foot (4') gravel shoulder;
- (iii) Two (2) twelve foot (12') paved surface lanes; and
- (iv) A four foot (4') $\frac{3}{4}$ inch road base or recycled asphalt shoulder.

(7) In road sections designated Minor Collector roadways having ADT's of 2001-8000:

(a) With a curb and gutter, the section shall be built, as shown on Figure 8 and shall meet the following criteria:

- (i) A four foot (4') gravel shoulder;
- (ii) A two and one half foot (2.5') curb and gutter;
- (iii) Two (2) thirteen foot (13') paved surface lanes;
- (iv) A two and one half foot (2.5') curb and gutter; and
- (v) A four foot (4') gravel shoulder.

(b) Without curb and gutter, the minimum section shall be built, as shown on Figure 9 and shall meet the following criteria:

- (i) A four foot (4') drainage swale;
- (ii) A six foot (6') gravel shoulder;
- (iii) Two (2) thirteen foot (13') paved surface lanes; and

(iv) A six foot (6') $\frac{3}{4}$ inch road base or recycled asphalt shoulder.

(8) In road sections designated as High Density roadways:

(a) With a curb and gutter, the section shall be built, as shown on Figure 10 and shall meet the following criteria:

- (i) A five foot (5') parkway;
- (ii) A two and one half foot (2.5') curb and gutter;
- (iii) Two (2) thirteen foot (13') paved surface lanes;
- (iv) A two and one half foot (2.5') curb and gutter; and
- (v) A five foot (5') parkway.

(9) In road sections designated Major Collector Roadways:

(a) With a curb and gutter, the section shall be built, as shown on Figure 11 and shall meet the following criteria:

- (i) A five foot (5') shoulder;
- (ii) A twelve foot (12') paved surface lane;
- (iii) A fourteen foot (14') median;
- (iv) A twelve foot (12') paved surface lane;
- (v) A five foot (5') shoulder;
- (vi) A two and one half foot (2.5') curb and gutter;
- (vii) A five foot (5') parkway.

Road Standards

50' Right-of-Way

36'

24' Pavement Width

12' 12'

2% 2%

4' 4'

Cut Side

Fill Side

3:1 Slope

3:1 Slope

V Ditch

Gravel Shoulder

Road Base Per Section 8.32.07

Granular Borrow Per Section 8.32.07

Unpaved Road Standard (without Curb and Gutter)

4" Asphalt Roto-Mill Tailings over 6" or 9" Roadbase based on CBR values listed in Section 8.32.07

Keyed embankment if built up

50' Right-of-Way

45'

24' Pavement Width

12' 12'

2'-6" 2'-6"

4' 4'

3:1 Slope

Cut Side

Fill Side

2%

2%

3:1 Slope

SIDEWALK

CURB AND GUTTER

GRAVEL SHOULDER

Road Base Per Section 8.32.07

Granular Borrow Per Section 8.32.07

MINOR LOCAL (WITH CURB AND GUTTER) 0-150 ADT (0-15 SINGLE FAMILY UNITS)

