

CHAPTER 26
PLANNING AND ZONING
ARTICLE I. INTRODUCTORY PROVISIONS

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This Chapter shall be entitled THE PLANNING AND ZONING ORDINANCE OF CEDAR CITY, UTAH, and may be so cited and pleaded.

SECTION 26-I-1. Purpose.

This Chapter is hereby declared to be enacted for the purpose of promoting the health, safety, convenience, morals, and general welfare of the inhabitants of Cedar City, Utah, and:

- (A) To encourage and facilitate the orderly growth and development of the City.
- (B) To promote sanitation and the health of the inhabitants.
- (C) To promote safety from fires, floods, traffic hazards, panic and other dangers.
- (D) To lessen congestion in the streets, to provide adequate light and air, prevent the over-crowding of land and avoid undue concentration of population.
- (E) To secure economy in municipal expenditures and to facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- (F) To stabilize and improve property and prevent obsolescence and degeneration of buildings.
- (G) To increase the security of home life, improve the morals, and preserve and create a more favorable environment in which to rear children.
- (H) To promote the development of a more wholesome serviceable and attractive city, and,
- (I) To maintain or improve the quality of life for present and future inhabitants.

SECTION 26-I-2. Interpretation.

In the interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of public health, safety and welfare.

SECTION 26-I-3. Scope.

It is not intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or with private restrictions placed upon property by covenant, deed, or other private agreement, or with restrictive covenants running to which the City is a party. Where this Chapter imposes a greater restriction upon land, building, or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control.

SECTION 26-I-4. Definitions.

(A) **Purpose:** For the purpose of this ordinance certain words and terms are defined as follows: Words used in the present tense include the future. Words in the singular number include the plural and the plural the singular. The word district is synonymous with the word zone. And the word Zoning Administrator synonymous with the word Building Inspector. Words not included herein, but defined in the Building Code shall be construed as defined therein.

(B) **Definitions:** The following definitions shall apply for this chapter.

(1) **Accessory Use or Building:** A subordinate use or detached building clearly incidental to and located upon the same lot occupied by the main building; also a building clearly incidental to an agriculture or animal care land use located on a lot in an agriculture zone, which lot meets the minimum lot size and is not under one acre.

(2) **Adult Daycare Facility:** An adult daycare facility means any building or structure furnishing care, supervision, and guidance for three (3) or more adults unaccompanied by guardian for periods of less than twenty-four hours per day.

(3) **Agriculture:** The tilling of soil, raising of crops, horticulture and gardening but not including the keeping or raising of domestic animals or fowl, and not including any agricultural industry or business such as fur farms, animal hospitals, farm equipment sales, or similar uses.

(4) **Airport:** A landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(5) **Alley:** Any public place or thoroughfare which affords generally a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

(6) **Alley Line:** The boundary which separates the right-of-way of an alley from the abutting property.

(7) **Alteration:** As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

(8) **Amusement Enterprise:** A business facility that is maintained or operated for the amusement, patronage, or recreation of the general public. The amusement activity may be either a principal or secondary business, and may be located either indoors or outdoors. Accessory uses may include the preparation and serving of food, and the sale of equipment related to the included uses.

(9) Amusement Enterprise, Indoor: An amusement enterprise where the entire activity takes place within an enclosed building. Such activities include, but are not limited to amusement arcades, bowling, roller and ice skating, laser tag, miniature golf, paint ball, soccer, baseball, football, basketball, and similar activities.

(10) Amusement Enterprise, Outdoor: An amusement enterprise where any portion of the activity takes place outside of a building. Such activities include, but are not limited to batting cages, miniature golf courses, golf driving ranges, and go-cart tracks. Activities not included are outdoor activities that can be classified as spectator sports.

(11) Animal Hospital: An establishment for the medical treatment and care of animals, including household pets, livestock, and commercial poultry, and which may include temporary or overnight boarding of animals that are recuperating from treatment, all facilities to be within a completely enclosed building, except for exercising runs and parking of automobiles.

