

2**DEFINITIONS****2.0 Definition Usage**

For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this Chapter. Where definitions are given in another chapter or section of this Code that apply to only that section or chapter, those definitions shall apply *first*. In some instances, words or terms that have a definition in this chapter may show in *italics* elsewhere in this Code.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations"; the word "code" means "this code".

A "person" includes a corporation, a partnership, a limited company, a limited liability company, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

2.1 Access

The provision of vehicular and/or pedestrian ingress and egress to structures or facilities.

2.2 Accessory Building

A building upon the same lot (or on a contiguous lot under the same ownership) as the principal building and which is (1) clearly incidental to, and customarily found in connection with such principal building or use and (2) is operated and maintained for the benefit of convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use.

2.3 Accessory Dwelling Unit

A habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

2.4 Accessory Use

A use conducted on the same lot as the principal use or structure with which it is associated; and is a use which is clearly incidental to and is customarily found in connection with such principal use; and is either in the same ownership as such principal use or is maintained and operated on the same lot substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use. No accessory use shall be allowed on any lot or parcel unless the permitted use is being actively utilized.

2.5 Administrative Permit

A permit issued by the Zoning Administrator for specified uses after compliance with applicable zoning or development code regulations is determined.

2.6 Adversely affected party

A person other than a land use applicant who:

- (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or
- (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

2.7 Affected entity

A county, municipality, local district, special service district, school district, interlocal cooperation entity, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

- (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
- (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under Utah State Code.

2.8 Affected owner

The owner of real property that is:

- (a) a single project;
- (b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Utah State Code Subsection 20A-7-601(5)(a); and
- (c) determined to be legally referable under Utah State Code Section 20A-7-602.8

2.9 Agriculture

The tilling of the soil, the raising of crops and animals for private, commercial or industry, horticulture, and gardening, except household pets, and not including any agricultural industry or business such as fruit packing plants, animal hospitals or similar uses.

2.10 Alley

A public right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

2.11 Annexation

A legal process by which some property located in an unincorporated area of a county may become part of a neighboring city or town.

2.12 Antenna

A device for sending and/or receiving radio, television, data or similar communication signals.

2.13 Apartment

A room or set of rooms in a multifamily residential building fitted especially with housekeeping facilities and rented or leased as a dwelling. An apartment does not include internal accessory dwelling units..

2.14 Apartment House

A multiple dwelling; see Dwelling, Multi-Family.

- 2.15 Appeal authority**
The person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- 2.16 Applicant**
The owner of land proposed to be subdivided and/or developed or his/her representative. Consent shall be required from the legal owner of the premises.
- 2.17 Application**
A form or checklist supplied by the Town Planning Department, indicating the data and information necessary to process the Applicants proposed project(s).
- 2.18 Appropriate Town Official**
The member of the Town Council assigned responsibility for a specific area of town infrastructure.
- 2.19 Arena**
A level area surrounded by seats for spectators, in which sports, entertainments, and other public events are held.
- 2.20 Arterial**
A road intended to allow through traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators and/or as a route for traffic between communities or large areas.
- 2.21 Attached Building**
Units connected on one or more sides to an adjacent unit or units by a common party wall with separate exterior entrance for all unit(s). This shall apply to commercial as well as residential units.
- 2.22 Balcony**
A platform that projects from the wall of a building and is surrounded by a railing or balustrade.
- 2.23 Bed and Breakfast Inns**
A dwelling, where the owner lives , including those dwellings of historical significance in which two to four rooms are rented out by the day, offering overnight lodging to travelers, and where one or more meals are provided to the guests only, the price of which may be included in the room rate.
- 2.24 Billboard**
A freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
- 2.25 Block**

A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad or utility rights-of-way, shore lines of water ways, or boundary lines of municipalities.

2.26 Boarding House

A building other than a hotel, cafe, or restaurant with two or more bedrooms where for direct or indirect compensation lodging and/or kitchen facilities or meals are provided for boarders and/or roomers not related to the head of the household by marriage, adoption, or blood.

2.27 Buildable Area

The buildable area is the lot area minus the required yard setbacks. Building are only allowed in the buildable area. A fence can be built on property line of the lot if it meets building code requirements.

2.28 Building

Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

2.29 Building, Attached

(See Attached Building.)

2.30 Building Design Element

- (a) exterior color;
- (b) type or style of exterior cladding material;
- (c) style, dimensions, or materials of a roof structure, roof pitch, or porch;
- (d) exterior nonstructural architectural ornamentation;
- (e) location, design, placement, or architectural styling of a window or door;
- (f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;
- (g) number or type of rooms;
- (h) interior layout of a room;
- (i) minimum square footage over 1,000 square feet, not including a garage;
- (j) rear yard landscaping requirements;
- (k) minimum building dimensions; or
- (l) a requirement to install front yard fencing.

2.31 Building, Detached

Any building or structure separated from another building on the same lot by at least six feet.

2.32 Building, Main

The principal building, or one of the principal buildings on a lot, or the building or one of the principal buildings housing a principal use upon a lot.

2.33 Building, Public

Structures constructed by or intended for use by the general public such as libraries, museums, the municipal or public works buildings, etc.

2.34 Building Pad Line

The building pad line denotes that area in which the entire new structure must lie. The area of construction disturbance attributable to the structure (as opposed to utilities installation) may not extend beyond ten (10) feet from the building pad line

2.35 Business Day

A day other than Saturday, Sunday, or a legal holiday..

2.36 Business Offices

Any site or location which provides space for the transactions, service, or administration by a commercial enterprise and/or where storage of goods and sale of merchandise is minimal and secondary to performance of the service.

2.37 Canopy

A roof structure constructed of fabric or other material placed so as to extend outward from a building providing a protective shield for doors, windows, and other openings, supported by the building and supports extended to the ground directly under the canopy or cantilevered from the building.

2.38 Capital Improvements Program

A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the physical assets for the community are included.

