

**CHAPTER 19. TRAFFIC**

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**Article 19-1. Adoption of State Law**

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**19-1-1. Utah Code provisions adopted.**

Except as hereinafter specified, Title 41, Title 53, and Title 72 of the Utah Code Annotated (1953, as amended), are hereby approved and adopted as part of the Orem City Code. By this reference, these provisions are made a part of the Orem City Code as fully as if set out at length herein and shall be controlling within the limits of the City; provided, however, that this section is not intended to and does not purport to grant unto the City any powers or jurisdiction not specifically or impliedly granted by law and those sections of the Code under which the City is not authorized by law to bring charges are excluded from this adoption of the Code. (Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002; Ord. No. O-06-0004, Amended 3/14/2006)

**19-1-2. Interpretation of State Code provisions adopted above.**

The following shall apply in the interpretation of the State Code provisions adopted in Section 19-1-1:

A. All references to the State Road Commission shall be deemed to mean the City and its departments or agents, unless the context requires otherwise. (Ord. No. 661, Revised, 04/10/90)

B. All references to "local authorities" shall be deemed to mean the governing body of the City or other authorized officials of the City. (Ord. No. 661, Revised, 04/10/90)

C. All references to the Department of Public Safety of the State of Utah shall be deemed to mean the

chief law enforcement officer of the City or his agent, unless the context requires otherwise. (Ord. No. 661, Revised, 04/10/90)

D. All references to "magistrate" shall mean a judge of the Orem Department of the Eighth Circuit Court, unless the context requires otherwise. (Ord. No. 661, Revised, 04/10/90)

**19-1-3. Determination of traffic regulations.**

It shall be the duty of the Departments of Public Safety and Public Works to make joint recommendations to the City Council concerning the appropriate location for stop signs, yield signs and other regulatory signs and traffic control devices and to recommend appropriate speed limits within the City. The Departments shall also determine appropriate locations for pedestrian crosswalks and safety zones and for "no parking" zones. They shall conduct engineering investigations of traffic conditions, regulate the timing of traffic control devices, and analyze the relationship between traffic controls and regulations and traffic accidents, and, where appropriate, devise remedial measures in order to reduce accidents. (Ord. No. 661, Revised, 04/10/90)

**19-1-4. Council action.**

Upon designation by the City Council of speed limits and the location for stop signs and other traffic regulatory signs, the same shall have the force of law, provided the appropriate signs are posted by the City. (Ord. No. 661, Revised, 04/10/90)

**19-1-5. Existing signs and regulations.**

The City Council hereby approves the stop signs, speed limit signs and other traffic regulatory signs already existing at the time of passage of this ordinance, and such shall have the force of law. (Ord. No. 661, Revised, 04/10/90)

**19-1-6. Violations.**

The violation of any of the provisions of this Chapter, including those provisions of State law adopted herein, shall be a Class B Misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000.00) or a jail term of up to six (6) months, or by both such fine and imprisonment. (Ord. No. 661, Revised, 04/10/90)

**19-1-7. Privately Owned and Maintained Roads.**

Privately owned and maintained roads and parking areas located on or within the following private developments or property are subject to the regulations of this Chapter.

Park Place at Orem  
Garden Park East  
Garden Park  
Amiron Village  
Lake Ridge

(Ord. No. 661, Revised, 04/10/90)

## Article 19-2. Miscellaneous Traffic Regulations

- 19-2-1. Negligent collision.**  
**19-2-2. Improper lookout.**  
**19-2-3. Unsafe activities interfering with operation.**  
**19-2-4. Driving while faculties impaired.**  
**19-2-5. Driving while passenger standing.**  
**19-2-6. Driving through private property to avoid regulations.**  
**19-2-7. Forfeiture of right-of-way.**  
**19-2-8. Sitting on lap of driver.**  
**19-2-9. Towing sleds, etc.**  
**19-2-10. Parades.**  
**19-2-11. Climbing onto vehicles.**  
**19-2-12. Prohibited motor vehicle travel on unpaved areas.**  
**19-2-13. Use of compression release engine braking systems or “jake brakes” prohibited.**

### 19-2-1. Negligent collision.

It shall be unlawful to operate a vehicle with such lack of due care and in such a negligent manner as to cause it to collide with any vehicle, person or object.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-2. Improper lookout.

It shall be unlawful to drive a vehicle within the City without keeping a reasonable and proper lookout for other traffic and objects.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-3. Unsafe activities interfering with operation.

No driver shall engage in any activity that interferes with the safe control of his vehicle while it is in motion, nor shall any passenger engage in any activity which interferes with the safe operation of any vehicle.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-4. Driving while faculties impaired.

No driver shall operate a vehicle while his ability or alertness is so impaired through fatigue, illness or any other cause as to make it unsafe for him to drive such vehicle.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-5. Driving while passenger standing.

No driver shall operate any vehicle while any person is standing in the vehicle.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-6. Driving through private property to avoid regulations.

No driver shall drive over or upon any private property, such as a service station, fruit stand, parking lot, vacant lot or similar area to avoid obedience to any authorized traffic regulation.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-7. Forfeiture of right-of-way.

A. Any person violating any provision of this chapter shall have no right-of-way if such violation interferes with the ability of another driver to yield the right-of-way to such person.  
 (Ord. No. 661, Revised, 04/10/90)

B. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-8. Sitting on lap of driver.

No driver shall have on his lap any other person, adult or minor, nor any animal, nor shall the driver be seated on the lap of any person while the vehicle is in motion.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-9. Towing sleds, etc.