(12) Antenna Non-commercial:

a. A transmitting or receiving device designed to radiate or capture communication signals consisting of electromagnetic or microwave radiation, for private, noncommercial recreational use. "Non-commercial Antenna" includes, but is not limited to, radio and television antennas, satellite antennas, amateur radio antennas, and antennas used for individual delivery of low power radio communication service.

b. Antennas associated with commercial or manufacturing structures for the purpose of transmitting or receiving signals are Non-commercial Antennas, if the use of the antenna is incidental to the primary use of the structure. This includes, but is not limited to, antennas for individual delivery of low power radio communication service incidental to the primary use of the structure.

(13) Apartment House: A building arranged, intended or designed to be occupied by more than four (4) families living independently of each other and having separate cooking facilities.

(14) Assisted Living Facility: An assisted living facility is a residential facility, licensed by the State of Utah, with a home line setting that provides an array of coordinated support of personnel and health care services, available 24-hours per day, to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services Rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

- a. Specified services of intermediate nursing care;
- b. Administration of medication, and;
- c. Support services promoting residence independence and self-sufficiency. Such a facility does not include adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

(15) Average Percent of Slope: An expression of rise or fall in elevation along a line generally perpendicular to the contours of the land, connecting the highest point of land to the lowest point of land within a parcel or lot. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart, measured on a horizontal plane, is a 100 percent grade.

(16) Basement: Any floor level below the first story in a building. To be considered a basement, the floor level shall be more than four feet below grade, for more than 50% of the total perimeter or is more than 8 feet below grade at any point.

(17) Bed and Breakfast Inns: A building containing not more than one kitchen, where for compensation, breakfast and lodging are provided persons on a nightly basis, not to exceed one week, in contradiction to a hotel or café. Signs shall be limited to one non-flashing sign not larger in area than eighteen square feet. If lighted, the light shall be defused or shielded. Said signs shall be located at least two feet back from the property line.

(18) Boarder: Boarder means a person living in a rented room in a boarding house. The boarding house operator or member of his or her immediate family who reside on the premises with the operator, shall not be considered to be a boarder.

(19) Boarding House: A boarding house is a building or a portion thereof where, for compensation, rooms are rented with meals for not more than fifteen (15) boarders who generally do not directly utilize kitchen facilities. The operator of a boarding house must reside on the premises of the boarding house. The work shall include compensation in money, services, or other things of value. A boarding house does not include a residential facility for disabled persons or a residential facility for the elderly. A boarding house does not include a non-residential facility, such as a rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling, medical, protective or other similar services to the occupants.

(20) Building: Any structure used or intended for supporting or sheltering any use or occupancy.

(21) Building, Public: For purposes of this section only, a public building is a building owned and operated, or owned and intended to be operated by the City, a public agency of the United States of America, the State of Utah, or any of its political subdivisions. The use of a public building, with immunity, is non-transferrable and terminates if the structure is devoted to a use other than as a public building with immunity. A public building referred to as with immunity under the provisions of this title includes:

- a. Properties owned by the State of Utah or the United States Government which are outside of the jurisdiction of the City zoning authority as provided under Title 9, Chapter 10, Section 105, Utah Code Annotated, 1953, as amended; and
- b. The ownership or use of a building which is immune from the City zoning authority under the supremacy clause of the United States Constitution.

(22) Build-able Area: The portion of a lot which is in the envelope formed by the required yards. (see "Yard, Required.")

(23) Building, Community: A public building designed or used for community activities or for educational, recreational or public service.

(24) Building Height: (See "Height, Building")

(25) Building Line: The boundary of the build-able area.

(26) Building Line, Setback: (See "Setback Building Line.")

(27) Building, Principal: The building in which is conducted the principal use of the lot in which it is situated; in a residential zoning district, any dwelling is deemed to be the principal building on the lot on which it is situated.

(28) Caretaker Dwelling:

As long as not prohibited by the airport overlay zones, a caretaker dwelling may be allowed in the I&M-1 zone if it meets the following restrictions:

- a) the residential space may only be located on the second floor or back half of the main building,
- b) the residential space cannot exceed 750 square feet,
- c) contain no more than one bedroom, and
- d) the residential space may not be rented separately from the remainder of the building. If the building is rented, a rental dwelling license issued by the City is required.

As long as not prohibited by the airport overlay zones, a caretaker dwelling may be allowed in the I&M-2 zone if it is a dwelling unit occupied primarily by a person or persons employed to care for and maintain 24 hour oversight on the principal commercial, industrial, or institutional use of the site.