4" Asphalt over 6" or 9" Roadbase based on CBR values listed in Section 8.32.07

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Figure 3

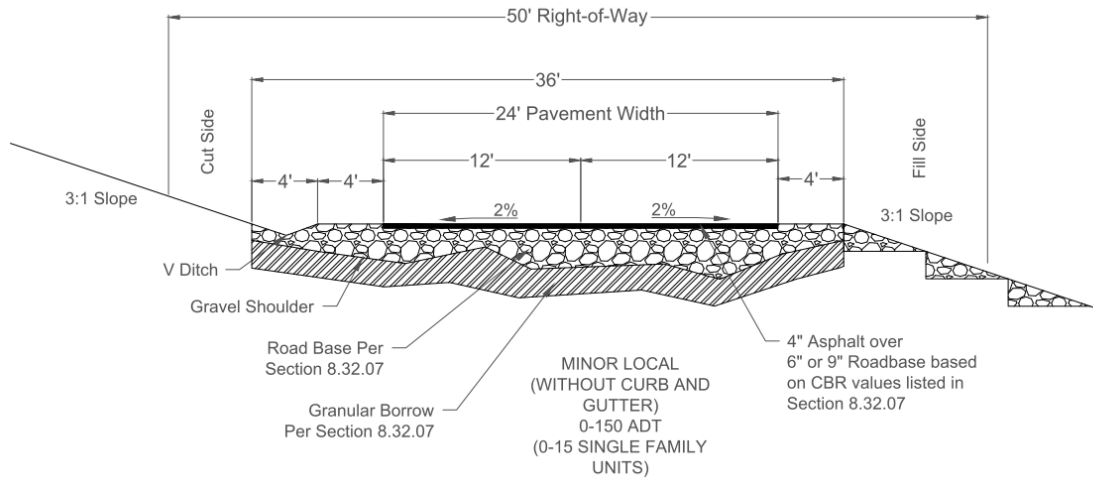
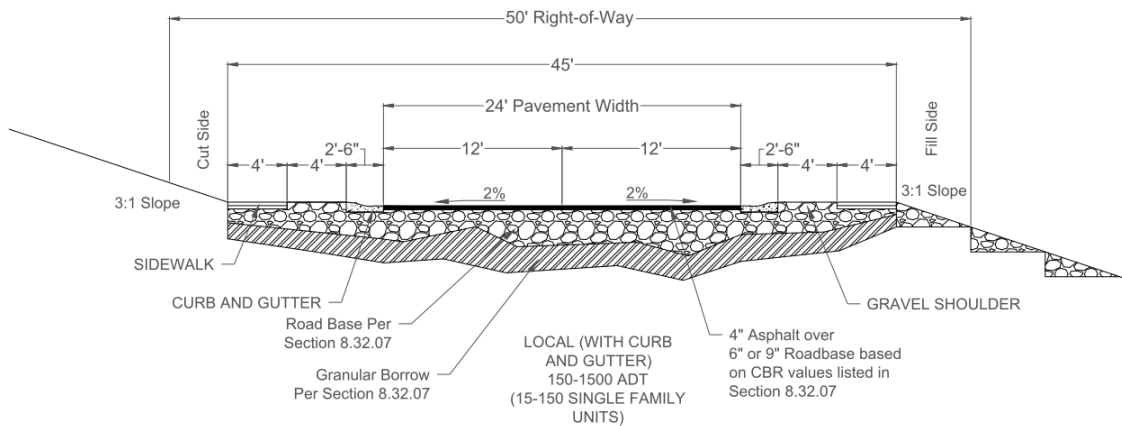


Figure 4



Note: On slopes greater than 3:1 there must be a minimum of eight (8) feet from the edge of the pavement unless there is a guardrail, which must be set back a minimum of four (4) feet from the edge of the pavement.

Figure 5

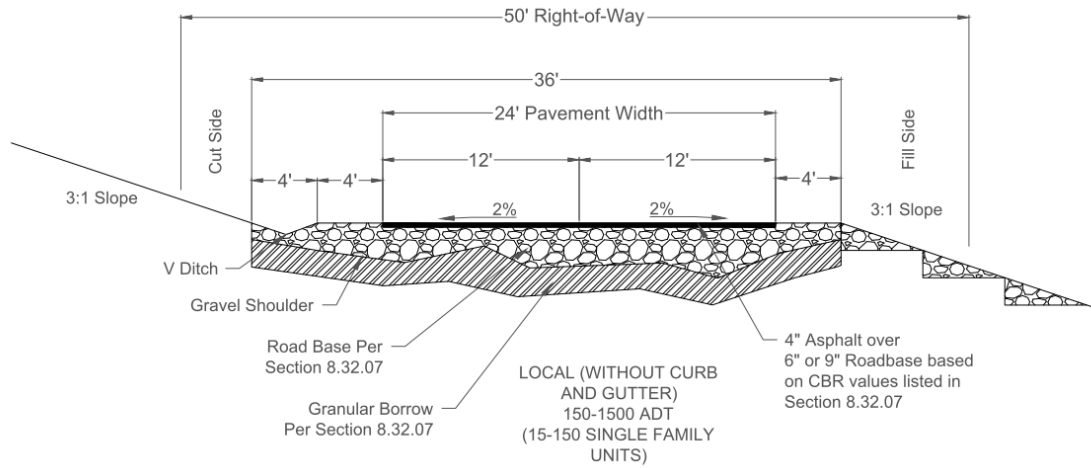
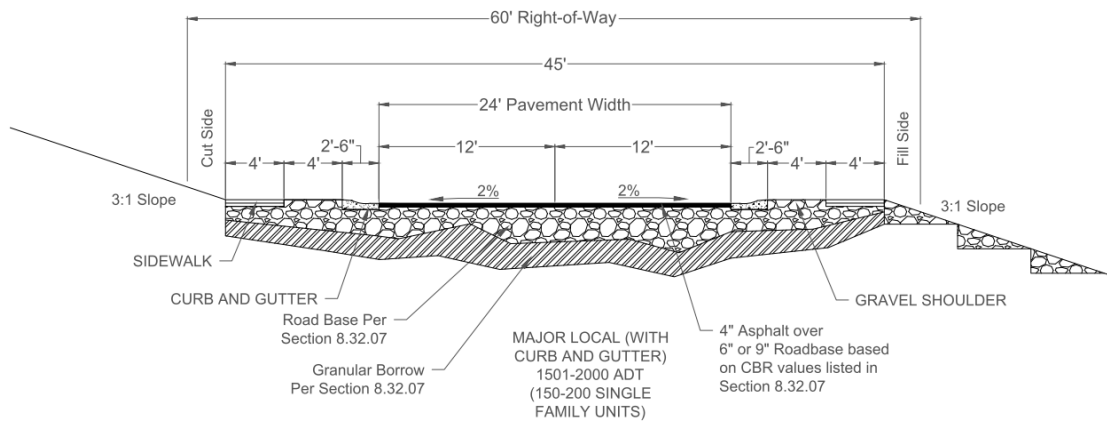


