



**Planning Commission Meeting
Thursday, April 26, 2018
City Hall Council Chambers
5249 S. South Pointe Dr. Washington Terrace City
801-393-8681**

1. ROLL CALL 6:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. WELCOME

4. RECURRING BUSINESS

4.1 MOTION: APPROVAL OF AGENDA

Any point of order or issue regarding items on the Agenda or the order of the agenda need to be addressed here prior to the approval of the agenda.

4.2 MOTION: APPROVAL OF MINUTES FOR MARCH 29 ,2018

5. SPECIAL ORDER

Special orders will proceed as follows: Chair introduction of item, staff/applicant presentation, questions by commission, Chair opens public hearing, citizen input; Chair closes public hearing, then commission final discussion.

5.1 PUBLIC HEARING: TO HEAR COMMENT ON AMENDING SECTION 17.44.080 OF THE MUNICIPAL CODE “FENCE, WALLS, AND HEDGES”

5.2 PUBLIC HEARING: TO HEAR COMMENT ON AMENDING SECTION 17.10.07 “DENSITY” REGARDING IN-FILL RESIDENTIAL STANDARDS

5.3 PUBLIC HEARING: TO HEAR COMMENT ON AMENDING CHAPTER 17.56 REGARDING TEMPORARY SIGNS

5.4 PUBLIC HEARING: TO HEAR COMMENT ON AMENDING CHAPTER 8.16 REGARDING UNWANTED NUSIANCE TREES

6. NEW BUSINESS

In compliance with the Americans with Disabilities Act, persons who have need of special accommodation should contact the City Recorder at 395-8283

CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted in three public places within the City of Washington Terrace City limits and faxed to the *Standard Examiner* at least 24 hours prior to the meeting.
Amy Rodriguez, Washington Terrace City Recorder

- 6.1 MOTION: FINAL SUBDIVISION AND SITE PLAN APPROVAL
FOR THE SCOTT WEBBER INFILL SUBDIVISION LOCATED BETWEEN
4900 SOUTH AND 5000 SOUTH AT 500 WEST**
- 6.2 DISUCSSION/MOTION ORDINANCE 18-06 : RECOMMENDATION TO
COUNCIL TO AMEND SECTION 17.10.07 “DENSITY”, REGARDING IN-
FILL RESIDENTIAL STANDARDS**
- 6.3 DISCUSSION/MOTION ORDINANCE 18-05: RECOMMENDATION TO
COUNCIL TO AMEND CHAPTER 17.56 REGARDING TEMPORARY
SIGNS**
- 6.4 DISUCSSION/MOTION ORDINANCE 18-07: RECOMMENDATION TO
COUNCIL TO AMEND SECTION 17.44.080 REGARDING “FENCES,
WALLS, AND HEDGES”**
- 6.5 DISCUSSION/MOTION ORDINANCE 18.-08: RECOMMENDATION TO
COUNCIL TO AMEND CHAPTER 8.16 REGARDING “NUSIANCE”
RELATING TO UNWANTED TREES THAT IMPACT PROPERTY AND
LANDSCAPING**
- 7. UPDATE COMMISSION ON CURRENT DEVELOPMENT PROJECTS AND
ZONING ISSUES**
- 8. MOTION: ADJOURN THE MEETING**

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Amy Rodriguez, Washington Terrace City Recorder

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3 **City of Washington Terrace**
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6 **Minutes of a Regular Planning Commission Meeting held on**
7 **Thursday, March 29, 2018**
8 **City Hall, 5249 South 400 East, Washington Terrace City,**
9 **County of Weber, State of Utah**
10

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12
13 **PLANNING COMMISSION AND STAFF MEMBERS PRESENT**

14 Chairman Wallace Reynolds
15 Commissioner Henderson
16 Commissioner Dan Johnson
17 Commissioner T.R. Morgan
18 Commissioner Charles Allen
19 Vice- Chair Scott Larsen- excused
20 Commissioner Darren Williams – excused
21 City Attorney Bill Morris
22 Chief Building Inspector Jeff Monroe
23 City Recorder Amy Rodriguez
24

25 **Others Present**

26 Cody Taylor, Jeramie Chidester
27
28

29 **1. ROLL CALL**

6:00 p.m.

30 **2. PLEDGE OF ALLEGIANCE**

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33 **3. WELCOME**

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35 **3.1 OATH OF OFFICE ADMINISTERED TO COMMISSIONER DWIGHT**
36 **HENDERSON**

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38 **4. RECURRING BUSINESS**

39
40 **4.1 MOTION: APPROVAL OF AGENDA**

41 **Motion by Commissioner Allen**
42 **Seconded by Commissioner Johnson**
43 **To approve the agenda**
44 **Approved unanimously (5-0)**

45
46 **4.2 MOTION: APPROVAL OF MINUTES FOR FEBRUARY 22,2018**
47

48 **Motion by Commissioner Allen**
49 **Seconded by Commissioner Morgan**
50 **To approve the minutes of February 22, 2018**
51 **Approved unanimously (5-0)**

52 **5. NEW BUSINESS**

53
54 **5.1 MOTION: FINAL SITE PLAN APPROVAL FOR A PROPOSED HVAC**
55 **OFFICE BUILDING TO BE LOCATED AT 425 SOUTH 350 EAST**

56 Monroe stated that the objective of the applicant is to build an office building for a HVAC
57 company. Applicant Jeremy Chidester introduced himself to the Commission.

58 Monroe stated that individuals can park on the road because it is part of the City, however, the
59 company can put no parking signs on the fence.

60 Chidester stated that there will not be any manufacturing at the building. He stated that there will
61 be a retaining wall that will be filled in. Chairman Reynolds stated asked what is to be done with
62 the second building that is underground. Chidester stated that it will most likely be taken out at
63 some point. Chidester stated that the plan is to take the curb and gutter to the fence and
64 landscaping will be put in.

65 Commissioner Allen clarified that Chidester brought the property from Karl Wood. Chidester
66 stated that they plan to have two handicapped parking spaces. Commissioner Allen asked where
67 the fire hydrant would be placed. Monroe stated that he believes that the city was going to work
68 with Chidester to loop a line from the fire hydrant to the property.

69 Chairman Reynolds stated that he would like to see a preliminary approval on this item. Monroe
70 stated that no building permit can be issued until the design requirements are met.

71
72 **Motion by Commissioner Morgan**
73 **Seconded by Commissioner Johnson**
74 **To have preliminary approval of the final site plan for**
75 **HVAC office Building to be located at**
76 **425 South 350 East**
77 **Based on tentative drawings of what the building will**
78 **Actually look at**
79 **And subject to staff and engineers reviewing the**
80 **exterior colors and architectural designs**
81 **Approved unanimously (5-0)**

82
83 **5.2 MOTION: FINAL SITE PLAN APPROVAL FOR LANGFORD**
84 **SUBDIVISION LOCATED AT 4940 SOUTH 300 WEST**

85 Jim Flint explained the site plans to the Commissioner. He stated that there have been several lot
86 line adjustments and it has been recorded with the county.

87 He asked that the identification numbers be ratified by the Commission as part of the motion. He
88 stated that it did not go through the proper government protocols.

89 Flint stated that there are a lot of complicated deed transfers that would be needed if the parcels
90 are not brought into the project. These parcels are owned by the applicant Langford as well. To
91 make the dedication clean it would be better to bring everything into the project rather than the
92 city owning little pockets of parcels within the subdivision.

93 Flint stated that parcel B is not going to be approved as a residential development for approval
94 at this time. It has been clearly identified on the plat. He stated that the duplex lots (6&7) will
95 only have access by 4900 South.
96 Flint stated that there is a long narrative on the site plan. Flint stated that there will be a detention
97 pond on the property. Monroe stated that he would be putting the burden on one property owner
98 to maintain a pond that the subdivision will be using. He prefers that an HOA be established to
99 take care of the detention basin. Monroe stated that a development agreement will be written by
100 Morris and approved by Council. Commissioner Allen asked if staff has reviewed the changes
101 from the last meeting. Morris stated that staff has properly reviewed the plans. Flint stated that
102 lots 4, 7, and 8 will have a second access during an emergency such as a fire. He stated that they
103 will be able to drive over the curbs of the cul de sac.

104
105 **Motion by Commissioner Allen**
106 **Seconded by Commissioner Johnson**
107 **To approve the final site plan for**
108 **The Langford Subdivision to be located at**
109 **4940 South 300 West**
110 **Subject to**
111 **staff preparing a development agreement**
112 **with the developer, addition of house numbers on plat**
113 **city engineer approval,**
114 **and approval of staff and any agency (ie utilities or special service district)**
115 **Approved unanimously (5-0)**
116

117
118 **5.3 DISCUSSION/MOTION ORDINANCE 18-07 : FINAL RECOMMENDATION**
119 **TO COUNCIL TO AMENDING CHAPTER 17.44.080 OF THE**
120 **MUNICIPAL CODE “FENCE, WALLS, AND HEDGES”**
121

122 Monroe stated that there was a request to see if we wanted to allow a corner lot to have a six foot
123 fence to run along the sidewalk. Monroe stated that there are two options: to not allow the six
124 foot fence, or to allow it to be done with a conditional use permit. Chairman Reynolds stated that
125 the issue comes down to line of sight. Chairman Reynolds and Morgan stated that they would
126 like to see the requests come through as a conditional use permit (option 2). Commissioner Allen
127 suggested that an addition be put into the ordinance that the property owners within a 500 foot
128 radius be notified.