2.39 Certified Provider

A person who holds a Residential Child Care Certificate from the Utah Department of Health and Human Services if the person provides residential child care for eight or fewer qualifying children. (26B-2-404a)

2.40 Charter School

- (a) an operating charter school;
- (b) a charter school applicant that a charter school authorizer approves in accordance with Utah State Code Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- (c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (d) "Charter school" does not include a therapeutic school.

2.41 Child Care

Continuous care and supervision (day or night) of five or more qualifying children in lieu of parental care, for less than 24 hours a day, and for direct or indirect compensation. (26-39)

As used in this Ordinance, the term Child Care is not intended to include baby-sitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child-care by a group of parents in their respective domiciles.

2.42 Collector Roads

A road intended to move traffic from local roads to arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

2.43 Commercial Child Care Center/Hourly Child Care Center/Pre School

Child care or educational instruction is provided in a nonresidential setting and children have regular or hourly schedules of care in the center. The number of children allowed and providers required will be determined by the facility's net square footage. There must be a director who is at least twenty-one years old and meets educational requirements. A child care center must have a safely accessible fenced outdoor play area, but an hourly center or pre-school does not.

2.44 Common Open Space

Facilities, land and yard areas identified within projects for the use and enjoyment of all the residents and maintained and operated by an organization of property holders of that project.

2.45 Conditional Use

A land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

2.46 Condominium

Any structure which has been submitted to condominium ownership under the provisions of the Utah Condominium Ownership Act. This includes residential, nonresidential, and any other space.

2.47 Constitutional Taking

A governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution Article I, Section 22.

2.48 Construction Plan

The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission or Town Engineer as a condition of the approval of the plat.

2.49 Construction project

An improvement that is constructed pursuant to an original contract.

2.50 Convalescent Home

An institution other than a hospital wherein people may gradually recover from an illness (see Nursing Home).

2.51 Coverage

Lot area covered by a building.

2.52 Cul-de-sac

A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement as well as Fire Fighting and other public safety equipment.

2.53 Culinary Water Authority

The department, agency, or private or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

2.54 Developer

The person, persons, corporation, firm or partnership owning the land proposed to be developed in any way, or a designated legal representative. Consent shall be required from the legal owner of the premises.

2.55 Development Activity

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.

2.56 Development Agreement

A written agreement or amendment to a written agreement between Bear River City a municipality and one or more parties that regulates or controls the use or development of a specific area of land. A Development Agreement does not include an improvement completion assurance.

2.57 Drainage Ways

Drainage ways are natural or manmade path for drainage water to flow to the Bear River.

2.58 Dwelling

A building or portion thereof designed for use as the residence or sleeping place of one or more persons or families with cooking and bathroom facilities, but not including hotel, motel, lodge, or nursing home rooms.

2.59 Dwelling, Multi-Family

A building arranged or designed to be occupied by two or more families living independently of each other in separate but attached dwellings.

2.60 Dwelling, Single Family

A building arranged or designed to be occupied by only one family; a structure having only one dwelling unit.

2.61 Easement

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his or her property. The easements for existing city ditches on private property shall be 25 feet (12.5 feet from the centerline on each side).

2.62 Education Institution

An Education Institution is a place or organization that provides learning and instruction. These institutions come in various forms, ranging from preschools and primary schools to universities and vocational training centers all of which aim to impart knowledge and skills.

2.63 Educational Facility:

(a) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(b) a structure or facility:

(i) located on the same property as a building described in Subsection (a); and

(ii) used in support of the use of that building; and

(c) a building to provide office and related space to a school district's administrative personnel; and

(d) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(ii) not located on the same property as a building described in Subsection (a); and

(iii) used in support of the purposes of a building described in Subsection (a); or

(iv) a therapeutic school.

2.64 Equivalent Population

A population estimate based upon the year-round average occupancy of all permanent and transient units.

2.65 Escrow

A deposit of cash with the Town or approved alternate entity in lieu of an amount required and still in force on a performance or maintenance guarantee. Such escrow funds shall be deposited in a separate account.

2.66 Family

An individual, or two or more persons related by blood, marriage, or adoption, or a group of not more than four persons who are not related, living in a dwelling unit as a single housekeeping unit.

2.67 Family Child Care

Family Child Care means care is provided in a private home for up to sixteen qualifying children, including the provider's own children under the age of four. Providers must be at least eighteen years old. Two qualified caregivers are required when there are more than eight children in care and when there are more than two children under the age of two in care. With two caregivers, providers can care for up to (but not more than) four children under the age of two. A compliant outdoor play area is required.

2.68 Fence

A structure constructed for reasons of privacy, security, or aesthetics which is located in such a manner as to separate or divide areas. Includes hedges and masonry walls, but does not include trees, and may or may not be sight obscuring or light tight.

- 2.69 Field Drains**
Underground drainage system to remove ground and surface water.
- 2.70 Final Approval**
Final approval by the Town Council, Appeal Authority, or Planning Commission (or Zoning Administrator, where Commission action is not always required) of a plan, project, rezoning, use, activity, or other action that shall be given after all the requirements set out in the Preliminary Approval have been met and after all concerns of the reviewing agency regarding such plan, project, rezoning, use, activity, or other action have been addressed and answered. Final approval does not refer to plat approval unless the plat is submitted simultaneously.
- 2.71 Final Plat**
The map or plan or record of a subdivision and any accompanying material, as described in these regulations.
- 2.72 Fire Authority**
The department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- 2.73 Flexible Zoning**
Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, community unit projects, average density or density zoning projects, as this code may regulate.
- 2.74 Flood Plain Area**
An area adjoining a river, stream, or water course, or other body of standing water in which a potential flood hazard exists due to inundation or overflow of water having sufficient volume and velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses. Any area designated as a flood plain by the Department of Housing and Urban Development or the Federal Emergency Management Agency or any other agency of the United States Government or State and Local Government Agencies, including the Town of Bear River City. As per State of Utah definition, land that:
(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- 2.75 Floor Area**
The floor area is the area of a building that is enclosed by surrounding exterior walls, excluding a 600 square foot allowance for garages. It is the intent of this definition to include lower levels into the floor area calculation which are not true basements. A true basement has all four walls underground. Therefore, a lower level will be counted into the

floor area of a building if it is less than 80% underground or has an outside door (including garage door) visible from public right-of-way. If an entire lower level does not meet the criteria for exclusion from the floor area calculation, no part of the lower level may be excluded. Unenclosed porches, balconies, patios and decks will not be considered floor area. This definition is for planning purposes only and may conflict with other methods of calculating square footage such as the Uniform Building Code.