(29) Carport: A private garage open and unobstructed on two sides and attached to a dwelling.

(30) Cellar: (See “Basement”)

(31) Clinic: An outpatient medical or dental facility.

(32) Commission: The City Planning Commission of Cedar City, Utah.

(33) Common Area: Areas within a PUD that are held by all residents in common ownership through a homeowner’s association and are available for use by all residents. There is no required amount of common area in a PUD.

(34) Communication Antenna: Any transmitting and receiving device designed to radiate and capture communications signals. "Communication Antenna" does not include “noncommercial antennas”; includes roof mounted, wall mounted & whip antennas.

(35) Communication Facility: Any communication antenna, communication tower, accessory building, or any other structure or equipment installed for the primary purpose of providing communication service.

(36) Communication Tower: A tower that supports or contains communications antennas (transmitting or receiving) or related communications equipment. "Communication Tower" also includes equipment and facilities permanently associated with the tower, whether or not such equipment or facilities are used directly to provide communication service. Communication tower include guyed, lattice or mono pole towers.

(37) Community Correctional Facility: Community correctional facility means a facility licensed or contracted by the State of Utah to provide temporary occupancy for previously incarcerated persons which assists such persons in making a transition from a correctional institution environment to independent living.

(38) Conditional Use: A land use that, because of its unique characteristics of potential for impact 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.

(39) Condominium: A unit within a building where the owner only owns the air space occupied by his/her unit. The portion of land upon which the building is situated, the surrounding grounds and services other than those within independent units, etc. become joint responsibilities of all the owners as tenants in common. Condominiums are a permitted use in planned unit developments.

(40) Contiguous: Substantial touching (at least 55 feet) between two districts or areas of land which abut.

(41) Correctional Institution: A correctional institution means a prison, jail, juvenile detention facility, or juvenile secure facility.

(42) Dairy: A commercial establishment for the manufacture or processing of dairy products.

(43) Disability/Disabled Person: A disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment. The following definitions are incorporated into the definition of disability, to wit:

a. disability does not include current illegal use of, or addiction to, any federally controlled substance as defined in Section 102 of the Controlled Substances Act, 21 u.f.c. 802, or as defined under Title 58, Chapter 37, Utah Code Annotated, 1953 as amended:

b. A physical or mental impairment includes the following, to wit:

i. Any psychological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

ii. Any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or

iii. Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus, (HIV), mental retardation, emotional illness, drug addiction, (other than addiction caused by current, illegal use of controlled substances) and alcoholism.

(44) Domestic Staff: Domestic staff means persons employed or residing on the premises of a dwelling or other residential facility to perform domestic services or to assist residents in performing major life activities.

(45) Drive-In - Fast Food: A place of business where food and drink are sold primarily for consumption on the premises outside the structure.

(46) Drive Up Facility: (Also known as “Drive-In” or “Drive-Through” Facilities) An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

(47) Duplex: A building of single ownership which is designed for two separate dwelling units. There is one set of utility connections for the building. The dwellings may be separated vertically or horizontally.

(48) Dwelling: A building or a portion thereof containing one or more dwelling units exclusively for residential occupancy, but not including hotels, tourist cabins or boarding houses.

(49) Dwelling, Single Unit: A building arranged or designed to be occupied by one family, the structure having one dwelling unit.

(50) Dwelling, Two-Unit: A building arranged or designed to be occupied by two families, the structure having two dwelling units.

(51) Dwelling, Multiple-Unit (3 or more): A building arranged or designed to have three or more dwelling units.

(52) Dwelling Group: A group of two or more dwellings, not more than two and one half (2 1/2) stories in height, located on a parcel of land in one ownership and having one yard or court in common. Dwelling groups are regulated as apartments regarding setbacks, parking, fencing, landscaping, etc.

(53) Dwelling Unit: One or more rooms providing complete living facilities, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping and eating.

(54) Educational Institution: Educational institution means any elementary or secondary school, seminary, parochial school or private educational institution having a curriculum similar to that ordinarily given in grades 1 thru 12 in public school systems. The term educational institution for the purpose of this title does not include post high school educational facilities or educational facilities which include residential facilities for its students.

(55) Educational Institution with Housing: Educational institution with housing means a public or private educational institution with residential facilities or housing for its students and or staff.