129 Chairman Reynolds stated that he does not feel that there are that many properties in the city that
130 would put in a six foot fence on a corner lot that would cause a site line problem. He stated that
131 the city could authorize through a conditional use. Commissioner Allen stated that he would like
132 to see a professional drawing of the fence and property before it is approved. Chairman Reynolds
133 stated that it would be covered under the conditional use permit process. Monroe stated that he
134 will make sure it is a professional design.

135 Resident Jake Rosser -280 W 5600 S -stated that a conditional use is a good thing, but it leaves it
136 open to too many interpretations. He stated that not a single city has a 5 foot setback. He stated
137 that he has researched cities from Brigham to Kaysville City. He stated that he thinks that the
138 ordinance should say one foot back, and not be subject to a conditional use process. Rosser stated
139 that there are 30-40 fences in the city are out of code. Monroe stated that he makes sure that the
140 ordinance is being followed and has instructed residents to tear their illegal fences down, or

141 change to a 4 foot fence. He stated that the ordinance was changed in 2006 to allow more use in
142 corner lots. He state that the city is looking to adjust the ordinance and a conditional use permit
143 would be the proper route to allow the Planning Commission to determine if the fence will be a
144 burden to neighbors or if it should be allowed. Chairman Reynolds stated that each permit would
145 be looked at in regards to the property. Monroe stated that the word will get out about the
146 conditional use permit. Morris stated that the Commission would have to state the facts as to why
147 they would deny a conditional use permit. Morris stated that state code states that a city must
148 grant a conditional use permit unless it does not meet the standards that the city sets.
149 Morris stated that these would need to be set for a public hearing.
150 Rosser stated that he sees future problems with the city if conditional use permits are the option
151 used. Commissioner Morgan stated that he would like to allow the opportunity for people to use
152 their property, but would like for it to be reviewed by the Planning Commission through
153 Conditional Use permits.
154

155 **Motion by Commissioner Morgan**
156 **Seconded by Commissioner Henderson**
157 **To proceed with the conditional use process**
158 **Approved unanimously (5-0)**
159

160 **5.4 DISUCSSION/MOTION ORDINANCE 18-06 : RECOMMENDATION TO**
161 **COUNCIL TO AMEND CHAPTER 17.10.07 “DENSITY”, REGARDING IN-**
162 **FILL RESIDENTIAL STANDARDS**

163 Morris stated that if the Planning Commission is fine with the changes, they would be set for a
164 public hearing. Commissioner Allen suggested that subsection 5 e would need to be changed to
165 say “excluding the basement”. Monroe stated that the height regulation will be changed to 40
166 feet. The item will be set for a public hearing.
167

168 **5.5 DISCUSSION/MOTION ORDINANCE 18-05: RECOMMENDATION TO**
169 **COUNCIL TO AMEND CHAPTER 17.56.175 REGARDING TEMPORARY**
170 **SIGNS**

171 Monroe stated that the addition stemmed from a request that we review temporary signs so that
172 businesses do not have dilapidated signs up in the area strapped to a post. He stated that the
173 amendments limit signage and amount of times that signs could be displayed. It also clarifies that
174 business owners will need to get a permit for temporary signs. Commissioner Morgan stated that
175 he does not see why a business would need to get a permit for signs on their own property.
176 Monroe stated that he is trying to be business friendly and does not want to ban banner signs or
177 temporary signs. Commissioner Morgan stated that the standards for signs are already set by
178 ordinance. Commissioner Johnson asked how this would be enforced. Monroe stated that he
179 would have to enforce the ordinance. Monroe stated that some banner signs are ragged and beat
180 up and are not secure. Commissioner Morgan suggested that it may be better to use the nuisance
181 ordinance instead of the sign ordinance.

182 Commissioner Allen stated that he feels that the ordinance is confusing. Monroe stated that there
183 are different allowances for different types of signs. Commissioner Allen suggested expanding
184 on what is a temporary sign.

185 Commissioner Allen gave Morris his notes on his suggestions to be incorporated into the
186 ordinance.
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**Motion by Commissioner Morgan
Seconded by Commissioner Johnson
To send the ordinance back to staff
To deal with it in a way that it doesn't limit business owners
Use of their property
Regarding temporary signs
Approved unanimously (5-0)**

7. UPDATE COMMISSION ON CURRENT DEVELOPMENT PROJECTS AND ZONING ISSUES

There were no new discussions.

8. MOTION: ADJOURN THE MEETING

**Motion by Commissioner Morgan
Seconded by Commissioner Johnson
To adjourn the meeting
Approved unanimously (5-0)
Time: 7:12 p.m.**

Date Approved

City Recorder



**Planning Commission
Staff Report**

Author: Planning Dept.
Subject: In-fill Development for Scott Webber Subdivision & Site Plan Final approval, located between 5000 South & 4900 South east of 500 West.
Date: April 26, 2018
Type of Item: Action to approve Final and recommend to City Council

Summary: Comment and approve the Final site plan for an in-fill Subdivision for Scott Webber located between 5000 South & 4900 South east of 500 West. (It is the field/open space east of 500 west). Has been given a favorable Preliminary approval

Description:

These Parcels have been previously identified and are considered as properties that qualify for In-fill development within the City of Washington Terrace.

In-fill housing allows for buildable sites on vacant lands to be developed for new construction and allow allows the property Owners to build or develop their property. In-fill development is to become a key component of growth within the City of Washington Terrace.

Benefits of In-fill:

- Reduce unsightly nuisance lots
- Smart growth
- Improve appearance of an area
- Contribute to the economy, (taxes – fees)
- Diverse housing
- Reduce crime

Topic: In-fill Subdivision for Mr. Webber

Overview, the applicant is proposing a Single Family Condo project consisting of 23 Single Family Units, each lot being sold as Single Family units, the lot sizes comply with the In-fill requirements to be considered for an In-fill subdivision.

The scheme and design of the buildings comply with architectural requirements of the ordinance.

The parking requirement is for a two car garage and two allowable spaces, the developer has complied with the ordinance.

The submitted plans and renderings comply with the In-fill development procedures and will accomplish the desired outcome.

The Planning Commission should evaluate the In-fill proposed site plan & subdivision for its practicality and potential Land Use benefit for the desired area, does the site plan submitted work.

The impact of newer homes being built in the area, can increase property values to surrounding homes.

Analysis:

The objective is to provide to the Landowners an opportunity to develop their ground. The intent is to also allow for development that will not to distract from the area or City and will be a positive improvement to the City of Washington Terrace city.

Department Review:

The Staff has reviewed the Site Plan and In-Fill Subdivision development the opinion at this time is to give a favorable recommendation for the Final Site Plan and In-fill Subdivision approval for the Mr. Webber property. The benefit of the development for the following reason

This development will contribute to the area by using the in-fill development requirements.

It complies with the allowable lots for the bonus for the surrounding area.

The minimum lot sizes conform to the in-fill ordinance

Renderings for the buildings comply with the in-fill construction description as outlined in the code.

It meets the allowable parking spaces for the home

The overall design of the development meets the Cities goal for in-fill development?

Alternatives:

A. **Approve the Request:** The Planning Commission should by motion give their favorable recommendation for the final to the City Council Site Plan and in-fill subdivision approval.

B. **Deny the Request:** The Planning Commission can deny the request with direction.

C. **Continue the Item:** The Planning Commission may table the request to a later meeting; requesting additional information, or seek additional changes or clarification and or staff items have been completed.



WASHINGTON TERRACE MULTI-FAMILY INFILL



WEBBER PROPERTY - INTERSECTION OF S 500 W & W 5000 S, WASHINGTON TERRACE, UTAH

DATE: 2/6/18

MOUNTAIN WEST ARCHITECTS



WASHINGTON TERRACE MULTI-FAMILY INFILL

WEBBER PROPERTY - INTERSECTION OF S 500 W & W 5000 S, WASHINGTON TERRACE, UTAH

DATE: 2/6/18

MOUNTAIN WEST
ARCHITECTS



**WASHINGTON TERRACE
MULTI-FAMILY INFILL**

WEBBER PROPERTY - INTERSECTION OF S 500 W & W 5000 S, WASHINGTON TERRACE, UTAH

DATE: 2/6/18

**MOUNTAIN WEST
ARCHITECTS**



**WASHINGTON TERRACE
MULTI-FAMILY INFILL**

WEBBER PROPERTY - INTERSECTION OF S 500 W & W 5000 S, WASHINGTON TERRACE, UTAH

DATE: 2/6/18

**MOUNTAIN WEST
ARCHITECTS**



**WASHINGTON TERRACE
MULTI-FAMILY INFILL**

WEBBER PROPERTY - INTERSECTION OF S 500 W & W 5000 S, WASHINGTON TERRACE, UTAH

DATE: 2/6/18

**MOUNTAIN WEST
ARCHITECTS**



Planning Commission
Staff Report

Author: Planning Dept
Subject: Amend In-fill Ordinance 17.10.7”Density”
Date: April 26, 2018
Type of Item: Action to approve recommendation by motion

Summary: To approve and recommend by Motion to pass the Amend In-fill ordinance 17.10.7”Density”; to remove the last sentence in that paragraph, which refers to and states maximum of ten (10) lots.

1. Description: Section 17.10.7, “Density” Density. The density of lots in any in-fill development shall be calculated based upon the average density of the surrounding residential uses on a per acre basis as calculated by the Building Official. However, no in-fill development shall exceed the maximum of ten (10) units per acre regardless of the average density of surround residential uses.

The last sentence restricts in-fill properties from developing more than 10 lots for any in-fill subdivision. This sentence also is in conflict with the first part of the paragraph where it states that the density will be calculated by the Building Official.

The purpose of this section is to address the calculated per acre based on the surrounding “residential uses” which is there to encourage the development of underutilized parcels in residential property in the residential zones.