2.76 Floor Area Ratio

The floor area ratio shall be the floor area as defined in this Chapter, divided by the total area of the lot or parcel on which it, the structure is situated.

2.77 Frontage

That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side on a corner lot.

2.78 Frontage Block

All property abutting one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line.

2.79 Frontage Street

Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

2.80 Garage, Private

A detached accessory building, or a portion of a main building, used for the storage of motor vehicles for the tenants or occupants of a specific building and not by the general public.

2.81 Garage, Public

A building or a portion thereof, other than a private garage, used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

2.82 General Plan

A Comprehensive or General Plan for development of the Town, prepared and adopted by the Planning Commission and Town Council, pursuant to State law, and including land use maps or other suitability maps and/or any part of such plan separately adopted and any amendment to such plan, or parts thereof.

2.83 Geologic Hazard

A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvements, due to the movement, failure, flooding, or shifting of the earth. As per State of Utah definition:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or

- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

2.84 Governing Body

The Governing body of the Town (Town Council of Bear River City) having the power to adopt, amend or rescind ordinances, including this code.

2.85 Grade

The slope of a road, street, or other public way, specified in percentage terms and calculated by dividing the difference in elevation between two points by the horizontal distance.

2.86 Grade, Natural

Elevation of the existing surface of the land prior to commencement of construction of any improvements proposed or any previous site disturbance. Natural grade, when not readily established due to prior modifications in terrain, shall be fixed by reference elevations and slopes at points where the prior disturbance appears to meet the undisturbed portions of the subject property or the adjacent property's undisturbed grade. The estimated natural grade shall tie into the elevation and slopes of adjoining properties without creating a need for new retaining walls, or abrupt differences in the visual slope and elevation of the land; and not change the direction or flow of run-off water. For the purpose of measuring the height of any building from natural grade, the measurement shall be the vertical distance from natural grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to a point midway between the lowest part of the eaves or cornice and ridge of a hip roof. This measurement shall occur at any point within the building plane where height occurs.

2.87 Guarantee

Any form of security including a letter of credit, escrow agreement, bond or instrument of credit in an amount and form satisfactory to the Town. All guarantees shall be approved by the Town wherever required by these regulations.

2.88 Guest House

An accessory building intended for the inhabitation by non-rent paying guests. Provides separate cooking and sleeping quarters and is maintained and owned by the primary residence.

2.89 Habitable Space (Room)

Habitable space (room) is space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage, or utility space, and similar areas are not considered habitable.

2.90 Hard-surfaced

Hard-surfaced shall mean covered with concrete, asphalt or other impervious surface.

2.91 Health Department and Health Officer

The agency and person designated by the Town to administer the health regulations of the Town and/or County or State. This may be the Box Elder County Health Department and Director or the applicable Department of Health and Director of the State of Utah.

2.92 Height

The vertical distance from natural undisturbed grade to the highest point of a flat roof or to the deck line of mansard roof or to a point midway between the lowest part of the eaves or cornice and ridge of a hip roof. In no case shall a mansard roof or the parapet wall of a flat roof extend more than 18" above the deck line or maximum zone height, whichever is lower. Roofs not fitting clearly any of the above three classifications shall be classified by the Zoning Administrator in accordance with the roof it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration.

2.93 Highway, Limited Access

A freeway, or expressway, providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the Utah Department of Transportation, having jurisdiction over such traffic way.

2.94 Historic Preservation Authority

a person, board, commission, or other body designated by a legislative body to:

- (a) recommend land use regulations to preserve local historic districts or areas; and
- (b) administer local historic preservation land use regulations within a local historic district or area.

2.95 Home-based Microschool

An individual or association of individuals that registers as a business entity in accordance with state and local laws; and for compensation, provides kindergarten through grade 12 education services to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or residential property. (53G-6-201(3)(a))

2.96 Home Occupation

See the Supplementary Regulations in chapter 3 for a detailed definition.

2.97 Hookup Fee

a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

2.98 Hotel/Motel

A building containing sleeping rooms for the temporary occupancy of guests. Accessory facilities may include a lobby, meeting rooms, recreation facilities, group dining facilities and/or other facilities or activities customarily associated with hotels or hotel apartments. This does not include lock-outs or boarding houses.

2.99 Hotel Room

A unit consisting of one room, without a kitchen, intended for temporary living and sleeping purposes and including a separate, exclusive bathroom.

2.100 Hotel Suite

Two interconnected rooms in a hotel with a single corridor or exterior access and without a kitchen, intended for the temporary occupancy of guests.

2.101 Household Pet

Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, canaries, but not normally dangerous animals, such as lions or tigers.

2.102 Identical Plans

building plans submitted to a municipality that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.

2.103 Impact Analysis

A determination of the potential effect of a proposed residential, commercial, or industrial development upon the community and services it must provide.

2.104 Impact Fee

A payment of money imposed under Utah State Code Title 11, Chapter 36a, Impact Fees Act.

2.105 Improvements

See Lot Improvements or Public Improvements.

2.106 Improvement Completion Assurance

a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by Bear River City to guarantee the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

- a) recording a subdivision plat; or
- (b) development of a commercial, industrial, mixed use, or multifamily project.