Figure 6



Note: On slopes greater than 3:1 there must be a minimum of eight (8) feet from the edge of the pavement unless there is a guardrail, which must be set back a minimum of four (4) feet from the edge of the pavement.

Figure 7

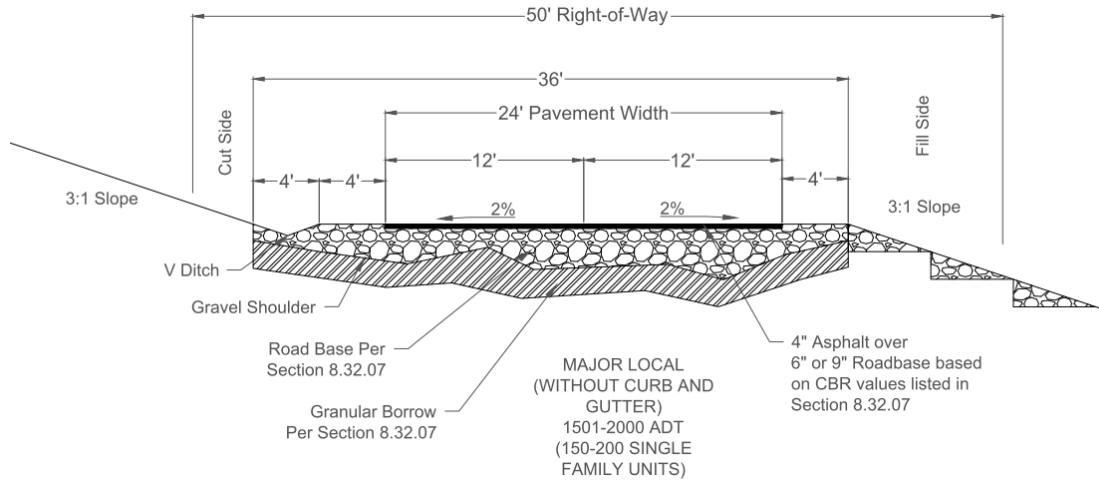
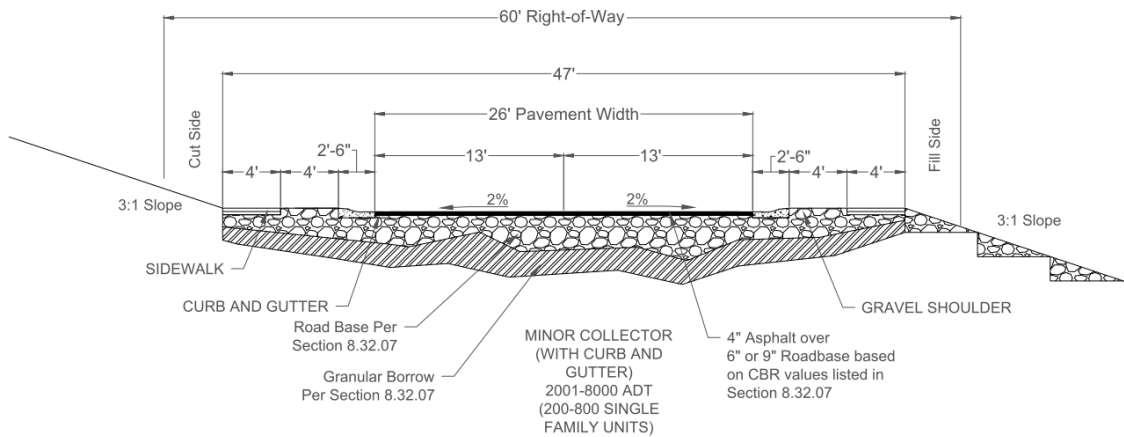