Topic:

The Planning Commission should review the In-fill ordinance section 17.10.7 and determine if the last line is needed in that section of the paragraph. The intent is to provide an ordinance for developing In-fill properties.

However, the last sentence in section 17.10.7 addressing maximum of 10 lots should be removed to allow those in-fill properties to develop more than 10 lots per acre for higher density as determined by the Building Official and the surrounding residential zoning.

Analysis:

The objective is to allow developers and Landowners the information and criteria to develop their property as higher density and meet the City standards for Single family homes.

Discussion:

Infill Ordinance;

Was establish to provide adequate policies and procedures to guide In-fill development within the city, moreover to allow communities with vacant properties which are eyesores and/or a safety hazard to develop.

In-fill housing is the process of allowing buildable new dwellings within an existing suburb of older houses. It is an important way of providing for future growth with minimum increase to public services. Urban in-fill can be addressed successfully by a municipality at a relatively low cost through targeted code changes that address issues like building setbacks, and lot size, appearance, amenities and access and/or egress.

Providing In-fill development to property owners we should consider the rights of the property owners and also the impact to the city and to existing neighborhoods and there is also a potential for the increase of property values with newer homes being build in these area.

Department Review:

The Staff's opinion at this time, feels that it is important to allow Infill properties to meet the determined calculations as figured by the Building Official and the surrounding Uses and to strike the last sentence from the section 17.10.7, Density. Which states maximum of 10 lots per infill development.

Alternatives:

A. Approve the Request:

The Planning Commission is to recommend to the council approval of the In-fill Ordinance amendment

B. No Action:

The Planning Commission can advise staff to take no action on the In-fill Ordinance amendment

C. Continue the Item:

The Planning Commission could Table the In-fill Ordinance and advise staff to move the item to a later meeting, for action or more discussion at a later time.

**WASHINGTON TERRACE CITY
ORDINANCE 18-06**

IN-FILL RESIDENTIAL DEVELOPMENT AMENDED

AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH, AMENDING SECTION 17.10.020.(7), RELATING TO “DENSITY”, WITHIN THE “IN-FILL RESIDENTIAL DEVELOPMENT” STANDARDS; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Washington Terrace City (hereafter referred to as “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 authorizes the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, the City desires to permit individuals who seeks to operate a falconry as provided in the municipal code;

WHEREAS, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables the City to regulate land use and development;

WHEREAS, after publication of the required notice, the Planning Commission held its public hearing on April 28, 2016, and again on March 30, 2017, to take public comment on this Ordinance, and subsequently gave its recommendation to approve this Ordinance on April 13, 2017;

NOW, THEREFORE, be it ordained by the City Council of Washington Terrace City as follows:

- Section 1:** **Repealer.** Any word other, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.
- Section 2:** **Adoption.** Chapter 17.10 of the *Washington Terrace Municipal Code* is hereby amended to read as follows:

**Chapter 17.10
IN-FILL RESIDENTIAL DEVELOPMENT STANDARDS**

Sections:

- 17.10.010 Purpose and intent.**
- 17.10.020 Eligibility.**
- 17.10.030 In-fill Planning Commission Approval Required.**

17.10.010 Purpose and intent.

The purpose of this chapter is to encourage the development of underutilized parcels in zones which, have been identified as areas where in-fill residential development should be encouraged. This chapter identifies conditions under which in-fill development is supported and relaxes certain development requirements in those instances in an effort to promote the construction of in-fill development at appropriate locations in the city.

17.10.020 Eligibility.

1. Definition. In-fill development is the process of developing vacant or under-used parcels within existing urban areas that are already largely developed. The City has identified significant vacant land parcels within city limits, which, for various reasons, has been passed over in the normal course of urbanization and are eligible for In-fill status.
2. Eligible Parcels. The In-fill Development Map set forth in Exhibit “A” adopted and incorporated herein by this reference specifies the eligible parcels that may be used for in-fill development subject to the requirements of this title. Parcels not identified on the In-fill Development Map are not eligible.
3. Development Agreement. In-fill development is entirely subject to a written “Development Agreement” negotiated by the City and Owner that meets or exceeds the requirements of this Chapter.
4. Additional Eligibility Criteria. In order for any parcel on the In-fill Development Map to obtain a permit for in-fill development the following additional criteria must be met:
 - a. Be zoned residential.
 - b. The Owner of any parcel not identified on the In-fill Development Map may request to be added to said Map by Ordinance if the size and configuration meet the purpose and intent of this Chapter.
5. Size and Access. Meet the size and access criteria as follows:
 - a. Being accessed from a public street.
 - b. Be of sufficient size for egress without interfering with adjoining properties, and be of sufficient size for a residential use without reduction of residential setbacks for the zone by more than twenty-five (25%).
 - c. Be of sufficient size for fire access in accordance with the specifications of the Fire Marshall and the applicable code.
 - d. Be capable of being serviced by utilities and infrastructure.
 - e. Be no more than two (2) stories.
6. Architecture and Design. Meet the architecture and design criteria as follows:
 - a. Each unit shall have a minimum two (2) car attached garage, private driveway parking in the front set-back area equivalent to one (1) vehicle, and off-street guest parking located in the overall development site plan equal to one (1) additional vehicle for each unit.
 - b. Provide for the following architectural features:

- i. Front of the home may consist of combined materials, but at least 60 percent of the front shall consist of either brick or stone (the home may also be 100 percent brick and stone if so desired). With the other 40 percent of materials shall be blended and defined as Engineered Wood (hardy board), Wood (decorative shingles, heavy Timber, etc) and Cultured Stone and stucco, no vinyl or metal siding shall be allowed to be installed on the front of the home.
- ii. Color schemes that promote curb appeal.
- iii. Varied rooflines that provide include, decorative dormers, gabled or hipped pitched roofs, and parapets or cornices.
- iv. Flat roofs shall not be allowed.
- v. Front porches with outdoor lighting.

7. Density. The density of lots in any in-fill development shall be calculated based upon the average density of the surrounding residential uses on a per acre basis as calculated by the Building Official. ~~However, no in-fill development shall exceed the maximum of ten (10) units per acre regardless of the average density of surround residential uses.~~

17.10.030 In-fill Planning Approval Required.

Development proposals desiring to utilize the in-fill standards of this chapter shall be subject to a site plan that meets the minimum requirements of this Chapter with the overall development plan of the entire parcel to include the proposed residential uses (such as patio homes, condominiums, or townhouses) to be submitted for recommendation before the Planning Commission and action (approval, modification, or denial) by City Council prior to issuance of any building permit.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 4: Effective date. This Ordinance shall be effective immediately upon posting or publication after final passage.

ADOPTED AND APPROVED on this ____ day of _____, 2018.

MARK C. ALLEN, Mayor,
Washington Terrace City

ATTEST:

AMY RODRIGUEZ, City Recorder

RECORDED this ___ day of _____, 2018.

PUBLISHED OR POSTED this ___ day of _____, 2018.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the City Recorder of the City of Washington Terrace, Utah, hereby certify that foregoing Ordinance was duly passed and published or posted at 1) _____, 2) _____, and 3) _____ on the above referenced dates.

_____ DATE: _____

AMY RODRIGUEZ, City Recorder



Planning Commission Staff Report

Building & Planning

Author: Planning Dept.
Subject: AMENDING SECTION 17.56 OF THE SIGN ORDINANCE RELATING TO TEMPORARY SIGNS AND SPECIAL EVENT SIGNAGE.
Date: April 26, 1018
Type of Item: ACTION: Public Hearing discussion/Action to recommend by Motion

Summary Recommendations: By Motion, to recommend approval to amend Section 17.56. of the Sign Ordinance relating to temporary Signs and Special event signage.

Description:

A. Background: Amend Chapter 17.56 by adding a section which will identify the type of temporary signs that are prohibited and a section to regulate special event signs.

See attached recital

B. Department Review: Staff recommends approval of the amendment.

Alternatives:

A. Approve the Request:

The Planning Commission should approve Ordinance 17.56 and forward the recommendation to the City Council by motion to amending and add description for Temporary signs and Special event signs.

B. Deny the Request:

The Planning Commission can deny the recommendation.

C. Continue the Item:

The Planning Commission may table the request to a later meeting, subject to suggesting additional information, or requiring changes to the ordinance prior to making a recommendation to the City Council.

Significant Impacts: no significant impact if amended.

**CITY OF WASHINGTON TERRACE
ORDINANCE 18-05**

TEMPORARY SIGNS

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH,
AMENDING SECTION 17.56.005 AND ADDING SECTION 17.56.175 TO THE
SIGN ORDINANCE RELATING TO TEMPORARY SIGNS; SEVERABILITY;
AND PROVIDE FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Washington Terrace (hereinafter “City”) is a municipal corporation, duly organized and existing under the laws of the state of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Title 10, Chapter 9a of the *Utah Code Annotated* authorizes the City to regulate land use and development;

WHEREAS, the City Council desires to amend the sign ordinance to allow temporary signs to be erected with city approval;

WHEREAS, the City finds it necessary to update its municipal code in order to protect public health, safety, and welfare;

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on April 26, 2018, to take public comment on this proposed Ordinance;

WHEREAS, the Planning Commission held a public meeting on _____, after which the Planning Commission gave its recommendation to approve this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on _____;

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

Section 1: Repealer. Any word, sentence, paragraph, or phrase in the *Washington Terrace Municipal Code* inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2. Amendment. Sections 17.56.005 and 17.56.175 of the *Washington Terrace Municipal Code* entitled “Definitions” and “Temporary Signs” is hereby amended to read as follows:

17.56.005 Definitions

The following definitions shall be observed and applied:

1. "A-frame " means a prohibited sign that is temporary in nature, double faced, constructed of dimensional lumber, two (2) separate panels attached at the top and designed to stand without other structural support on four (4) legs. Size of the panels to be thirty inches (30") wide by forty eight inches (48") high. The entire sign is to be no taller than sixty inches (60") when erected. Exception: Similar type signs used by the real estate industry do not fall into this category.
2. "Abandoned signs" means signs which no longer identify or advertise a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.
3. "Administrator" means the city building official or representative shall be the administrator of this title.
4. "Animated sign " means any sign which makes use of movement or change of lighting to depict action or to create a special effect or scene (compare definition of Flashing sign).
5. Area: See definition of sign, area of.
6. "Arcade sign " means a sign projecting beneath the underside of any structural overhang or passageway.
7. "Awning sign” means a sign shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework (compare definition of Canopy sign).
8. "Awning sign” means a sign painted on, or attached flat against the surface of an awning.
9. "Banner sign” means a temporary sign made of fabric or any non-rigid material with no enclosing framework. See also definition of Stream banner sign.
10. Billboard: See definition of off premises sign.
11. "Building front" means one exterior wall of a building facing a front line of a lot or one exterior wall containing the primary entrance to the building.
12. "Building sign” means any sign supported by uprights, braces, or other devices, or painted on, or otherwise attached to any building.