2.107 Improvement Warranty

an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

- (a) complies with the municipality's written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

2.108 Improvement Warranty Period

a period:

- (a) no later than one year after a municipality's acceptance of required landscaping; or
- (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
 - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:
 - (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

2.109 Infrastructure Improvement

A permanent infrastructure that is essential for the public health and safety or that:

- (a) is required for human occupation; and
- (b) an applicant must install:
 - (i) in accordance with published installation and inspection specifications for public improvements; and
 - (ii) whether the improvement is public or private, as a condition of:
 - (A) recording a subdivision plat;
 - (B) obtaining a building permit; or
 - (C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

2.110 Internal Accessory Dwelling Unit

An accessory dwelling unit created:

- (i) within a primary dwelling;
- (ii) within the footprint of the primary dwelling described in 2.108(i) at the time the internal accessory dwelling unit is created; and
- (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

2.111 Internal Lot Restriction

A platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (c) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

2.112 Irrigation Ditches

Channels transporting water to land, crops, or livestock.

2.113 Itinerant Merchant

Any person who engages in, does, or transacts any temporary or transient business in any locality and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

2.114 Joint Ownership

Joint ownership among persons shall be construed as the same owner or "constructive ownership" for the purpose of imposing subdivision regulations.

2.115 Kitchen

A room or space within a room equipped with such electrical or gas hook-up services which would enable the installation of a range, oven, or like appliance using 220/240 volts or natural gas (or similar fuels) for the preparation of food.

2.116 Landscaping Appurtenances

Landscaping appurtenances shall include, but not be limited to, planters, decorative rock, water fountains, water falls, sculptures, etc.

2.117 Land Use Applicant

A property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

2.118 Land Use Application

(a) an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision;

and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

2.119 Land Use Authority

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

2.120 Land Use Decision

An administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

- (b) a land use application; or
- (c) the enforcement of a land use regulation, land use permit, or development agreement.

2.121 *Land Use Development and Management Act (LUDMA)*

State of Utah Code 10-9(a).

2.122 *Land Use Permit*

A permit issued by a land use authority.

2.123 *Land Use Regulation*

(a) means a legislative decision enacted by ordinance, law, code, map, resolution,

specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code;

and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

2.124 *Legislative Body*

The Bear River City Council.

2.125 *Licensed Provider*

A person who holds a license from the Utah Department of Health and Human Services who provides child care for five or more qualifying children in a commercial child care center or provides residential child care for nine or more qualifying children or requests to be licensed. (26B-2-403)

2.126 *Limits of Disturbance*

The limits of disturbance line indicates the area in which construction activity must be contained. Construction disturbance may not extend beyond the limits of the disturbance line as indicated on the subdivision

plat unless the Zoning Administrator has amended the limit as per this code.

2.127 Local District

An entity under Utah State Code Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

2.128 Local Government

The City or Town of Bear River City, Utah.

2.129 Local Government Attorney

See Town Attorney.

2.130 Local Government Engineer

See Town Engineer.

2.131 Local Historic District or Area

A geographically definable area that:

- (a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and
- (b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

2.132 Local Road

A road intended to provide access to other roads from individual properties and to provide a right-of-way beneath it for sewer, water, and storm drainage pipes.

2.133 Lodging Establishment

a place providing temporary sleeping accommodations to the public, including any of the following:

- (i) a bed and breakfast establishment;
- (ii) a boarding house;
- (iii) a dormitory;
- (iv) a hotel;
- (v) an inn;
- (vi) a lodging house;
- vii) a motel;

- (viii) a resort; or
- (ix) a rooming house.

2.134 Lot

A parcel or unit of land describable either by metes and bounds, or by other legal plat designation held or intended to be held in separate ownership or leasehold, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into smaller units. A lot may not necessarily be buildable. A tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

2.135 Lot, Corner

A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

2.136 Lot Depth

The minimum distance measured from the front property line to the rear of same property boundary.

2.137 Lot Improvement

Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly guaranteed as provided in these regulations and the Land Management Code.

2.138 Lot Line Adjustment

(a) A relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with State Code Section 10-9a-608:

- (i) whether or not the lots are located in the same subdivision[, in accordance with Section 10-9a-608,]; and
- (ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

- (i) creates an additional lot; or
- (ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

2.139 Lot Line, Front

The property line dividing a lot from the right-of-way of the street. A front setback shall be required for each side of a parcel which borders a public or private street right of way, unless a project with private streets has previously designated specific setbacks. See the Supplementary Regulation Chapter for specific setbacks on unusual lots.

2.140 Lot Line, Rear

The property line opposite the front lot line.

2.141 Lot Line, Side

Any lot line other than a front or rear lot line.

2.142 Lot, Maximum Setback

The maximum distance a residential dwelling can be from the required frontage on a public street.

2.143 Lot, Minimum Lot Depth

The minimum depth along the entire frontage on a public street for the zone the lot is located.

2.144 Lot Width

The minimum distance between the side property lines.

2.145 Major Street Plan

See Official Zoning Map or Land Use or Zoning Maps. The Major Street Plan is part of these maps.

2.146 Major Subdivision

All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, infrastructure, or the creation of any new public improvements.

2.147 Major Transit Investment Corridor

Public transit service that uses or occupies:

- (a) public transit rail right-of-way;
- (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- (c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:
 - (i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

2.148 *Manufactured Home*

A Manufactured Home is a structure that is transportable in one or more sections. In traveling mode, the home is eight feet or more in width and forty feet or more in length. A Manufactured Home is designed and constructed to the Federal Manufactured Construction and Safety Standards and is so labeled. When erected on site, the home is at least 400 square feet, built and remains on a permanent chassis, and designed to be used as a dwelling with a permanent foundation built to FHA criteria. The structure must be designed for occupancy as a principal residence by a single family.

2.149 *Manufacturing*

The making of goods and articles on a large scale for sale off site. This is opposed to the making of goods and articles on a small scale for retail sale on site.

2.150 *Master Plan*

See General Plan.