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

(57) Family -Family means one or more persons related by blood, marriage, adoption, or guardianship, or a group of not more than four (4) unrelated persons living together as a single nonprofit housekeeping unit, together with any incidental domestic staff who may or may not reside on the premises. "Family" does not exclude the care of foster children. A family may also be defined in the R-2-2, R-3-M and SHD zones as not more than one (1) person per bedroom when the dwelling unit is being used as a long-term rental to unrelated individuals.

(58) Family Food Production - The keeping of not more than two cows, twenty (20) rabbits, fifty (50) chickens, fifty (50) pheasants, ten (10) turkeys, ten (10) ducks, ten (10) geese, and twenty (20) pigeons.

(59) Fast Food Restaurant: An eating/drinking establishment that may be either

a. a freestanding operation; or

b. a non-freestanding operation incorporated into a building within which one or more other compatible and complimentary uses exist, and whose principal business is the sale of pre-prepared or rapidly prepared food to the customer in a ready-to consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes two or more of the following characteristics:

i. The elimination, in whole or in part, of table service, thus requiring customers to place orders at the counter where the orders are filled.

ii. The food is usually served in edible containers or in paper, plastic or other disposable containers.

iii. The facilities for on premises consumption of food are insufficient for the volume of food sold by the establishment.

iv. The restaurant provides a drive-up facility for placing and receiving food orders.

(60) Floor Area, Gross: The gross floor area shall be the sum of the gross horizontal areas of the several floors of the building, excluding areas used for accessory garage purposes and such basement and cellar areas as are devoted exclusively to uses accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls or other enclosures of the enclosed porches.

(61) Fraternity or Sorority House: A fraternity or sorority house means a building occupied by and maintained exclusively for students of a social organization affiliated with an academic or professional college or university or other recognizable institution of higher learning who are associated together in a social fraternity or sorority that is officially recognized by such institution and who receives lodging and/or meals on the premises for compensation.

(62) Garage, Private: A building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.

(63) Garage, Public or Storage: A building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.

(64) Garage, Party Wall: An accessory building designed for the temporary storage of automobiles, and which has a common wall on the property line between two properties.

(65) General Plan: A document adopted by the City which sets forth general guidelines

(66) Grade:

a. For building adjoining one street only, the elevation of the sidewalk at the center of that wall facing the street.

b. For buildings adjoining more than one street, the average level of elevations of the sidewalk at the centers of all walls adjoining streets.

c. For buildings having no wall adjoining the street, the average level of the ground (finished surface) adjacent to the exterior walls of the building. All walls approximately parallel to and not more than twenty-five (25) feet from a street line are to be considered as adjoining a street.

(67) Guest: Any transient person who rents or occupies a room for sleeping purposes.

(68) Guest House: An attached or detached dwelling structure with a total of one (1) bedroom located on a lot with one or more main dwelling structures and used for housing of guests or servants, and not rented, leased or sold separate from the rental or sale of the main dwelling. Guest houses are subject to the setback requirements of a one-family dwelling unit (not an accessory building).

(69) Guest Room: A room which is designed for occupancy by one or more guests for sleeping purposes, but having no cooking facilities and not including dormitories.

(70) Hard Surfaced: Asphalt, concrete or brick pavers.

(71) Height, Building: A vertical dimension measured from the highest elevation in the front of the structure to the top of the plate line.

(72) Heliport: A landing area solely for the landing of helicopters. A heliport may include more than one helipad.

(73) Home Occupation: An occupation carried on entirely within a dwelling by a person residing within the dwelling, and where there is no visual indication from outside the building that the occupation is being carried on therein.

(74) Hometel: A building or buildings containing one-bedroom dwelling units which are primarily used for apartment style living, being rented on a monthly basis. However, the dwelling units may also be used as a motel being rented on a daily basis. For parking requirements see Section 26-39. Water and sewer connections are the same as apartments. Setback requirements are the same as motels in CC and GC zones. A Hometel is not permitted in residential zones.

(75) Hospital: Hospital means an institution licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any in-patient or overnight care, or operates on a 24-hour basis shall be considered to be a hospital. A hospital may include necessary support service facilities such as laboratories, out-patient units and training and central services, together with staff offices necessary to operate the hospital.

(76) Hotel: A hotel is a building designed for or occupied as the more or less temporary abiding place of individuals who are, for compensation lodged with or without meals.