13. "Bulletin board" means any freestanding sign not exceeding six feet (6') in height, listing the names, times, uses and other locations of various services, offices or activities within a building or group of buildings limited to:
 - a. Public or semipublic use;
 - b. Charitable or religious use;
 - c. Medical center, clinic or hospital.
14. "Campaign sign" means a sign soliciting support for a person running for public office or a sign defending or objecting to a ballot issue or proposal being placed before the public at an election.
15. "Canopy sign" means a sign painted on, printed on, or attached flat against the surface of an awning or canopy projecting from and supported by the exterior wall of a building sign (compare definition of Awning sign).
16. "Changeable copy sign (automatic)" means a sign on which the copy changes automatically on a lamp bank or through mechanical means, e.g., electrical or electronic time and temperature units.
17. "Changeable copy sign (manual)" means a sign on which copy is changed manually in the field, e.g., reader boards with changeable letters.
18. "City" means unless the context clearly discloses a contrary intent, the city of Washington Terrace.
19. "Combination sign" means a sign incorporating any combination of the features of pole, projecting and roof signs.
20. "Clearance (of a sign)" means the smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.
21. "Construction sign" means a temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
22. "Copy" means the wording on a sign surface in either permanent or removable letter form.
23. "Directional/information sign" means an on premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.
24. "Display sign" means the area made available by the sign structure for the purpose of displaying the advertising message.

25. "Doubled faced sign" means a sign with two (2) faces.
26. "Electronic sign" means a sign or sign structure in which electrical wiring, connections, or fixtures are used.
27. Electronic Message Center: See definition of Changeable copy sign (automatic).
28. "Facade" means the entire building front including the parapet.
29. "Face of sign" means the area of a sign on which the copy is placed.
30. "Festoons" means a string of ribbons, tinsel, small flags, pinwheels or similar devices.
31. "Flashing sign" means a sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Does not include changeable copy signs, or signs which, through reflection or other means, create an illusion of flashing or intermittent light. This does not include message center or time/temperature signs (compare definitions of animated sign and Changeable copy sign (automatic)).
32. "Flat sign" means a sign erected parallel to and attached to or painted on or pasted on the outside wall or window of a building, and projecting not more than eighteen inches (18") from such wall or window.
33. "Floodlighted sign" means a sign illuminated in the absence of daylight and by devices that reflect or project light upon it.
34. "Freestanding sign" means a permanent sign supported upon the ground by poles or braces and not attached to any building. Any monument sign or pylon sign supported by uprights or braces placed on or in the ground and not attached to any building.
35. "Frontage" means the length of the property line of any one premises along a public right of way on which it borders.
36. Frontage, Building: "Building frontage" means the length of an outside building wall on a public right of way.
37. "Ground sign" means a sign placed upon the ground or supported by a frame or supports placed in or upon the ground.
38. "Government sign" means any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility.
39. "Height (of a sign)" means the vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

40. "Home occupation/occupant sign" means any unlighted sign not over one square foot in area attached flat against the dwelling and displaying only the occupant's name and/or address and/or occupation.
41. "Identification sign" means an on premises sign displayed to indicate the name or nature of a building or use, including all professional and business buildings, home occupations, apartment complexes and public and semipublic buildings. Temporary and development signs are classified in this category only.
42. "Illegal sign" means any sign and/or advertising structure erected without a permit required by this chapter, or in violation of any of the limitations, prohibitions or requirements of this chapter.
43. "Illuminated sign" means a sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper (compare definition of animated sign or Changeable copy sign (automatic)).
44. "Marquee sign" means any sign attached to and made part of a marquee.
45. "Nameplate sign" means a sign indicating the name and/or occupation of a person or persons residing on the premises or legally occupying the premises.
46. "Off premises sign" means a sign which directs attention to a use, project, commodity or service not related to the premises on which it is located.
47. "Pole sign" means a sign wholly supported by a sign structure in the ground.
48. "Political sign" means an exempt sign that contains political speech that is protected by the 1st Amendment of the United States Constitution or the equivalent protection in the state constitution.
49. "Portable display surface" means a display surface temporarily fixed to a standardized advertising structure which is regularly moved from structure to structure at periodic intervals.
50. "Projecting sign" means a sign attached to a building or other structure and extending in whole or in part more than eighteen inches (18") beyond any wall of the building or structure.
51. "Property sign" means a sign related to the property on which it is located and offering such property for sale or lease, or advertising contemplated improvements or announcing the name of the builder, owner, designer or developer of the project, or warning against trespassing.
52. "Public necessity sign" means a sign informing the public of any danger or hazard existing on or adjacent to the premises.

53. "Roof sign" means a sign erected partly or wholly on or over the roof of a building, but not including ground signs that rest on or overlap a roof twelve inches (12") or less.
54. "Service sign" means a sign which is incidental to a use lawfully occupying the property upon which the sign is located and which sign is necessary to provide information to the public, such as directions, locations, sales or other pertinent facts.
55. "Sign" means any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors. Every sign shall be classified and conform to the requirements of that classification as set forth in this chapter.
56. "Sign structure" means any structure which supports or is capable of supporting a "sign" as defined in this section. A sign structure is permitted to be a single pole and is not required to be an integral part of the building.
57. "Stream banner sign" means any banner sign that is stretched across and hung over a public right of way.
58. "Temporary sign" means any exterior sign, banner, balloon, inflatable, streamer, pennant, valance, or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, plastic, wallboard, or other light materials, with or without frames, intended to be displayed for a short period of time or special event as provided by code.
59. "Time and/or temperature sign" means a display containing illuminated numerals to show the time and/or temperature.
60. "Wall sign" means a sign which is affixed to an exterior wall of a building or structure and which projects not more than eighteen inches (18") from the building or structure wall, and which does not extend more than four feet (4') above the parapet, eaves or building facade of the building on which it is located.

17.56.175 Temporary Sign Regulations

Temporary signs are allowed subject to the following requirements:

1. Permit Required. Each temporary sign is subject to a no cost permit issued by the building official.
2. Allowable Temporary Signs. Only a banner, wall sign, or a pedestal type temporary sign located on-premise shall be issued a permit.

3. Prohibited. No permit shall be issued for a banner sign, any portable reader board, any type of electric sign, a sign attached to another sign or sign structure, balloon, streamer, inflatable device, stationary vehicle and/or trailer with any graphics or advertisements, "A" frame signs, or any other type of temporary sign.
4. Construction Standards. All temporary signs shall be:
 - a. Properly constructed and maintained so that each sign is weighted, anchored, or attached to the surface so that there is no danger to public safety.
 - b. Not be located within five (5) feet of any public sidewalk or any public right-of-way.
 - c. Free from dilapidation, fading, holes, rips, tears, and other damage.
5. Special Regulations. Notwithstanding the other requirements and limitations of this section, the following special regulations apply to special event, seasonal or special sales, new products or services, new management, grand openings, and similar events:
 - a. Permissible signs include temporary signs that may otherwise not be allowed including pennants, banners, flags, inflatable structures, character or product likenesses, and other small portable signs that can be moved inside upon closing. Banner signs which get torn by wind, persons, or other causes shall be immediately removed. No search lights are allowed at any time.
 - b. Such signs shall be allowed for a maximum of fourteen (14) consecutive days no more than six (6) times per year, excepting recognized holidays.
 - c. Multi-family Property. Multi-family properties are limited to three (3) displays per years, and limited to a maximum of three (3) temporary signs per fifty (50) linear feet of frontage.

Section 3. Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of the Ordinance, or specific application of the ordinance, shall be severed from the remainder, which shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect immediately upon its passage and posting.

PASSED AND APPROVED by the City Council this ____ day of _____, 2018.

MARK C. ALLEN, Mayor,
City of Washington Terrace

ATTEST:

WTC Ord. 18-05

AMY RODRIGUEZ, City Recorder

RECORDED this ____ day of _____, 2018.

PUBLISHED OR POSTED this ____ day of _____, 2018.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing ordinance was duly passed and published, or posted at 1) _____ 2) _____ and 3) _____ on the above referenced dates.

AMY RODRIGUEZ, City Recorder

DATE: _____



Planning Commission Staff Report

Building & Planning

Author: Planning Department
Subject: Fencing Corner lots
Date: April 26, 2018, Thursday, 6:00pm
Type of Item: Hold Public Hearing -Action/recommendation to council

Summary Recommendations: By motion give a recommendation to the City Council.

Description:

A. Topic: review

To consider and assess corner lot section of the fencing code and recommend to City Council the corner lot fencing requirements as recommended by the Planning Commission.