2.151 *Metropolitan or Regional Planning Commission and Metropolitan or Regional Council of Governments*

The agency performing A-95 review of all federal grant-in-aid projects required to be reviewed by Regional and State Planning Boards to insure the projects conform to regional and state needs; the planning agency established to carry on regional or metropolitan comprehensive planning.

2.152 *Micro-education entity*

A person or association of persons that: registers as a business entity in accordance with state and local laws; and for compensation, provides kindergarten through grade 12 education services to 100 students or fewer. A micro-education entity does not include a daycare, home-based microschool, private school or a school within the public education system. (53G-6-201(5)(a))

2.153 *Minor Subdivision*

A minor subdivision contains not more than three (3) lots, wherein:

1. all proposed lots are located adjacent to an existing concrete or asphalt public street, are not transversed by the mapped lines of a

- proposed street as shown in the general plan and does not require the dedication of any land for street or other public use;
2. all proposed lots must meet minimum building lot requirements and conform to all applicable ordinances;
 3. all proposed lots require direct access to existing municipal facilities, and have been approved by the culinary water, secondary water (irrigation); including 20 ft. easement, street, fire and sanitary sewer authorities without requiring any easements or extensions of existing utilities;
 4. all proposed lots require the dedication and transfer to Bear River City, for the benefit of the lot owners' sufficient irrigation or "secondary" water shares for all newly created lots shown in the subdivision plat. Shares of water shall be required at the ratio of one (1) share of water per one (1) acre to the closest one one-hundredth (0.01) share; and
 5. Are located in the proper zoned area.

2.154 Model Home

A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Planning Commission, by permitting a portion of a major subdivision involving no more than two lots to be created according to the procedures for minor subdivisions, as set out in this Code.

2.155 Moderate Income Housing

Housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

2.156 Municipality

The City or Town of Bear River City, Utah.

2.157 Municipal Utility Easement

An easement that:

- (a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;
- (b) is not a protected utility easement or a public utility easement as defined in Utah State Code Section 54-3-27;

- (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;
- (d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
- (e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and
 - (ii) is located in a utility easement granted for public use; or
- (f) is described in Section 10-9a-529 and is used by a specified public utility.

2.158 NEC

Not Elsewhere Covered.

2.159 Neighborhood Park and Recreation Improvement Fund

A special fund that may be established by the Town Council to retain monies contributed by developers in accordance with the "money in lieu of land" provisions of these regulations to develop land within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision(s).

2.160 Nightly Rental

The rental of a room, apartment, or house for a time period of less than 30 days.

2.161 Nominal Fee

A fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

- (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

2.162 Noncomplying Structure

A structure that:

- a. legally existed before the structure's current land use designation; and
- b. because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

2.163 Nonconforming Use

A use of land that:

- a. legally existed before its current land use designation;
- b. has been maintained continuously since the time the land use ordinance governing the land changed; and
- c. because of one or more subsequent land use ordinance changes does not conform to the regulations that now govern the use of the land.

2.164 Non-residential Subdivision

A subdivision whose intended use is other than residential, such as agricultural, commercial or industrial. Such subdivision shall comply with the applicable provisions of the Town General Plan and the requirements of the Land Management and Development Code.

2.165 Nursery, Greenhouse

A place and or structure in which young plants are raised for experimental purposes, for transplanting, or for sale.

2.166 Nursing Home

An institution described also as a "rest home", or "convalescent home", other than a hospital, in which persons are lodged and furnished with care rather than diagnoses or treatment.

2.167 Off-site

Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

2.168 Off-Street Parking

Off-Street Parking means parking spaces that are not located on a public street, roadway or street right-of-way, but rather on private property.

2.169 Official Map

A map drawn by municipal authorities and recorded in a county recorder's office that:

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

2.170 Official Zoning Map

The map established by the Town Council pursuant to law showing the streets, highways, and parks, and drainage systems and setback lines theretofore laid out, and zoning districts, adopted and established by law, and any amendments or additions thereto resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of such approved plats.

2.171 Official Master Plan

See General Plan.

2.172 One Bedroom Apartment

A dwelling consisting of a living room, a kitchen (which may be a part of the living room), a single room designed and intended as a bedroom, and a bathroom for the exclusive use of that unit, all having a combined floor area of not more than 1,000 square feet.

2.173 Open Space

Open space shall be defined as different separate types dependent upon occupancy, use, and control. All types of open space are referred to collectively as "open space" in this Code. Any of these types of open space could be public or private open space. They shall include:

2.173.1 Agricultural Open Space

Open lands left undisturbed or dedicated primarily as usable agricultural lands for farming and ranching purposes and intended for use by residents of the development, neighborhood or community;

2.173.2 Natural Open Space

Natural, undisturbed areas with little or no improvements or irrigation. This may include such areas as ridge lines, slopes over 30%, wetlands, stream corridors, trail linkages, or visual linkages. These areas may be subject to an open space conservation easement to ensure that they remain undisturbed and to provide public access as deemed appropriate by the Planning Commission;

2.173.3 Neighborhood Open Space

Landscaped areas free of buildings, structures, and other substantial improvements, and includes without limitation (a) outdoor swimming pools, swimming pool areas, hard surfaced recreational areas, and other recreational areas that are unenclosed, and fences, canopies, bath houses, and accessory structures for recreation use, whether enclosed or unenclosed; (b) driveways that cross the required yard at approximately right angles and serve fewer than three parking spaces; (c) the ground surface above underground facilities provided it otherwise qualifies as usable open space under the provisions of this section; and (d) pedestrian ways to plazas within a building that are directly oriented to the major pedestrian entrance to the building and are open to view and use by the public; and (e) decks, porches, patios, terraces and steps under 30 inches high provided they are not covered by a portion of a building;

2.173.4 Recreational Open Space

Parks and areas of active recreation use including neighborhood or community centers or clubhouses intended for use by residents of the development, neighborhood or community.