(77) Household Pets: Animals or fowls ordinarily permitted in the house and kept for company or pleasure.

(78) Intensity: The concentration of activities such as a combination of a number of people, cars, visitors, customers, hours of operation, outdoor advertising, etc. Also, the size of buildings or structures, the most intense being higher, longer and/or wider.

(79) Jail: Jail means a place of incarceration owned and operated by the County.

(80) Junk: Any worn out, cast off, or discarded article or item not functioning for its intended use, material, vehicle or equipment which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further conditioning can be used for its original purpose as readily as when new shall not be considered junk.

(81) Junk Yard: The use of any lot, portion of a lot, or tract of land for the storage, keeping or abandonment of junk, including scrap metal or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles, or machinery or parts thereof, provided that this definition shall be deemed not to include such uses which are clearly accessory and incidental to any agricultural use permitted in the zone.

(82) Juvenile Detention Facility: Juvenile detention facility means a place of temporary detention for delinquent juveniles, which either is owned or operated by the State of Utah or is under contract with the State of Utah.

(83) Juvenile Secure Facility: Juvenile secure facility means a place of incarceration for delinquent juveniles which is either owned or operated by the State of Utah or is under contract with the State of Utah.

(84) Kitchen: Any room used for or intended to be used for cooking and preparing food.

(85) Landfill: A land disposal site where solid waste is disposed of using sanitary land filling techniques in accordance with law.

(86) Landscaping (Permanent): Some combination of planted trees, shrubs, vines, groundcover, flowers, lawns, or xeriscape. In addition, the combination or design may include rock and such structural features as fountains, pools, art works, screens, walls, fences, or benches. Such objects alone shall not meet the requirements of the ordinance and must be less than 30 percent of total required landscaping. The selected combination of objects for landscaping purposes shall be arranged in a harmonious manner to encourage pleasant and attractive surroundings.

(87) Legislative Body: The Mayor and the Cedar City Council.

(88) Loading Space: Off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon streets, alley or other appropriate means of access.

(89) Lot: A parcel of land occupied or to be occupied by a building or buildings, together with such yards, open spaces, lot width, and lot area as required by this ordinance, having a frontage on a street.

(90) Lot Area: The lot area of a horizontal plane within the lot line of a lot.

(91) Lot, Corner: A lot abutting on two intersecting or intercepting streets where the interior angle of the intersection or interception does not exceed 135 degrees.

(92) Lot Coverage: The percentage of the area of a lot which is occupied by all buildings or other covered structures.

(93) Lot Depth: For lots having front and rear lot lines which parallel, the shortest horizontal distance between such lines; for lots having front and rear lot lines which are not parallel, the shortest horizontal distance between the midpoint of a front line and the midpoint of the rear lot line; for triangular shaped lots, the shortest horizontal distance between the front lot lines and a line within the lot, parallel with and at a maximum distance from the front lot line, having a length of not less than ten feet.

(94) Lot, Interior: A lot other than a corner lot.

(95) Lot, Key: A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and fronting on the street which forms the side entry of the corner lot.

(96) Lot Line: Any line bounding a lot.

(97) Lot Line, Front: The front boundary line of a lot bordering on the street. In the case of a corner lot, the side bordering on the street which has the smaller dimension shall be the front lot line.

(98) Lot Line, Rear: A lot line which is opposite and is most distant from the front lot line. In the case of an irregular, triangular, or gore-shaped lot, the rear line shall be a line within the lot, parallel to and with a maximum distance from the front lot line, having a length of at least ten feet.

(99) Lot Line, Side: Any lot boundary line not a front lot line or a rear lot line.

(100) Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Iron County; or a lot, parcel

or tract of land, the deed of which has been recorded in the office of the County Recorder of Iron County.

(101) Lot, Through: A lot having a pair of opposite lot lines abutting two streets, and which is not a corner lot. On such lot, both lot lines are front lot lines.

(102) Lot Width: The distance between side lot lines measured at required minimum front yard setback line on a line parallel with the city street.

(103) Major Life Activities: Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(104) Mobile/Manufactured Home: The term "mobile home" or "manufactured home" shall mean a dwelling designed and manufactured after June 14, 1976, by a recognized fabricator of mobile homes to be transported after fabrication on its own wheels or on detachable wheels, and which is ready for occupancy, except for connection to utilities and/or location on a foundation.