B. Background:

A resident who was building a new home in Washington Terrace City on a corner lot approached the City Council to request an amendment to allow corner lot fencing 6 foot high to go next to the sidewalk on the street side of a corner lot. The City Council then directed staff to bring this item to the Planning Commission for their recommendation. The citizen also argued that other cities fence ordinances allow for six (6) foot fencing to the sidewalk. And by allowing this change that there is no impact to the neighbor or neighborhood and it will bring uniformity to those that are not in compliance.

- The City's current ordinance does not allow corner lots on the street side to have six (6) fencing next to the sidewalk. The Ordinance requires that a six (6) foot fence shall be installed a distance of fifteen (15) feet as measured from the back of curb, the reason for the fifteen (15) foot requirement is that the neighboring property shall be able to maintain the line of sight and vision for the safety of pedestrians, individuals walking on the sidewalk to be observed easier to see. A traffic flow can be visible as neighboring property owners pull out of their driveway, (the average length of a car or truck is 15 feet) with a less intrusive restriction to the line of sight. An additional comment is if the neighbor is trying to back out of his or her driveway with the current ordinance the vehicle has plenty of room without pulling into the street to see if traffic is coming and or anyone is walking on the sidewalk. It comes down to a line of sight protection for the public and neighbor.

- The citizen argument is that if the driveway is located on the opposite side of away from the corner lot that it does not restrict the line of sight.

C. Consideration:

As staff I have included and attached the current ordinance at the end of this staff report,

(See the attached recital below at end of report)

The option is to allow corner lot fencing to be review and approved by a “conditional use permit”, and with conditions that would need to be met to be approved. And if anyone desires to install a fence on a corner lot that does not comply with the ordinance then they need to get a “conditional use permit” from the Planning Commission. They would need to provide the layout of the fence location and show the location of the neighbor’s home and driveway as it pertains to the installation of the fence. And I have also outlined reason that would need to be addressed, to approve a conditional use permit.

Staff recommendation:

We recommend not to change the ordinance. And approve the ordinance with no change and forward it to the City Council by motion. That it is staff’s opinion that the current ordinance meets the needs of a corner lot, they can install a 4 foot fence to the sidewalk and begin the 6 foot fence at the 15 foot point measured behind curb.

But if the planning commission desires to amend the corner lot requirement, I do prefer that it be done by a Conditional use permit.

Alternatives:

A. Approve the Request:

The Planning Commission by motion is to recommend to the City Council their decision on the 17.44.080 fencing, walls, and hedges.

B. No Action:

The Planning Commission can recommend by motion no action and forward the ordinance to the City Council.

C. Continue the Item:

The Planning Commission can Table the fencing ordinance and advice staff to move the item to a later meeting, and advice staff to make any change or addition prior to recommending the ordinance to the City Council.

CORNER LOT OPTIONS

First option no change, ordinance as currently adopted.

17.44.080 Fences, Walls And Hedges

A. Residential Zones:

1. Interior Lots:

- a. Front Yards: No fence shall be erected in any residential zone which exceeds four feet (4') in height. All fences must be constructed on or within the property line.
- b. Back Yards: A fence, wall, or hedge not in excess of six feet (6') in height may be erected anywhere on the lot behind the front yard setback line of the required front and side yard setbacks.

2. Corner Lots:

- a. Front Yards: No fence shall be erected in any residential zone which exceeds four feet (4') in height, except within the sight triangle. (See subsection A3, "Sight Triangle", of this section.) All fences must be constructed on or within the property line.
- b. Back Yards: A fence, wall, or hedge not in excess of six feet (6') in height may be erected anywhere on the lot behind the rear line of the required front setback of the dwelling. On the side bordering the street, a fence, wall, or hedge not in excess of six feet (6') in height may be erected, but must be set back from the required front setback of the dwelling a minimum of twelve feet (12'), and the sidewalk a minimum of six feet (6') or minimum fifteen feet (15') behind curb.

3. Sight Triangle: The "sight triangle" is an area which extends for thirty feet (30') in R-1-6 zones and forty feet (40') in all other zones from the corner in both directions. The maximum height in the sight triangle is two feet (2') for all fences, walls and hedges. All fences within the sight triangle must be on or within the property line. Any trees within the sight triangle must be trimmed above the ground at a seven foot (7') minimum or comply with section 17.44.130 of this chapter.

4. Retaining Walls: Where a fence is erected on a retaining wall, or where for other reasons there is a difference in elevation of the surface of the land on either side of a fence, the height of the fence shall be measured from the surface of the land on the side having the highest elevation.

B. Commercial Zones: Fence heights in commercial and manufacturing zones shall be as approved by the planning commission.

C. Public Facilities: The provisions of this section shall not apply to fences required by state law to surround and enclose public utility installations and public schools.

D. Residential Fences, Walls, Hedges: Fences, walls, hedges over six feet (6') shall not be constructed without approval by the appropriate local authority.

E. Prohibited, Weather Protected Fences: Fences shall not be constructed of barbed wire, shard wire, or electrically charged wire in residential zones. Prohibited materials in all zones: grape stakes (or similar), plastic sheeting/plastic materials other than vinyl, Traps, cloth, canvas or like materials, plywood, pallets, chain link fencing with slats will not be permitted within the front setback nor along any street. All fences shall be weather protected from rust, sun, rain, and any other outside elements.

Second Option, allow for a Corner Lot Conditional Use request:

17.44.080 Fences, Walls And Hedges

A. Residential Zones: fence

1. Interior Lots:

- a. Front Yards: No fence shall be erected in any residential zone which exceeds four feet (4') in height. All fences must be constructed on or within the property line.
- b. Back Yards: A fence, wall, or hedge not in excess of six feet (6') in height may be erected anywhere on the lot behind the front yard setback line of the required front and side yard setbacks.

2. Corner Lots:

- a. Front Yards: No fence shall be erected in any residential zone which exceeds four feet (4') in height, except within the sight triangle. (See subsection A3, "Sight Triangle", of this section.) All fence must be constructed on or within the property line.
- b. Back Yards: A fence, wall, or hedge not in excess of six feet (6') in height may be erected anywhere on the lot behind the rear line of the required front setback of the dwelling. On the side bordering the street, a fence, wall, or hedge not in excess of six feet (6') in height may be erected, but must be set back from the required front setback of the dwelling a minimum of twelve feet (12'), and the sidewalk a minimum of six feet (6') or minimum fifteen feet (15') behind curb.

3. Sight Triangle: The "sight triangle" is an area which extends for thirty feet (30') in R-1-6 zones and forty feet (40') in all other zones from the corner in both directions. The maximum height in the sight triangle is two feet (2') for all fences, walls and hedges. All fences within the sight triangle must be on or within the property line. Any trees within the sight triangle must be trimmed above the ground at a seven foot (7') minimum or comply with section 17.44.130 of this chapter.

4. Retaining Walls: Where a fence is erected on a retaining wall, or where for other reasons there is a difference in elevation of the surface of the land on either side of a fence, the height of the

5. Fence shall be measured from the surface of the land on the side having the highest elevation.

B. Commercial Zones: Fence heights in commercial and manufacturing zones shall be as approved by the planning commission.

C. Public Facilities: The provisions of this section shall not apply to fences required by state law to surround and enclose public utility installations and public schools.

- D. Residential Fences, Walls, Hedges: Fences, walls, hedges over six feet (6') shall not be constructed without approval by the appropriate local authority.
- E. Prohibited, Weather Protected Fences: Fences shall not be constructed of barbed wire, shard wire, or electrically charged wire in residential zones. Prohibited materials in all zones: grape stakes (or similar), plastic sheeting/plastic materials other than vinyl, Traps, cloth, canvas or like materials, plywood, pallets, chain link fencing with slats will not be permitted within the front setback nor along any street. All fences shall be weather protected from rust, sun, rain, and any other outside elements.

F. Conditional Use Corner lot fencing:

1. **Any person or entity desiring a Conditional Use for an exception to this Chapter 17.44.080, fences, walls and Hedges of the requirements of this ordinance as applied to a parcel of property that he/she owns, leases, or in which he/she holds some other beneficial interest or is personally responsible for may apply to the applicable authority for a Conditional Use from the terms and conditions of the ordinance.**
2. **The Authority having jurisdiction may grant a Conditional Use if:**
 - a. **The applicant shall bear the burden of proving that all of the conditions justify a conditional use.**
 - b. **The applicant shall list reasons whether or not there are circumstances that exist to this property that does permit an exception to the ordinance and which deprives the property of privileges granted to other properties.**
 - c. **Whereas, the Authority having approval cannot grant a conditional use to a self-induced adverse condition brought on by the person responsible or owner of the property.**
 - d. **Granting the conditional use to the property, are they conditions that are different to the general appearance of the neighborhood or have they been self-imposed.**
 - e. **Does this restrict the property of it's essential enjoyment and property right**
 - f. **Does this adversely affect the interest of the neighborhood,**
 - g. **Whereas, does this application affect the health and safety of the neighborhood,**
 - h. **Is the request reasonable in nature relating to the property that will substantially minimized the use of the property.**
 - i. **A building permit shall be required for all fences approved as a conditional use.**

The planning commission is the land use authority responsible for the approval or revocation of any conditional use permit issued in the city.