Figure 8



Note: On slopes greater than 3:1 there must be a minimum of eight (8) feet from the edge of the pavement unless there is a guardrail, which must be set back a minimum of four (4) feet from the edge of the pavement.

Figure 9

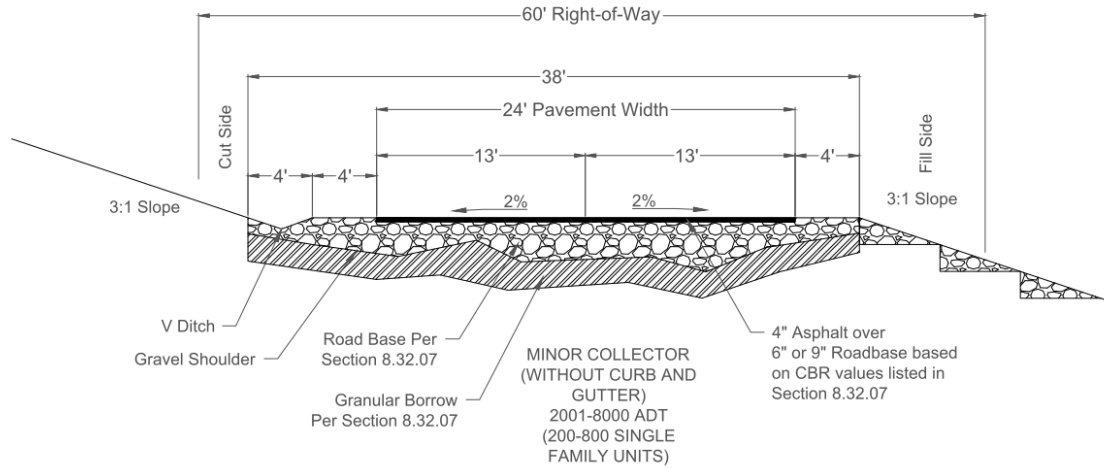
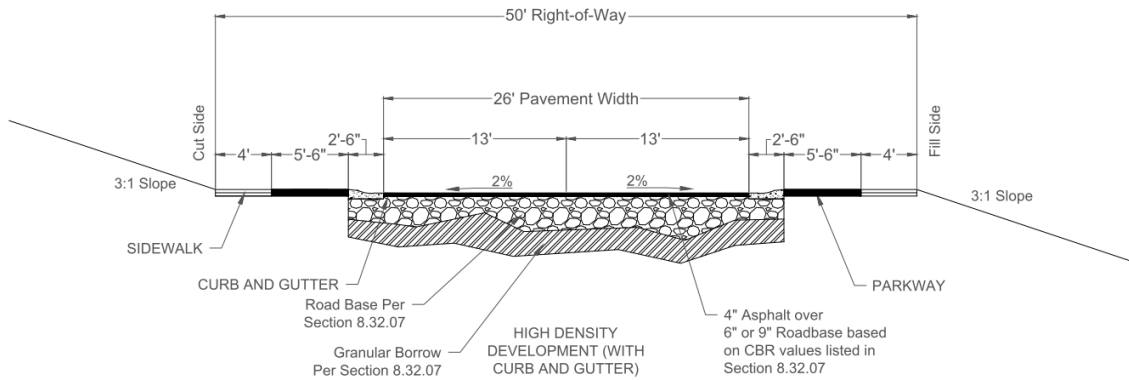
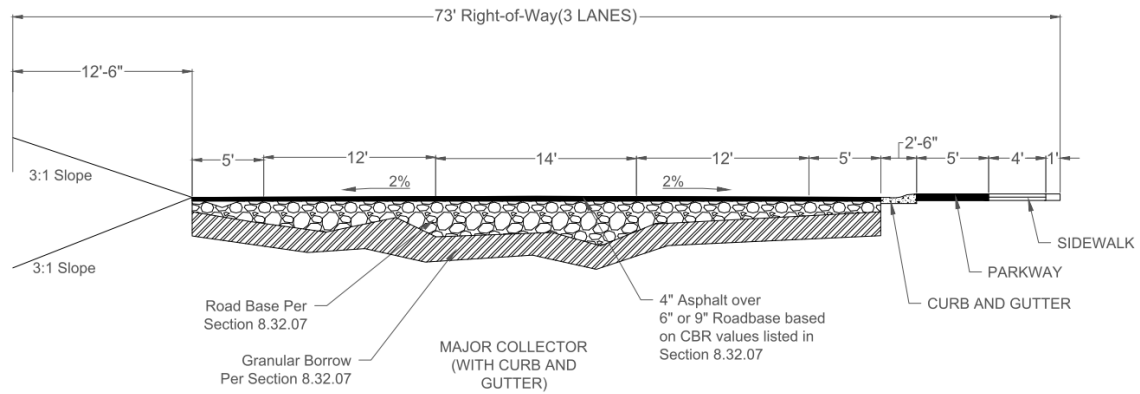