(105) Mobile Home Park: The term "mobile home park" shall mean any area or tract of land which is used to accommodate two or more mobile homes, generally for long periods of time.

(106) Motel: A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot, and designed, used, or intended, wholly or in majority part in any calendar year, for the accommodation of the traveling public. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or RV parks.

(107) Natural Water Ways: Those areas varying in width along streams, creeks, gullies, springs, faults, or washes which are natural drainage channels as determined by the City Engineer, and in which areas no building shall be constructed.

(108) Non-Conforming Building or Structure: A building or structure or portion thereof, lawfully existing at the time this ordinance became effective, and which does not conform to all the height, area, and yard regulations herein prescribed for zoning in which it is located.

(109) Nonconforming Use: A use of land that: legally existed before its current zoning designation; has been maintained continuously since the time the zoning regulation governing the land changed; and because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(110) Non-Residential Treatment Facility: Non-residential Treatment Facility is a facility wherein no persons will be housed on an overnight basis, and provides services including rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

(111) Nursery Schools, Kindergarten, Preschool, Day care Centers: Facilities specializing in the education and/or care of children prior to their entrance in the first grade, other than facilities owned and/or operated by the public school system.

(112) Nursing/Rest Home: Nursing home means an intermediate care/nursing facility or a skilled nursing facility licensed by the State of Utah, for the care of individuals who, due to illness, advanced age, disability, or impairment require assistance and/or supervision on a 24hour per day basis. Such a facility does not include an adult day care facility or adult day care provider in conjunction with residential facilities for elderly persons or a residential facility for persons with a disability.

(113) Off-Street Parking: An area adjoining a building or business providing for the parking of automobiles which does not include a public street, and has convenient access to it.

(114) Open-air Businesses: Any business which sells, primarily at retail, certain goods, products or merchandise which are displayed or otherwise merchandised outside an enclosed building, including but not limited to fresh fruits, fresh vegetables, flowers, landscape nurseries, home garden supplies and equipment, auto sales, parking lot sales, camper sales, recreational vehicles, arts, crafts, and playground equipment.

(115) Open Space: A planned open area suitable for relaxation, recreation or landscaping which is held in common, public, or private ownership that is unoccupied by buildings and hard surface, such as asphalt or cement, except that such open spaces may include walkways, patios, recreational activities, picnic pavilions, gazebos, and water features so long as such surfaces do not exceed 15 percent of the required open space.

(116) Parking Facilities: An open area other than a street for the parking of automobiles including all parking spaces, aisles, and access driveways and is available for public or private use, whether free, for compensation or an accommodation for clients or customers.

(117) Parking Space: A space within a building lot or parking lot for the parking or storage of one automobile having adequate provisions for ingress and egress from a street by a standard-sized automobile sized as provided by this ordinance.

(118) Permitted Use: A use of land for which is allowed by this zoning ordinance but for which no conditional use permit is required.

(119) Planned Unit Development: Complete development plan for an area pursuant to this Ordinance.

(120) Planning and Zoning Commission: The Planning and Zoning Commission of Cedar City, Utah.

(121) Prison: Prison means a place of incarceration owned or operated by the State of Utah.

(122) Private Jail: Private jail means a place of incarceration established or operated under a contract with the County.

(123) Private Prison: Private prison means a correctional facility established or operated under a contract with the State of Utah under the provisions of the Private Correctional Facilities Act, Chapter 13C, Title 64, Utah Code Annotated, 1953 as amended.

(124) Protective Housing Facility: Protective housing facility means a facility either:

- a. operated, licensed, or contracted by a governmental entity, or
- b. operated by a charitable, non-profit organization, where no compensation, temporary, protective housing is provided to:
 - i. abused or neglected children waiting placement of foster care;
 - ii. pregnant or parenting teens;
 - iii. victims of sexual abuse; or
 - iv. victims of domestic abuse.

(125) Public Use: A use operated by 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 and service facilities, public utilities, and all other public uses recognized under the law.