**CITY OF WASHINGTON TERRACE
ORDINANCE 18-07**

FENCES, WALLS, AND HEDGES

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH,
AMENDING SECTION 17.44.080 RELATING TO “FENCES, WALLS, AND
HEDGES”; SEVERABILITY; AND PROVIDE FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Washington Terrace (hereinafter “City”) is a municipal corporation, duly organized and existing under the laws of the state of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Title 10, Chapter 9a of the *Utah Code Annotated* authorizes the City to regulate land use and development;

WHEREAS, the City Council desires to amend the municipal code to allow corner lot fencing to be reviewed and approved through a conditional use permit with conditions met by city approval;

WHEREAS, the City finds it necessary to update its municipal code in order to protect public health, safety, and welfare;

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on April 26, 2018, to take public comment on this proposed Ordinance, after which the Planning Commission gave its recommendation to approve this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on _____;

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

Section 1: Repealer. Any word, sentence, paragraph, or phrase in the *Washington Terrace Municipal Code* inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2. Amendment. Sections 17.44.080 of the *Washington Terrace Municipal Code* entitled “Fences, Walls, and Hedges” is hereby amended to read as follows:

17.44.080 Fences, Walls And Hedges

A. Residential Zones: fence

1. Interior Lots:
 - a. Front Yards: No fence shall be erected in any residential zone which exceeds four feet (4') in height. All fences must be constructed on or within the property line.
 - b. Back Yards: A fence, wall, or hedge not in excess of six feet (6') in height may be erected anywhere on the lot behind the front yard setback line of the required front and side yard setbacks.
 2. Corner Lots:
 - a. Front Yards: No fence shall be erected in any residential zone which exceeds four feet (4') in height, except within the sight triangle. (See subsection A3, "Sight Triangle", of this section.) All fence must be constructed on or within the property line.
 - b. Back Yards: A fence, wall, or hedge not in excess of six feet (6') in height may be erected anywhere on the lot behind the rear line of the required front setback of the dwelling. On the side bordering the street, a fence, wall, or hedge not in excess of six feet (6') in height may be erected, but must be set back from the required front setback of the dwelling a minimum of twelve feet (12'), and the sidewalk a minimum of six feet (6') or minimum fifteen feet (15') behind curb.
 3. Sight Triangle: The "sight triangle" is an area which extends for thirty feet (30') in R-1-6 zones and forty feet (40') in all other zones from the corner in both directions. The maximum height in the sight triangle is two feet (2') for all fences, walls and hedges. All fences within the sight triangle must be on or within the property line. Any trees within the sight triangle must be trimmed above the ground at a seven foot (7') minimum or comply with section 17.44.130 of this chapter.
 4. Retaining Walls: Where a fence is erected on a retaining wall, or where for other reasons there is a difference in elevation of the surface of the land on either side of a fence, the height of the
 5. Fence shall be measured from the surface of the land on the side having the highest elevation.
- B. Commercial Zones: Fence heights in commercial and manufacturing zones shall be as approved by the planning commission.
- C. Public Facilities: The provisions of this section shall not apply to fences required by state law to surround and enclose public utility installations and public schools.
- D. Residential Fences, Walls, Hedges: Fences, walls, hedges over six feet (6') shall not be constructed without approval by the appropriate local authority.
- E. Prohibited, Weather Protected Fences: Fences shall not be constructed of barbed wire, sharp wire, or electrically charged wire in residential zones. Prohibited materials in all zones: grape stakes (or similar), plastic sheeting/plastic materials other than vinyl, Traps, cloth, canvas or like materials, plywood, pallets, chain link fencing with slats will not be permitted within the front setback nor

along any street. All fences shall be weather protected from rust, sun, rain, and any other outside elements.

F. Special Regulations for Corner Lot Fencing:

1. Any person or entity desiring to fence a corner lot may apply for a Conditional Use Permit subject to the requirement of this part and other regulations for fencing in the municipal code.
2. The Planning Commission, or its designated authority, may grant a Conditional Use Permit for a corner lot fence if:
 - a. That for the purposes of this chapter the terms fence is inclusive of any berm, hedge, or other similar structure.
 - b. The applicant demonstrates that applicant meets all the conditions of the code.
 - c. The applicant shall provide a complete list of the facts and circumstances that support issuance of the permit.
 - d. The proposed fence will not interfere with sight distances, intersection clear areas, or otherwise visually impair any intersection.
 - e. That the fence is proposed to be located in the area of the least impact of any alternative locations.
 - f. That the location and height of the fence does not pose any public safety risk to the public, drivers, pedestrians, or otherwise.
 - g. That the Planning Commission, or its designated authority, may limit the materials, location, and height of any fence when granting a Conditional Use Permit in order to mitigate any impacts.
 - h. A building permit is required for the construction of the fence upon issuance of the Conditional Use Permit.

Section 3. Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of the Ordinance, or specific application of the ordinance, shall be severed from the remainder, which shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect immediately upon its passage and posting.

PASSED AND APPROVED by the City Council this ____ day of _____, 2018.

MARK C. ALLEN, Mayor,
City of Washington Terrace

ATTEST:

AMY RODRIGUEZ, City Recorder

WTC Ord. 18-07

RECORDED this ____ day of _____, 2018.

PUBLISHED OR POSTED this ____ day of _____, 2018.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing ordinance was duly passed and published, or posted at 1)_____ 2)_____ and 3)_____ on the above referenced dates.

AMY RODRIGUEZ, City Recorder

DATE: _____



Planning Commission Staff Report

Building & Planning

Author: Planning Dept.
Subject: AMENDING SECTION 8.16 OF THE INSPECTION & CLEANING ORDINANCE RELATING TO NUISANCE
Date: APRIL 26, 1018
Type of Item: Public Hearing & Discussion/Action, recommendation to City Council

Summary Recommendations: Motion to recommend approval of to amend Section 8.16. to adopt section 8.16.035, “Unwanted Trees”.

Description:

A. Background: There have been complaints from residents about “unwanted trees” which have become a nuisance. There currently is no ordinance in the City Municipal code to correct a nuisance violation for any type of tree, unless it is damaging the sewer line or the city infrastructure. The amendment will list trees that have been identified as nuisance type of trees and should be avoided or not planted.

See amended ordinance for “Unwanted Trees” below.

B. Department Review: Staff recommends approval of the amendment.

Alternatives:

A. Approve the Request:

The Planning Commission should approve amendment to the City Ordinance 8.16 and forward the recommendation to the City Council by motion 17.56.175.

B. Deny the Request:

The Planning Commission can deny the recommendation.

C. Continue the Item:

The Planning Commission may table the request to a later meeting, subject to suggesting additional information, or requiring changes to the ordinance prior to making a recommendation to the City Council.

Significant Impacts: no significant impact if amended.

8.16.035. Unwanted Trees.

The following conditions concerning trees are hereby declared to be unlawful and a public nuisance. It shall be unlawful for the owner, occupant or the person in control of any property in the city to plant, maintain or permit the public nuisance described below to exist on said property or within the parking strip abutting such property:

Any tree that impacts or that encroaches onto neighboring property, over or through a fence. Should be cut or trimmed and maintained.

Any tree designated as a unwanted tree as listed in either commercial or residential should not be planted or maybe required to be removed, if the tree has a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of healthy trees, shrubs or plants in the city, or which is capable of causing an epidemic spread of a communicable disease, such as Dutch elm disease or insect infestation, or gypsy moth,

If the tree is hazardous, dead decayed overgrown and/or uncultivated or not maintained which may become a hazard to any structure and/or a fire hazard or danger to surrounding area, or which is likely to harbor rats, vermin or other pests or insects and/or a nuisance to neighboring property through suckers growth or an invasive root system and with intrusive seedlings, should not be planted and required to be removed.

The listed type of trees to prevent a nuisance that are unwanted trees are as follow:

1. Tree of Heaven, 2. Black locust trees, 3. Siberian elm, 4. Russian olive tree, 5. Mimosa (*Albizia julibrissin*), 6. White Mulberry (*Morus alba*), 7. Hackberry (*Celtis occidentalis*), 8. Eastern Cottonwood (*Populus deltoides*), 9. Bradford Pear (*Pyrus calleryana* 'Bradford'), 10. Chinese flame tree (aka bougainvillea goldenrain tree), 11. Ginkgo tree, Sweet gum tree, 12. Quaking Aspen (*Populus Tremloides*), 13. American Elm (*Ulmus Americana*), 14. Box Elder (*Acer Negundo*), 15. Idaho Locust (*Robinia x Ambigua*), 16. Birch (*Betula*),

**CITY OF WASHINGTON TERRACE
COUNTY OF WEBER, STATE OF UTAH**

**INSPECTION AND CLEANING
ORDINANCE NO. 18-08**

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE,
UTAH, REPEALING AND RE-ENACTING CHAPTER 8.16 OF
THE WASHINGTON TERRACE MUNICIPAL CODE RELATING
INSPECTION AND CLEANING; SEVERABILITY; PROVIDING
AN EFFECTIVE DATE**

WHEREAS, the City of Washington Terrace, Utah, (hereafter referred to as “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60, 1953, as amended, allows the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Utah Code Annotated §10-11-1, et seq, authorizes the City to conduct inspection and cleaning of certain property and nuisances;

WHEREAS, the City finds it necessary to update its municipal code in order to protect public health, safety, and welfare;

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on April 26, 2018 to take public comment on this proposed Ordinance;

WHEREAS, the Planning Commission held a public meeting on _____, after which the Planning Commission gave its recommendation to approve this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on _____;

NOW, THEREFORE, be it ordained by the City Council of the City of Washington Terrace, Utah, as follows:

Section 1: Repealer. Chapter 8.16 of the *Washington Terrace Municipal Code* is hereby repealed in its entirety.