Figure 10



Note: On slopes greater than 3:1 there must be a minimum of eight (8) feet from the edge of the pavement unless there is a guardrail, which must be set back a minimum of four (4) feet from the edge of the pavement.

Figure 11



Note: On slopes greater than 3:1 there must be a minimum of eight (8) feet from the edge of the pavement unless there is a guardrail, which must be set back a minimum of four (4) feet from the edge of the pavement.

Section 8.32.09 Appendix A to Title 8.32.

(1) EXCAVATION REQUIREMENTS AND SPECIFICATIONS

(a) Boring Preferred in Paved Right-of-Way. Boring is the preferred method for crossing paved town and/or County rights-of-way. Excavation shall not be approved unless it can be demonstrated that boring is infeasible or impractical as an alternative.

(b) Minimum Depths for Buried Cables and Lines. All small cables, conduits, or pipelines to be buried in town rights-of-way for utility purposes shall be a minimum of twenty-four (24") below final surface grade.

(c) Manner of Excavation.

(i) General:

1) All excavation shall be unclassified.

2) The applicant shall perform all excavation of every description and of whatever substances encountered, to the depth specified on the plans and/or required to accomplish the work.

3) During the excavation operations the material, which might be found suitable for use in backfilling, shall be piled in an orderly manner of sufficient distance from the banks of the trench for convenience in operation equipment, to avoid embankment overloading, and to prevent slides and cave-ins.

4) All excavated materials not required or not suitable for backfilling shall be promptly removed from the site of the work and wasted in an area to be provided by the applicant with the approval of the inspector.

5) Grading shall be performed as may be necessary to prevent surface water from flowing into trenches or other excavations, and any water accumulated therein shall be promptly removed by pumping or by other approved method.

(ii) Safety:

1) All excavating materials shall be piled in such a manner as will cause a minimum of inconvenience to public travel, the provisions shall be made for urgent traffic as necessary.

2) The applicant will be responsible for providing barricades at all excavation sites while open trenches are present.

3) Barricades must be lighted if open trenches are left overnight.

4) Free access shall be provided to all fire hydrants, water valves and meters, and clearance shall be left to enable free flow of storm water in all gutters, conduits, and natural watercourses.

5) The applicant shall utilize appropriate traffic signs, markers, and procedures in all construction activities as defined in the Federal "Manual of Uniform Traffic Control Devices."

(iii) Methods:

1) Unless otherwise indicated, trench excavation shall be by open cut except that short sections of the trench may be tunneled under existing structures if the pipe can be safely and properly installed in such tunneled sections.

2) In those areas where the utility is to be installed under existing curbs and gutters and/or sidewalks, the applicant has the option whether to tunnel and backfill or to cut and remove the curb, gutter, or sidewalk.