2.174 Ordinance

Any legislative action, however denominated, of the Town Council of Bear River City which has the force of law, including any amendment or repeal of any ordinance.

2.175 Owner

Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be developed or subdivided under these regulations.

2.176 Parcel

Any real property that is not a lot

2.177 Parcel Boundary Adjustment

(a) A recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in

accordance with Utah State Code Section [57-1-45] 10-9a-524, if no additional parcel is created and:

- (i) none of the property identified in the agreement is [subdivided land] a lot; or
 - (ii) the adjustment is to the boundaries of a single person's parcels.
- (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:
- (i) creates an additional parcel; or
 - (ii) constitutes a subdivision.
 - (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

2.178 *Parking, Public*

A parking area or facility on private or public property to be used by the public. Fees for the use thereof may or may not be involved.

2.179 *Parking Lot*

An area other than a street used for the parking of more than four automobiles.

2.180 *Parking Lot, Commercial*

A lot used for the temporary parking of automobiles for compensation.

2.181 *Parking Lot, Private*

A lot used for the temporary parking of automobiles for compensation.

2.182 *Parking Space*

An area maintained for the parking or storage of an automobile or other vehicle, which is graded for proper drainage and is hard surfaced, porous paved or graded and compacted road base/gravel where specially permitted.

2.183 *Parking Structure*

A fully enclosed structure designed and intended for parking or storage of more than four vehicles.

2.184 *Perimeter Street*

Any existing street to which the parcel of land to be subdivided abuts on only one side.

2.185 *Permitted Use*

A use of land allowed by right under the provisions of this code.

2.186 Person

An individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

2.187 Planning Commission

The Planning Commission of the Town of Bear River City, Utah established in accordance with law.

2.188 Planning Review

A review to verify that a town has approved the following elements of a construction project:

- (i) zoning;
- (ii) lot sizes;
- (iii) setbacks;
- (iv) easements;
- (v) curb and gutter elevations;
- (vi) grades and slopes;
- (vii) utilities;
- (viii) street names;
- (ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and
- (x) subdivision.

2.189 Plan for Moderate Income Housing

A written document adopted by the Bear River City Council that includes:

- (a) an estimate of the existing supply of moderate income housing located within the municipality;
- (b) an estimate of the need for moderate income housing in the municipality for the next five years;
- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

2.190 Plan Review

all of the reviews and approvals of a plan that a town requires to obtain a building permit from the town with a scope that may not exceed a review to verify:

- (A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;
- (B) that the construction project complies with the energy code adopted under Section 15A-2-103;
- (C) that the construction project received a planning review;
- (D) that the applicant paid any required fees;
- (E) that the applicant obtained final approvals from any other required reviewing agencies;
- (F) that the construction project complies with federal, state, and local storm water protection laws;
- (G) that the construction project received a structural review;
- (H) the total square footage for each building level of finished, garage, and unfinished space; and
- (I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

Plan review does not mean a review of a document:

- (A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;
- (B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or
- (C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

2.191 Plat

An instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with State Code Section 10-9a-603 or 57-8-13.

2.192 Plat Amendment

A change in a map of an approved or recorded subdivision plat if such change affects any street layout in such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions. Also referred to as a “re-subdivision”

2.193 Porous Paving

A substantial surfacing material designed and intended to support light vehicular movement. Porous paving includes paving systems such as modular pavers which provide at least 50% surface exposure suitable for the establishment of plant materials and which substantially abates surface water runoff. Gravel and/or compacted soil are not acceptable as porous paving materials.

2.194 Potential Geologic Hazard Area

An area that:

- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
- (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

2.195 Preliminary Plat

The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission and Town Council for approval.

2.196 Preschool

A home occupation in a residential zone which is essentially: 1) an educational function, 2) teaching socialization and preparation for kindergarten, 3) involving 3-5 year old children for 2 to 2 ½ hours per session, 4) with no more than two sessions per day. Each session is to include no more than 6 children inclusive of the resident's own qualifying children.

2.197 Primary School

Primary School, also known as an elementary school, is a school for young children, typically ages 5 to 11

2.198 Primary Use

The primary or main use shall be the purpose for which the premises, land or a building therein is designed, arranged, or intended, or for which it is or may be occupied or maintained.

2.199 Private School

A school which is operated by a quasi-public or private group, individual or organization, and which has a curriculum similar to that provided in any public school in the State of Utah. Private Schools may be non-profit or profit-making establishments.

2.200 Professional Office

A building or space used by persons such as accountants, architects, artists, dentists, designers, engineers, lawyers, physicians, realtors, teachers, and others who, by virtue of training and/or license, are qualified to perform services of a professional nature, and/or where no goods or merchandise are sold or stored.

2.201 Property Line, Front

That part of a lot which abuts a public or private street or public right-of-way.

2.202 Public Agency

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
- (d) a charter school.

2.203 Public hearing

A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

2.204 Public Improvement

Any drainage ditch or system, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, water or sewer system, or other facility for which the Town may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which Town responsibility is established. All such improvements shall be properly guaranteed and installed as per Town codes, specifications and regulations.

2.205 Public meeting

A meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

2.206 Public School

A school open to the public, recognized by a school district or other public education agency in the State of Utah.

2.207 Public street

A public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

2.208 Public Use

A use operated exclusively by a public body, or quasi-public body, such use having the purpose of serving the public health, safety, or general welfare, and including uses such as public schools, parks, playgrounds, and other recreational facilities, administrative, service facilities, and public utilities.

2.209 Qualifying Child

An individual who is:

- a. under the age of 13; or under the age of 18, if the person has a disability; and
- b. a child of:
 - i. A person other than the person providing care to the child;
 - ii. A licensed or certified residential child care provider, if the child is under the age of four; or
 - iii. An employee or owner of a licensed child care center, if the child is under the age of four. (26B-2-401(10)).