(126) Reasonable Accommodation: Reasonable accommodation means a change in any rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. The following words have the following definitions, to wit:

a. Reasonable. Reasonable means a requested accommodation that will not undermine the legitimate purpose of existing zoning regulations notwithstanding the benefit that the accommodation will provide to a person with a disability.

b. Necessary. Necessary means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy the housing of their choice.

c. Equal Opportunity. Equal opportunity means achieving equal results as between a person with a disability and a non-disabled person.

(127) Record of Impairment: Having a record of impairment means having a history of, or having been miss-classified as having a mental or physical impairment that substantially limits one or more major life activities.

(128) Recreational Vehicle or Camper: Any vehicle or camper which is used or maintained primarily as a temporary dwelling for travel, vacation, or recreational use.

(129) Recycling Center, Indoor: A building in which recyclable material is collected, processed, and/or baled entirely within an enclosed building. Said facility may also be used to prepare and ship materials to others who will use those materials to manufacture new products. On site drop off containers shall be located a minimum of thirty (30) feet back from the right of way line, and shall be screened to mitigate blowing debris.

(130) Regarded as Having an Impairment: A person is regarded as having an impairment when:

a. the person has a physical or mental impairment that does not substantially limit one or more major life activity but is treated by another person as having such a limitation;

b. has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others towards such an impairment; or

c. has none of the impairments defined in this section but is treated by another person as having such an impairment.

(131) Rehabilitation/Treatment Facility: Rehabilitation/treatment facility means a facility licensed or contracted by the State of Utah to provide temporary occupancy and supervision of individuals (adults and/or juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such

services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

(132) Residential Facility for Elderly Persons: Residential facility for elderly persons means a dwelling unit that is occupied on a 24-hour per day basis by 8 or fewer elderly persons in a family type arrangement. A residential facility for elderly persons shall not include any of the following, to wit:

a. a facility which is operated as a business; provided that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of preparation and maintenance of the facility;

b. a facility where persons being treated of alcoholism or drug abuse are placed; a facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution; or a facility which is a health care facility as defined by Title 26, Section 21, Chapter 2, Utah Code Annotated, 1953 as amended; or a facility which is a residential facility for persons with a disability.

(133) Residential Facility for Persons with a Disability: Residential facility for persons with a disability means any residence in which more than one person with a disability resides and which is:

a. licensed or certified by the Department of Human Services under Title 62 A, Chapter 2, of the Utah Code, licenser for programs and facilities; or

b. licensed or certified by the Department of Human Health under Title 26, Chapter 21, Health Care Facilities Licensing and Inspection Act.

(134) Residents, Residential Facility: A resident, residential facility means any building or portion thereof where an individual is actually living at a given point and time and intends to remain, and not a place of temporary sojourn or transient visit.

(135) Restaurant: A place of business where food is prepared or cooked, and complete meals are served to the general public for consumption on the premises (primarily indoor dining accommodations).

(136) Restaurant, Drive-In or Drive-Through: 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, without leaving a vehicle.

(137) Retirement Home: Retirement home means a residential facility designated, occupied, and intended for residents fifty (50) years of age or older where common facilities for cooking and dining are available to all residents and independent facilities are provided for living sleeping and sanitation.

(138) Rooming House: Any dwelling in which more than three persons, either individually or as families, are housed or lodged for compensation, with or without meals. A boarding house or furnished room house shall be deemed a "rooming house."

(139) RV Park: Any area or tract of land used to accommodate two or more travel trailers or campers in which the occupants occupy the area or tract of land on a transient basis.

(140) School: A public or private institution of learning such as elementary and secondary schools, colleges and universities, which offers instruction in several branches of learning and study, but not including dancing schools. On campus student housing is subject to the housing regulations of each zone.

(141) Service Station: A building or use devoted to the retail sale of fuels, lubricants, and other supplies for motor vehicles including repair activities which are subordinate to the sale of petroleum products.

(142) Setback: The shortest horizontal distance between the property line and the building or structure or part thereof on a lot.

(143) Sewage Service: Sewage service means a business that cleans, maintains and/or constructs individual or public sewer/wastewater disposal systems and as part of the business, parks or stores vehicles or vessels that contain or have contained human waste.

(144) Setback, Building Line: A line which defines the shortest distance between the property line and building or part thereof.

(145) Sheltered Workshop: Sheltered workshop means an onsite supervised educational or vocational training facility for persons with a disability and does not provide any residential facilities.