3) In the latter case, he shall, at his expense, replace the curb, gutter, or sidewalk to match the existing structures in line, grade and type of construction.

4) Exceptions to the methods of excavation are listed in Section 8.32.05(e) of this appendix.

(d) Backfill

1) Class A Backfill:

a) This class of back fill shall be used in areas where immediate compaction and completion of the trench backfill is required.

b) The trench above the pipe zone shall be backfilled with suitable and approved material placed in layers consistent with the type of compaction equipment to be used.

c) Each layer shall be sprinkled and thoroughly tamped by means of hand-operated or mechanically operated tampers.

d) Backfilling and compaction shall be done to the satisfaction of the inspector and shall be continued on each layer of backfill until a compaction of 96 per cent of maximum density is obtained as determined by ASTM designation D-698-70.

e) The final one-foot of backfill is to be compacted to one hundred (100) percent of maximum density.

2) Class D Backfill:

a) This class of backfill is intended for use in areas that are ultimately to be planted and where minimum compaction (above the pipe zone) is required at the present time.

b) The entire depth of the trench above the pipe zone shall be backfilled with a suitable material, as approved by the inspector, to a point slightly above the existing ground surface or the finish grade if the latter is shown.

c) The surface shall be continually pneumatically rolled by patrol, roller and/or crawler tractor, as the backfilling process proceeds.

d) The trench backfill along the pipe centerline shall be left with a final fill above the existing ground surface of finish grade of at least one foot (1').

e) The final layers of material to be replaced shall be specified in Section 8.32.05(e).

f) The surface shall be maintained by blading, sprinkling, rolling, adding additional material, etc., to maintain a safe, uniform surface satisfactory to the inspector until the required final surfacing material has been placed.

(e) Restoring Surface: Restoring shall be commenced as soon as possible following excavation. Complete restoration shall be diligently pursued until complete. Unless specifically authorized by the engineering department restoration shall be completed within 72 hours of initial excavation of the total area impacted by the excavation. Excavation shall be as specified in Section 3 "Excavation", of this ordinance with the following exceptions:

(i) Before trench excavation is begun, any bituminous pavement to be removed shall be cut with a saw or pneumatic tool to provide a straight, neat construction line.

(ii) Pavement removed during excavation shall be wasted and not be used in backfilling the trench.

1) Backfill. Backfilling shall be class A for the entire trench depth or comply with 8.32.07 (1)

vi) The surface shall be maintained by blading, sprinkling, rolling, adding additional material, etc., to maintain a safe, uniform surface satisfactory to the inspector until the required final surfacing material has been placed.

2) Asphalt Pavement Replacement: All asphalt cut edges shall be tacked prior to asphalt replacement. Asphalt must be compacted with the technical compaction equipment. The Inspector may require that asphalt be feathered out over cut area.

a) Class A and B Streets: After the backfill and $\frac{3}{4}$ " surfacing material have been thoroughly compacted, the remaining four inches (4") shall be backfilled to the level of the existing asphalt with a bituminous surface course as specified above. The seal coat shall then be applied in accordance with section 403 of the "Standard Specification for Highway Construction."

3) Materials:

a) Surfacing Material: Surfacing material shall be $\frac{3}{4}$ " maximum crushed gravel meeting the requirements of Section 301 of the Wasatch County Design Construction Standards Handbook.

b) Bituminous Surface Course: The material for the bituminous surface course shall be plant mix meeting the requirements of Section 403 of the Wasatch County Design Construction Standards Handbook. The asphalt mix design for the plant mix bituminous surface court to be used on the project shall be prepared and submitted to the inspector by the applicant proper to the beginning of the construction.

c) Tack Coat: Material for bituminous tack coat shall be either MC-70, MC250 or Grade ss-1H emulsive applied at .25 gal/square yard.

d) Seal Coat: Materials used in the application of the seal coat shall be as follows:

i) Asphalt seal coat material shall be CRS-2H.

ii) Cover coat material shall be type 2.

iii) Seal coating shall meet the requirements of Section 406 of the Wasatch County Design Construction Standards Specifications.

Section 8.32.10 Appendix B to Title 8.32. Driveways and Encroachments, Requirements and Specifications.