Section 2: Re-enactment. Chapter 8.16 of the *Washington Terrace Municipal Code* is hereby re-enacted to read as follows:

**Chapter 8.16
INSPECTION AND CLEANING**

Sections:

- 8.16.010. Authority.**
- 8.16.020. Definitions.**
- 8.16.030. Duty to maintain.**
- 8.16.040. Nuisance declared.**
- 8.16.050. Accumulation prohibited.**
- 8.16.060. Administration and enforcement.**
- 8.16.070. Appeal.**
- 8.16.080. Eradication and removal by municipality.**
- 8.16.090. Statement of expenses and demand for payment.**
- 8.16.100. Cost recovery.**
- 8.16.110. Suit and judgement for expenses.**
- 8.16.120. Assistance of sheriff.**
- 8.16.130. Non-exclusive remedy.**
- 8.16.140. Enforcement and penalty.**

8.16.010. Authority.

This chapter is known as “Inspection and Cleaning” adopted as authorized by *Utah Code Annotated* §10-11-1, et seq, 1953 as amended. In accordance with *Utah Code Annotated* §10-8-60, the city hereby exercises its broad authority to declare what shall be a nuisance, and abate the same, and impose fines upon persons who may create, continue, or suffer any nuisance to exist.

8.16.020. Definitions.

As used in this code, the following words mean:

1. “Abandoned” means a nuisance condition or nuisance object left or perceived to be left unattended, disused, discarded, discontinued for more than 10 days upon public or private property.
2. “Abate” or “abatement” means an action by the city to repair, replace, rehabilitate, remove, destroy, demolish, correct or otherwise remedy any condition that is declared a nuisance in this chapter.
3. “Enforcement official” means an building inspector, code enforcement official, sheriff, for other official designated by the city manager to enforcement of this chapter.

4. “Nuisance” means a condition or location where that the city has declared a nuisance using the broad nuisance declaration powers set forth in *Utah Code Annotated* §10-8-60. Such condition includes but is not limited to a unsightly or injurious object, structure, non-maintained conditions, unsightly conditions, noxious conditions or objects, trash, junk, refuse or garbage, anything dangerous to human life or health, or anything rendering the soil, air, water, or food to be impure or unwholesome.
5. “Nuisance vehicle” means any wrecked, obsolete, junked, inoperable, unregistered, or expired vehicle, or any portion of such vehicle in the city. It also includes any vehicle or part of a vehicle that is parked illegally on public property or the public right-of-way, in violation of land use regulations, not able to be driven legally based on any condition or status. It further includes any vehicle used for commercial purposes in a residential zone that is not actively going to or returning from a delivery in the city, or a vehicle used for commercial purposes where the owner of the vehicle does not have an approved commercial site plan and/or a business license within the city.
6. “Noxious weed” means vegetation that is determined by the state of Utah, Weber County, or Utah State University (USU) Extension Services to be environmentally invasive.
7. “Owner” means any person or entity that is the reputed or record owner of the premises, or the responsible party as provided in this chapter.
8. “Property” means any real property, lot, parcel or plot of ground, whether occupied or not, and any premise including a building or structure, or the premises on which a building or structure is located, or undeveloped land.
9. “Refuse”, “junk”, “debris” or “garbage” means useless, worthless or discarded materials, indoor household furniture or parts thereof left outdoors, used tires, parts of vehicles, unsightly machinery or equipment, unsightly appliances or parts of appliances, trash, rubbish, grass and tree trimmings, rotting material or vegetation, litter, scrap building materials, food product waste, dead animals, and any similar material.
10. “Temporary permit” means temporary permit issues by the Utah Division of Motor Vehicles for a vehicle that is being repaired or restored to pass required state and county inspections or otherwise.
11. “Vehicle” means a motorized, non-motorized, or self-propelled device intended primarily for transportation, use and operation on a road or utility or recreation, or a device used in the transportation of any item from one location to another such as a trailer.

8.16.030. Duty to maintain.

In accordance with *Utah Code Annotated* §10-11-2, all property owners, their agent(s), all occupant(s) or tenants, or other person having control of real property have a duty to maintain real property free and clear of any nuisance or nuisance activity as provided in this chapter. The duty in this section shall deemed all property owners, their agent(s), all occupant(s) or tenants, or other person having control of real property to be the

responsible party for any nuisance and each shall be joint and severally liable therefore for its removal, remedy, and/or damages, including fines and penalties.

8.16.035. Unwanted Trees.

The following conditions concerning trees are hereby declared to be unlawful and a public nuisance. It shall be unlawful for the owner, occupant or the person in control of any property in the city to plant, maintain or permit the public nuisance described below to exist on said property or within the parking strip abutting such property:

Any tree that impacts or that encroaches onto neighboring property, over or through a fence. Should be cut or trimmed and maintained.

Any tree designated as a unwanted tree as listed in either commercial or residential should not be planted or maybe required to be removed, if the tree has a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of healthy trees, shrubs or plants in the city, or which is capable of causing an epidemic spread of a communicable disease, such as Dutch elm disease or insect infestation, or gypsy moth.

If the tree is hazardous, dead decayed overgrown and/or uncultivated or not maintained which may become a hazard to any structure and/or a fire hazard or danger to surrounding area, or which is likely to harbor rats, vermin or other pests or insects and/or a nuisance to neighboring property through suckers growth or an invasive root system and with intrusive seedlings, should not be planted and required to be removed.

The listed type of trees to prevent a nuisance that are unwanted trees are as follow:

1. Tree of Heaven, 2. Black locust trees, 3. Siberian elm, 4. Russian olive tree, 5. Mimosa (Albizia julibrissin), 6. White Mulberry (Morus alba), 7. Hackberry (Celtis occidentalis), 8. Eastern Cottonwood (Populus deltoides), 9. Bradford Pear (Pyrus calleryana 'Bradford'), 10. Chinese flame tree (aka bougainvillea goldenrain tree), 11. Ginkgo tree, Sweet gum tree, 12. Quaking Aspen (Populus Tremloides), 13. American Elm (Ulmus Americana), 14. Box Elder (Acer Negundo), 15. Idaho Locust (Robinia x Ambigua), 16. Birch (Betula).

8.16.040. Nuisance declared.

The following objects, acts, or conditions along with any resulting condition, are hereby declared to be nuisances in violation of this chapter and subject to the penalties provided herein:

1. Conditions that create a possible fire hazard.
2. Unlawful pollution or environmental degradation, or anything rendering the soil, air, water, or food to be impure or unwholesome.
3. Conditions that harbor or attract rodents, insects, disease, or other forms of life deleterious to human habitation.
4. Deleterious surroundings and structures in violations of local codes.
5. Allowing or causing to keep, deposit, dump, burn, bury or allow to exist any unsightly or injurious objects, structures, junk, discarded or unused objects or

- equipment, nuisance vehicles, noxious weeds, grass over six (6) inches in growth, or neglected landscaping.
6. To allow vegetation, waste, garbage, litter, filth, refuse, feces, or manure to accumulate within or upon any property, except where it is scheduled for immediate removal.
 7. To discharge or dump liquid waste, hazardous waste, or refuse of any kind into any street, road, sidewalk, gutter, stream, drain, pipe, wash, natural water course, ditch, canal, lot, or other property.
 8. To obstruct any watercourse, storm drain, or pipeline.
 9. To permit any garbage container to remain on a premise when it has become unclean, offensively putrescent, or overflowing.
 10. To block, obstruct, or interfere with access or use of city streets, sidewalks, easements, or right-of-ways without an encroachment permit from the city.
 11. Any condition or object that may cause immediate and irreparable harm to a person or endanger public health and safety.
 12. The accumulation of animal waste products.
 13. Any unkept, offensively putrescent, or filthy stable, stall, corral, feed yard, or in any other structure or area where animals are kept.
 14. Allow to be kept or collected any putrid grease, vegetable matter, rotting substance, or other similar matter on any premises.
 15. Dumping, disposal, or handling of grease, oils, fats, or substance in any manner that may result in any pollution, clog, or damage to any sewer system, storm water system, or the environment.
 16. To have or permit upon any condition that creates unnecessary stagnant water, or unnecessarily fosters flies, mosquitos, or rodents.
 17. To pollute or render fowl water in any spring, stream, well, or other water supply. Including any action or inaction that may jeopardize or harm a public or private water system, including a drinking fountain.
 18. Create or allow a condition or object that may detrimentally affect any sanitary sewer line or system, septic system, or other waste collection system. Including any action or inaction by an owner that may result in any overflow, system failure, or other potential public or environmental hazard relating to sewer.
 19. To allow any property or project to hold any decaying material, hazardous material, explosives, or offensive substances.
 20. To plant or maintain any tree or vegetation that may enter or damage any storm drain, field or land drain, or sewer systems, or cause heaving or other damage to any sidewalks, curbs, gutters, or streets. Including overhanging trees, branches, or vegetation in violation of the Manual on Uniform Traffic Control Devices (MUTCD), American Association of State Highway and Transportation Officials (AASHTO) standard, or other applicable code.
 21. To plant or maintain trees or vegetation which obstruct the clear view of traffic, traffic signs, fire hydrants, utilities, public right-of-ways, sidewalks, curbs, and intersection corner property sight triangles specified in the land use ordinance.