(146) Shelter for the Homeless: Shelter for the homeless means charitable lodging or sleeping rooms provided on a temporary basis (usually on a daily basis) to those members of society lacking other safe, sanitary or affordable shelter. A shelter for the homeless may also include kitchen and cafeteria facilities.

(147) Sign: Any device for visual communication including any structure or natural object or part thereof, that is used for the purpose of bringing the subject

thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency, or of any civil, charitable, religious, patriotic, fraternal or similar organization.

(148) Site (Sight) Obscuring Fence: A fence or wall of not less than six feet in height nor more than eight feet in height. A site obscuring fence or wall shall be constructed to manufacture's specifications and or City standards and shall be limited to one of the following options:

- a. Masonry;
- b. Solid composite materials as manufactured by "Trex" or an approved equal; or
- c. Chain-link which meets the minimum specifications as manufactured by "Privacy Link" or an approved equal with factory inserted slats that achieves a 98% privacy factor.

(149) Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it, or, if there be no floor above it, the space between the surface of such floor and the ceiling or roof above it.

(150) Street: A public right-of-way, including highways, avenues, boulevards, parkways, roads, lanes, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(151) Street Line: The boundary which separates the right-of-way of a street from the abutting property.

(152) Structural Alteration: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or exterior walls.

(153) Structure: Anything structured or erected which is either located on the ground or attached to something having a location on the ground, including signs and billboards, but not including fences or walls used as fences, tents, vehicles or travel trailers.

(154) Subdivision: The division of a tract or parcel of land, as shown on the records of the Recorder of Iron County, Utah, into two or more parts, including the original parcel or tract, for the purpose, whether immediate or future, of sale or for building development.

(155) Townhome: A dwelling unit (regardless of the number of stories) within a building where the owner owns the land upon which his/her unit is located, and is completely independent except for the yard surrounding the building.

(156) Trade or Vocational Schools: A post-high school educational or vocational training facility.

(157) Transitional Housing Facility: Transitional housing facility means a facility owned, operated or contracted by a governmental entity or a charitable, not for profit organization, where, for no compensation, temporary housing (usually three to twenty- four months, but in no event less than thirty days) is provided to homeless persons, while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility shall not include a shelter for the homeless, a dwelling unit provided to a family for the exclusive use as part of a transitional housing program, for more than thirty days, shall not be considered to be a transitional housing facility.

(158) Twin Home: Two family dwelling units of separate ownership having a zero lot line. Each unit is structurally independent with separate utility connections and a maintenance break. The twin homes will have zero setbacks on adjoining sides and may be offset but not separated from each other up to a distance of six (6) feet. All other setback requirements shall apply. Each side of the twin home shall be considered a single family dwelling unit, however, one building permit and certificate of occupancy shall be issued for both units.

(159) Use, Principle: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

(160) Use, Accessory: A use which is customarily incidental and subordinate to the principle use of a lot or a building, including bonafide servant or caretaker quarters, and located on the same lot.

(161) Veterinary Clinic/Hospital: An establishment for the medical treatment and care of animals, including household pets, livestock, and commercial poultry, and which may include temporary or overnight boarding of animals that are recuperating from treatment, all facilities to be within a completely enclosed building, except for exercising runs and parking of automobiles.

(162) Width of Lot: The distance between side lot lines measured at required minimum front yard setback line on a line parallel with the city street.

(163) Yard: An open unobstructed space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise permitted.

(164) Yard, Front: A space on the same lot of a building between the front line of the building and the front lot line and extending across the full width of the lot. The depth of the front yard is a minimum distance between the front lot line and the front line of the building.

(165) Yard, Rear: A space on the same lot with the building between the rear line of the building and the rear lot line and extending the full width of the lot. The depth of the rear yard is a minimum distance between the rear lot line and the rear line of the building.

(166) Yard, Required: The minimum open space as required by the regulations of this ordinance for front, rear and side yards, as distinguished from any yard area in excess of the minimum required. (See "Buildable Area")

(167) Yard, Side: A space on the same lot with the building 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 a minimum distance between the side lot line and side line of the building.

(168) Zoning District: Any portion of the incorporated area of Cedar City in which the zoning regulations apply.

Amended by Cedar City Ordinance Number – 0708-09,0826-09, 0811-10, 0213-13, 1113-19-6, 1113-19-7 and 0902-20.