(1) Existing Driveways [or Encroachments]: Access to town roads by means of driveways[or encroachments] in existence at the time of the effective date of this ordinance may continue to the same extent and degree as before; any change in the driveway the degree of use shall first require a permit and compliance with the terms of this ordinance.

(2) Notification of Potential Condemnation Right-of-Way Required: Except as otherwise provided in Subsection (2) (a) of this Appendix, no building or structure shall be erected, reconstructed, structurally altered or enlarged, and no encroachment permit shall be issued therefor on any lot or parcel of land which abuts a town road or other public street which does not conform to current Wasatch County width standards, unless the portion of such lot or parcel within the standard right-of-way width has been

dedicated to the town or the developer or applicant has been notified and has acknowledged that such portion may be condemned for public use at some future time.

(a) Exceptions to Right-of-Way Notification Dedication Requirement:

(i) The maximum area to be dedicated shall not exceed 10 percent of any lot or parcel that was of record on the effective date of this ordinance in the Wasatch County recorder's office. In determining the amount of area for dedication for purposes of this exception, any highway area that previously has been dedicated to the public through public use shall not be included.

(ii) Neither notice, acknowledgement or dedication is required for remodeling, additions and accessory buildings incidental to a single-family dwelling, used as a residence, existing on the lot as of the effective date of this ordinance, provided that no additional dwelling units are created.

b) Dedication Procedure:

(i) Any person, or other entity, dedicating land under the provisions of this ordinance shall execute an offer to dedicate and a warranty deed or other deed form acceptable to the town properly executed by all parties of interest. At the request of said person or entity, the offer to dedicate and deed shall be prepared by the applicant and as approved by the town attorney's office in such terms as to be binding on the owner, his heirs, assigns or successors in interest. The dedication shall be complete when the deed is recorded in the office of the county recorder after its acceptance by the town council.

(ii) The applicant shall provide such survey information as the engineering coordinator requires, in order to establish property boundary lines.

(iii) For the purpose of this section, dedication shall be considered as satisfactorily assured when the town attorney's office approves the offer to dedicate the deed as described herein.

(iv) Encroachment Permit Issuance: When the provisions of this section have been completed or assured as provided herein, an encroachment permit may be issued.

(c) Lots Affected by Dedication: On any lot (or lots) affected by a dedication, acknowledgement, or notification under the provisions of this section all required yards, setbacks, parking areas, loading spaces and building locations for new building or structures or additions to buildings or structures shall be measured and calculated from the new lot lines created by dedication or future right-of-way potential. However, in applying all other provisions of this Title 8, such lot (or lots) shall be considered, and measured as, an area (or areas) that existed immediately prior to dedication.

(d) Appeal of Notice, Acknowledgement of Dedications Provisions:

(i) Any person may appeal any determination in connection with the administration, enforcement and other provisions of this section as set forth below to the Town of Daniel Board of Adjustment.

(ii) The Board of Adjustment may make modifications in the requirements of this chapter as necessary to prevent undue hardship or an unreasonable burden under the facts of each individual case. However, no such modification shall be granted less it is in conformity with the spirit and intent of this section.

(3) Spacing: Access driveways or encroachments shall be spaced according to the following:

(a) Minimum Distance:

(i) Street Type: Local: Minimum Spacing: Thirty-five feet (35') apart; from intersections: fifty feet (50')..

(ii) Street Type: Collector: Minimum Spacing: Fifty feet (50') apart; from intersections: seventy-five feet (75').

(iii) Street Type: Arterials: Minimum Spacing: Seventy-five feet (75') apart; from intersections: one hundred fifteen feet (115').

(b) Each property shall be entitled to at least one access driveway or encroachment.

(c) Driveways or encroachments shall not create hazardous driving conditions.

(d) Curves in the roadway and the crests of hills shall be avoided, where possible, driveway locations. Reasonable sight distances shall be maintained on either side of the encroachment.

Section 8.32.11 Appendix C to Title 8.32: Allowable Encroachment into a Public Road Right-of-Way.

(1) General: No structure, retaining wall, wall, utility box, mailbox or other obstacle shall be placed in the right-of-way of a town road without the necessary permit, therefore, structures will only be allowed within public rights-of-way where it can be shown that no reasonable alternative location exists and that the public safety will not be impaired by such placement.

(2) Fences: Fences shall not be located within the road right-of-way.