2.210 Quasi-Public Use

A use operated by a private nonprofit educational, religious, recreational, charitable, or philanthropic institution, such use having the purpose primarily of serving the general public, such as churches, private schools, and universities, or similar uses.

2.211 Receiving Zone

An area of a municipality that Bear River City designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

2.212 Record of Survey Map

A map of a survey of land prepared in accordance with Utah State Code Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

2.213 Recreation, Commercial

Recreation facilities operated as business on private or public property and open to the public for a fee, such as a golf course, tennis court, equestrian center, skating rink, etc., and support facilities customarily associated with the development.

2.214 Recreation, Private

Recreation facilities operated on private property and not open to the public.

2.215 Recreation, Public

Recreation facilities operated by a public agency and open to the public with or without a fee.

2.216 Registered Engineer

An engineer properly licensed and registered in the State of Utah.

2.217 Registered Land Surveyor

A land surveyor properly licensed and registered in the State of Utah.

2.218 Residential Child Care

Residential Child Care means care is provided in a private home for up to eight qualifying children, including the provider's own children under the age of four. There can be up to (but no more than) two children under the age of three in care. Providers must be at least eighteen years old. An outdoor play area is not required. (26B.2.401(12) (26B-2-405)

2.219 Residential Facility for Persons with a Disability

A residence:

- (a) in which more than one person with a disability resides; and
 - (i) which is licensed or certified by the Department of Human Services under Utah State Code Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

2.220 Restaurant

A building in which food is prepared and served for consumption within the premises.

2.221 Restaurant, Drive-In

A building in which food is prepared and served for consumption on the premises, and which includes a facility which allows food to be ordered and taken from the premises for consumption elsewhere.

2.222 Re-subdivision
See - Plat Amendment.

2.223 Right-of-Way
A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, irrigation ditch or canal, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, irrigation ditches or canals, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

2.224 Roads, Classification
For the purpose of providing for the development of the streets, highways, roads, and rights-of-way in and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks and drainage, each existing street, highway, road, and right-of-way, and those located on approved and filed plats, have been designated on the Official Zoning Map of the Town and classified therein. The classification of each street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the Town and its present and estimated future traffic volume and its relative importance and function as specified in the Streets Master Plan or land use maps or zoning maps of Bear River City . The required improvements shall be measured as set forth for each street classification on the Official Zoning Map.

2.225 Road, Dead End
A road or a portion of a street with only one vehicular traffic outlet.

2.226 Road Right-of-Way Width
The distance between property lines measured at right angles to the center line of the street.

2.227 Rules of order and procedure

A set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

2.228 Sale or Lease

Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, interstate succession, or other written instrument.

2.229 Same Ownership

Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

2.230 Sanitary Sewer Authority

The department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

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2.231 Satellite Receiving Station

Shall mean and include any apparatus or device which is designed for the purpose of transmitting and/or receiving radio, television, satellite microwave, or other electromagnetic energy signals between terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, satellite microwave antennas, TVRO's or dish antennas. This definition does not include conventional television antennae or ham radio antennae.

2.232 Screening

Either (a) a strip of at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four feet high at the time of planting, of a type that will for a year-round period, will provide a dense screen at least six feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to

or hung in relation to the outside thereof except the following: for each entrance, one directional arrow with the name of the establishment with "For Patrons Only" or like limitation, not over two square feet in area, which shall be non-illuminated. Where required in the district regulations, a screen shall be installed along or within the lines of a plot as a protection to adjoining or nearby properties.

2.233 Secondary Living Quarters

Areas within main dwellings which are used by the property owner or primary tenant as dwellings for the private use of the property owner's relatives, domestic help, caretakers, nursing staff, house guest, or similar users. The Code requires these quarters to be small, on the same utility meter system as the main dwelling, with limited access, and not separately rented or leased. Review for this use is undertaken by the Zoning Administrator at the time of Building Permit request.

2.234 Secondary School

Secondary School can include high school, junior high school and middle school. It is an education institution that provides instruction for students in grades that follow elementary school and precede college or university.

2.235 Semi-Detached Building

Units connected on one side by an insulated common or party wall with separate exterior entrance for each unit.

2.236 Sending Zone

An area of a municipality that Bear River City designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

2.237 Setback, Front

A front setback will be required for each side of a lot bordering a public street or other right of way.

2.238 Setback

The distance between a building and the street line or road right-of-way, or nearest property line thereto.

2.239 Shade Tree

A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.

2.240 Simple-Minor Subdivision

A simple-minor subdivision consists of not more than three (3) lots, located on a developed hard-surfaced (concrete or asphalt) public street, requiring no easement or extension of municipal facilities or utilities, and meeting the minimum building lot requirements for the zone in which the property is located.

2.241 Site Development Standards

Established regulations concerning lot areas, yard setbacks, building height, lot coverage, open space, and any other special regulations deemed necessary to accomplish the goals and purposes of the underlying zoning district.

2.242 Site Plan

A set of construction plans prepared by a licensed architect, civil engineer, or surveyor that:

- (i) is drawn to scale;
- (ii) includes a north arrow and legend; and
- (iii) provides specifications for the following:
 - (A) lot size and dimensions;
 - (B) setbacks and overhangs for setbacks;
 - (C) easements;
 - (D) property lines;
 - (E) topographical details, if the slope of the lot is greater than 10%;
 - (F) retaining walls;
 - (G) hard surface areas;
 - (H) elevations;
 - (I) utilities, including water meter and sewer lateral location;
 - (J) street names;
 - (K) driveway locations;
 - (L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Utah State Section 15A-2-103; and
 - (M) the location of the nearest hydrant.

2.243 Sketch Plat

A sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Zoning

Administrator and Planning Commission as to the form of the plat and the objectives and/or conditions of these regulations.

2.244 Specified Public Agency

- (a) the state;
- (b) a school district; or
- (c) a charter school.

2.245 Specified Public Utility

An electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

2.246 State

Includes any department, division, or agency of the State of Utah.