22. To fail to properly keep adjoining public sidewalks clear of snow and any other obstruction.
23. To put or cause to have put snow, ice, leaves, litter, dirt, debris, or other refuse into the public right-of-way.
24. To operate a business within the city without obtaining the appropriate city business license, along with any required state license and tax identification numbers.
25. Failure to control and prevent back-flow and eliminate all cross connections between any auxiliary water source and the city's culinary water systems.
26. Failure to install, maintain, control, back-flow devices for any sewer and/or water system.
27. Failure to immediately stop and repair any culinary water, secondary water, or sewer line break.
28. Leaving fuel, flammable material, or similar material open and accessible to children or creating an attractive nuisance condition.
29. Failure to park any vehicles, motor home, fifth-wheel, trailer, water craft, recreational vehicle, and axle driven devices on a solid surface type material such as asphalt or concrete. The solid surface area must also cover the full size of the vehicle where such vehicle is parked. Nuisance under this part are exempt where granted a winter parking exemption in the municipal code under Section 10.16.030 so long as the required spring restoration of the soft surface is completed as provided in the municipal code. Failure to make spring restoration of soft surface under this part is a nuisance under this chapter.
30. Failure to park or place any vehicle, trailer, or equipment at least three feet behind the sidewalk and nine feet behind curb where no sidewalk exists.
31. Failure to install or maintain any toilet, sink, plumbing, or sewer facility in accordance the applicable international building codes, or regulations of the Weber-Morgan Health Department.
32. Failure to comply with the property maintenance code, which regulates the conditions and maintenance of all property, buildings and structures, such as fences, roofs, siding, and otherwise.
33. Any construction activities on any property without the proper permits.
34. Allowing or keeping any abandoned appliances, furniture, furnishings, or containers outside on any property.
35. Keeping any appliance or device accessible to children that may be airtight and contain a lid, lock, or door device which may not be released from the inside.
36. Failure to keep or maintain landscaping or storm water basin required on an approved site plan.
37. Parking any motor home, fifth-wheel, trailer, water craft, or recreational vehicle property used for residential purposes for more than forty-eight (48) hours. Allow any such vehicle described in this part of park on the public right-of-way or within 3 feet of the sidewalk.
38. To allow any basketball standard, other recreation device, or equipment of any kind to obstruct or interfere with any street, sidewalk, curb, or gutter.

39. To hold, park, keep, operate, maintain, or keep any nuisance vehicle or abandoned vehicle where there is no valid temporary permit.
40. Burning of any kind without a valid burn permit.
41. To permit or cause to keep, deposit, dump, bury, or allow to exist any unsightly or injurious objects, structure, junk, discarded or unused objects or equipment, equipment, noxious weeds, grass over six (6) inches in height.
42. Parking or keeping any commercial vehicle or commercial activity in a residential zone or without a valid site plan in a commercial zone.
43. Operating a business without a valid business license.
44. Overnight parking of any commercial vehicle over 10,000 gross vehicle weight on any city street, sidewalk or municipal property.
45. Keeping or harboring excessive animals, stray animals, or any animals in violation of the municipal code.
46. Failure to keep or maintain landscaping in accordance with Section 17.44.200.6.

8.16.050. Accumulation prohibited.

It is unlawful and a violation of this Chapter for the owner or occupant of real property or estate, or its agent, to cause or permit upon such property, or right-of-way adjacent thereto, the accumulation of, or, after notice as provided in this chapter, to fail to eradicate or remove garbage; refuse; abandoned vehicles or inoperable vehicles, boats, or trailers; or any unsightly or deleterious objects or structures.

8.16.060. Administration and enforcement.

1. Administration. The enforcement official administers this chapter.
2. Powers and duties. The enforcement official is authorized to:
 - a. Inspect real property within the city to determine whether such constitute a nuisance as provided in this chapter.
 - b. Follow the procedure in *Utah Code Annotated* §10-11-1, et seq, for inspection, cleaning, nuisance abatement, and cost recovery.
 - c. Ascertain the names of the owner(s) or occupant(s) of property where a nuisance exists.
 - d. Serve notice, in writing, upon the ascertained owner(s) or occupant(s) or other responsible persons, etc, either:
 - i. In person or posted on site or by mail (certified mail if required by state law) to the property owner of record as described in *Utah Code Annotated* §10-11-2(2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or
 - ii. In person or posted on site or by mail (certified mail if required by state law) to a non-owner occupant or another person responsible for the property who is not the owner of record as described in *Utah Code Annotated* §10-11-2(2)(a)(ii), if mailed to the property address.

- iii. In the written notice described in *Utah Code Annotated* §10-11-2(2)(a), the municipal inspector shall:
 - (1) Identify the property owner of record according to the records of the county recorder.
 - (2) Describe the property and the nature and results of the examination and investigation conducted in accordance with *Utah Code Annotated* 10-11-2(1)(a); and
 - (3) Require the property owner, occupant, or, if applicable, another person responsible for the property to:
 - (a) Eradicate or destroy and remove any identified item examined and investigated under *Utah Code Annotated* §10-11-2(1)(a); and
 - (b) Comply with *Utah Code Annotated* 10-11-2(2)(c)(iii)(A) in a time period designated by the municipal inspector but no less than 10 days after the day on which notice is delivered in person or post-marked.
 - (4) For a notice of injurious and noxious weeds described in *Utah Code Annotated* §10-11-2(2)(a), the enforcement official is not required to make more than one (1) notice for each annual season of weed growth for weeds growing on a property.
 - (5) The municipal inspector shall serve the notice required under *Utah Code Annotated* §10-11-2(2)(a)(i) under penalty of perjury.
- iv. Notice should indicate a statement informing the party of their right to appeal and any civil fines or criminal penalties that may be imposed.
- v. Notice may state alternative remedies as appropriate.
- vi. Proof of service may be required for cost recovery from the county treasurer, any court, or otherwise.
- e. Eradicate and remove objects in violation of this chapter, impose fines, initiate suit, or seek other remedies allowed by law, and/or assess costs in accordance with *Utah Code Annotated* §§10-11-3 and 10-11-4.

8.16.070. Appeal.

The owner(s) or occupant(s) who receives a notice under this chapter may file a written appeal with the city recorder within ten (10) days from being serviced by mail or other wise, or within ten (10) day of any written final decision or fine of an enforcement official. All appeals are held before the appeal authority and governed in accordance with the procedure set forth in the municipal code. Failure to make timely appeal forfeits rights associated with the same and serves as cause for dismissal of any adverse action against the city by an aggrieved party or any party with standing.

8.16.080. Eradication and removal by municipality.

If the owner(s) or occupant(s) of the property described in the written notice given in accordance with this Chapter, including any decision from an appeal related to the same, fail or neglect to conform to the requirements relating to the eradication and removal of any objects determined to be in violation of this chapter, the city manager, or his designee, may employ all necessary assistance to cause such materials or conditions to be eradicated and removed from the property at the initial expense of the municipality.

8.16.090. Statement of expenses and demand for payment.

Upon completion of the eradication and removal, the enforcement official, or his designee, shall cause to be prepared an itemized statement of expenses incurred by the municipality for the eradication and removal of the nuisance in violation of this chapter, along with a demand for payment of the same to be made within thirty (30) days from the date of mailing. Said a copy of statement and demand shall be mailed (certified mail if required by state law) to the owner(s) or occupant(s) of the property described in the written notice.

8.16.100. Cost recovery.

In the event that the owner(s) or occupant(s) of the property described in the written demand for payment fail to make payment timely or as set forth in the demanded, the enforcement official, or his designee, may seek cost recovery at set forth in *Utah Code Annotated* §10-11-1, et seq, including referral to the county treasurer to be included in tax notice as provided by law.

8.16.110. Suit and judgement for expenses.

In the event that the collection of expenses for violations of this chapter, and eradication and removal of the same, are pursued in court, the municipality shall be entitled to sue for all expenses related to the violation including administration, eradication, removal, attorney's fees, court costs, and interest on the same. Judgment shall be executed in the manner provided by law.

8.16.120. Assistance of sheriff.

The enforcement official, or his designee, may request assistance from the sheriff in any abatement or enforcement action under this chapter.

8.16.130. Non-exclusive remedy.

Any enforcement, action, or penalty under this chapter shall not be construed to exclude the city from seeking any other remedy provided by law or the municipal code.

8.16.140. Enforcement and penalty.

A owner, person, firm, corporation, occupant, tenant, or other party responsible for a nuisance or nuisance condition under this chapter is subject to the following:

1. **Initial.** On-sight of any nuisance violation under this chapter, the enforcement official may issue a written on-sight \$10 fine to be paid to the city within fourteen (14) days.
2. **Civil fines.** Civil fines may be imposed for nuisance violations of this chapter in addition to any abatement or removal costs. Compounding civil fines accrue as follows:
 - a. \$25 per day a violation or nuisance continues uncorrected or unabated after the ten (10) day notice period expires for first thirty (30) days after the notice period expires.
 - b. \$100 for the next thirty (30) days a violation continues.
 - c. \$500 for the next thirty (30) days a violation continues.
 - d. \$1000 per day after that where a violation continues.
3. **Criminal.** Any person who allows a nuisance to continue after receiving notice under this chapter is guilty of a class B misdemeanor and subject to a fine in the amount of \$750.00 and/or six (6) months in jail.
4. **Alternative remedies.** The following alternative remedies apply:
 - a. **Corrective action plan.** The enforcement official, at his discretion, may enter a written agreement with the owner or occupant for a corrective action plan to remedy the nuisance violation and provide a plan and time frame for the same.
 - b. **Court imposed.** In addition to other remedies provided by law, the court may also assign the responsible party or owner, occupant or person having a interest in or control over the property to probation or to an alternative program to designed to aid the owner or occupant deal with mental or psychological issues that resulted in the nuisance condition. This alternative remedy is specifically designed for hoarders.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of the ordinance, or specific application of the ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 5: Effective date. This ordinance take effect immediately after approval and posting.

PASSED AND APPROVED by the City Council this ___ day of _____, 20___.

MARK C. ALLEN, Mayor,
City of Washington Terrace

ATTEST:

WTC Ord. 18-08

AMY RODRIGUEZ, City Recorder

RECORDED this ____ day of _____, 2018.

PUBLISHED OR POSTED this ____ day of _____, 2018.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1)_____ 2)_____ and 3)_____ on the above referenced dates.

AMY RODRIGUEZ, City Recorder