2.247 State Construction Code

The State Construction Code adopted by:

- (A) Chapter 2, Adoption of State Construction Code;
- (B) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code;
- (C) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code;
- (D) Chapter 4, Local Amendments Incorporated as Part of State Construction Code; and
- (E) Chapter 6, Additional Construction Requirements.

2.248 State Fire Code

The State Fire Code adopted by Chapter 5, State Fire Code Act.

2.249 Street, Public

A thoroughfare which has been dedicated and accepted by the Council, which the Town has acquired by prescriptive right or which the Town owns, or accepted for dedication on an approved final plat, or a thoroughfare which has been dedicated or made public by right of use and which affords access to abutting property, including highways, roads, lanes, avenues, and boulevards. Any street or road shown on the Streets Master Plan or Land Use Maps or Official Zoning Maps as a public street.

2.250 Structural Review

- (i) a review that verifies that a construction project complies with the following:
 - (A) footing size and bar placement;

- (B) foundation thickness and bar placement;
- (C) beam and header sizes;
- (D) nailing patterns;
- (E) bearing points;
- (F) structural member size and span; and
- (G) sheathing

(ii) if the review exceeds the scope of the review described in (i), a review that a licensed engineer conducts is required because of a technical nature.

2.251 Structure

Anything constructed, the use of which requires fixed location on or in the ground, or attached to something having a fixed location upon the ground and which imposes an impervious material on or above the ground; definition includes "building". All structures must maintain the minimum set-backs for the district in which they are located, both above and below the ground.

2.252 Subdivider

Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot parcel site, unit, or plat in a subdivision; or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision; or who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

2.253 Subdivision

(a) Any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

- (i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
- (ii) except as provided in (c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

- (c) "Subdivision" does not include:
- (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
 - (ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary [by a boundary line agreement] in accordance with Section 10-9a-524 if no new parcel is created;
 - iii) a recorded document, executed by the owner of record:
 - (A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels, or
 - (B) joining a lot to a parcel;
 - (iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance;
 - (v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:
 - (A) is in anticipation of future land use approvals on the parcel or parcels;
 - (B) does not confer any land use approvals; and
 - (C) has not been approved by the land use authority;
 - (vi) a parcel boundary adjustment;
 - (vii) a lot line adjustment;
 - (viii) a road, street, or highway dedication plat; [or]
 - (ix) a deed or easement for a road, street, or highway purpose[.]; or
 - (x) any other division of land authorized by law.

2.254 Subdivision Agent

Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

2.255 Subdivision Amendment

An amendment to a recorded subdivision in accordance with State Code Section 10-9a-608 that:

- (a) vacates all or a portion of the subdivision;
- (b) alters the outside boundary of the subdivision;
- (c) changes the number of lots within the subdivision;
- (d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or
- (e) alters a common area or other common amenity within the subdivision.

2.256 Subdivision Land Use Authority

A Subdivision Land Use Authority shall consist of the Mayor, the Planning Commission Chair, a member of the City Council appointed by the Mayor, and another person or entity appointed by the Mayor.

2.257 Subdivision Plat

The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Planning Commission and Town Council for approval and which, if approved, may be submitted to the Box Elder County Recorder for filing at the subdivider's expense.

2.258 Substantial Evidence

Evidence that:

- (a) is beyond a scintilla; and
- (b) a reasonable mind would accept as adequate to support a conclusion.

2.259 Suspect Soil

Soil that has:

- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
- (b) bedrock units with high shrink or swell susceptibility; or
- (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

2.260 Tandem Parking

Parking designs which necessitate parking one vehicle behind another. Such parking may not include more than two cars in depth, and may not require occupants of separate dwellings to park behind one another.

2.261 Technical Nature

A characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

2.262 Temporary Improvement

Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance guarantee.

2.263 Therapeutic School

A residential group living facility:

- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

2.264 Town

The Town of Bear River City, Utah. Town shall mean City and City shall mean Town in this Ordinance.

2.265 Town Attorney

The licensed attorney designated by the Town or City to furnish legal assistance for the administration of these and other regulations.

2.266 Town Council

The Town or City Council of Bear River City, Utah.

2.267 Town Engineer

The State of Utah licensed engineer designated by the Town or City to furnish engineering assistance for the administration of these and other regulations.

2.268 Town Staff

The employees or elected Town Officials of Bear River City charged with the duties of performing ministerial or administrative functions under this Code. When specific job titles are referred to in this Code, it is done for convenience in designating the person or department primarily responsible for that particular function. All Town staff functions are under the direction of the Mayor, and the use of a specific job title shall not be construed as vesting authority with that person or department as all staff actions are under the direction of the Town or City Mayor and Council and the staff or departmental structure established by the Mayor for the effective operation of Municipal affairs.

2.269 Trade or Vocational School

A post-high school educational or vocational training facility.

2.270 Transferable Development Right

A right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

2.271 Unincorporated

The area outside of the incorporated area of a city or town.

2.272 Use, Intensity

The maximum number of residential units, or commercial, or industrial space within a specified land area designated for that purpose.

2.273 Water Interest

Any right to the beneficial use of water, including:

- (a) each of the rights listed in State Code Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.

2.274 Yard

A required space on a lot other than a court, unoccupied and unobstructed by buildings from the ground upward, except as otherwise provided herein. Yard areas for below grade structures must be provided unless a variance is obtained.

2.275 Yard, Front

A required space between the front line of the main building and the front lot line or closer right-of-way line of an abutting street or right-of-way and extending across the full width of a lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the closest main building.

2.276 *Yard, Rear*

A required space between the rear line of the building and the rear lot line, or closer public street and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the main building.

2.277 *Yard, Side*

A required space between the side line of the building and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

2.278 *Zoning Administrator*

The person, with overall administrative and enforcement control of the planning, building, zoning, development codes and engineering functions of the Town, under the direction of the Town Mayor. This is the person with the primary responsibility for project review, under the direction of the Town Mayor.

2.279 *Zoning Map*

A map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.