It shall be unlawful for the driver, or any person in charge of any vehicle, including snow machines and motorcycles, to knowingly drive or operate such vehicle upon any of the streets of the City while any sled, toboggan, sleigh, inner tube or similar conveyance is attached to or connected with the vehicle, or to permit any such conveyance to be attached to or connected with the vehicle upon any of the streets of the City.  
 (Ord. No. 661, Revised, 04/10/90)

### 19-2-10. Parades.

No procession or parade except a funeral procession shall occupy, march, or proceed along any street except in accordance with a permit issued by the Director of Public Safety. All requests for such permits shall state the time, place of formation, proposed line of march, destination and such other reasonable information as the Director of Public Safety may require. Any procession or parade proceeding in accordance with the permit issued may be authorized by the Director of Public Safety to disregard traffic-control devices, provided it may be done safely.  
 (Ord. No. 661, Revised, 04/10/90)

**19-2-11. Climbing onto vehicles.**

It shall be unlawful to climb upon or into or swing upon or hold onto the outside of any motor vehicle which is in motion. It shall also be unlawful for any driver to knowingly permit the same.  
(Ord. No. 661, Revised, 04/10/90)

**19-2-12. Prohibited motor vehicle travel on unpaved areas.**

A. **Definitions.** For purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them:

1. "Motor vehicle" means any motor vehicle as defined by State law, including but not limited to motorcycles, motor scooters, ATV's, dune buggies, jeeps and similar four wheel drive and off road vehicles.

2. "Restricted access area" means the area within Orem corporate limits which lies (1) east and south of the east end of 2000 North Street, running along the eastern edges of Skyline Meadows Subdivision, Plats B and D, Cherapple Farms Subdivision, Plats G, H and I, and Mountain Oaks Subdivision, Plats A, D, F, H and N; (2) north of Cascade Drive from its intersection with 800 East Street, east to the entrance to the Utah Valley Water Purification Plant, and from there, directly east to the City boundary, and (3) north of the Provo River from the point where it crosses under 800 North Street, directly north to the northern boundary of the City and east to the eastern boundary of the City.

(Ord. No. O-96-0014, Enacted, 09/10/96)

B. **Legislative findings.** The City Council finds that, due to the destruction of vegetation by the Tank Fire, there exists a danger of water, silt, mud, and debris running onto and damaging properties within the City, including properties which contain springs providing culinary water to the City. The Council further finds that, in order to prevent further erosion of the area in and around the fire, motorized vehicle travel in the area should be restricted.

(Ord. No. O-96-0014, Enacted, 09/10/96)

C. **Motor vehicle operation prohibited.** Except as provided herein, it shall be unlawful to operate a motor vehicle in the restricted access area. This provision shall not apply on any paved road within the restricted access area, or to operators of public safety vehicles, to operators of government service vehicles on property owned by a governmental entity, or, on private property, to the owner of the property or someone to whom the owner has given permission in writing to operate a motor vehicle on the property in question and

who has a copy of the written permission in his or her possession.

(Ord. No. O-96-0014, Enacted, 09/10/96)

D. **Sunset clause.** This Section shall cease to be effective after September 9, 1998.

(Ord. No. O-96-0014, Enacted, 09/10/96)

**19-2-13. Use of compression release engine braking systems or "jake brakes" prohibited.**

It is unlawful for any person to use, operate or engage any compression release engine braking system within the City which is designed to slow the speed of a vehicle by turning the engine into an air compressor (commonly referred to as a jacobs brake, jake brake, engine brake or compression brake). However, this section shall not apply to fire engines or other emergency vehicles.

(Ord. No. O-99-0041, Enacted, 09/14/1999)

**Article 19-3. Parking****19-3-1. Unlawful to disobey parking regulations.****19-3-2. Double Parking.****19-3-3. Obstructing traffic.****19-3-4. Large Vehicles and Trailers.****19-3-5. Trailers.****19-3-6. 72 hours.****19-3-7. Parking cars on vacant lots.****19-3-8. Parking cars, trailers on highways.****19-3-9. Requirements for vehicles parked in public.****19-3-10. Fire Lanes.****19-3-1. Unlawful to disobey parking regulations.**

A. It shall be unlawful to disobey signs or markings erected by the City which prohibit parking or regulate the hours thereof. It shall also be unlawful to park in violation of curb markings designated by the City. Such curb markings shall have the following meanings:

1. Red: No stopping, standing or parking at any time.

2. Yellow: With the words "Restricted Zone" stenciled thereon, shall mean no stopping, standing or parking except as stated on the signs or markings giving notice thereof, except that this provision shall not apply on Sundays and legal holidays.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

B. Where lines are painted on the roadway to indicate the angle at which a vehicle shall be parked, it shall be unlawful to park a vehicle except as indicated.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

C. It shall be unlawful to erect any signs or to mark publicly owned curbs, in such a manner that prohibits parking or attempts to regulate the flow of traffic without prior City approval.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

**19-3-2. Double Parking.**

It shall be unlawful for any person to park or leave standing upon any street any vehicle, whether attended or unattended, along the side of any parked vehicle where such vehicle is parked parallel with the curb, except that an operator may stop temporarily provided he does not leave his vehicle, during the act of actually loading or unloading passengers or when necessary in obedience to traffic regulations or signals of a police officer.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

**19-3-3. Obstructing traffic.**

No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

**19-3-4. Large Vehicles and Trailers.**

It shall be unlawful to park on a public street in any residential zone in the City any vehicle or trailer, or any combination thereof, having an overall length of twenty-five feet (25') or more or which exceeds the rated capacity of one and one-half (1½) tons. It shall be unlawful to park on a public street in any commercial or industrial zone in the City any vehicle or trailer, or any combination thereof, having an overall length of twenty-five feet (25') or more between the hours of 5:00 p.m. and 9:00 a.m. This section shall not apply, however, under the following circumstances:

A. When the vehicle is actively involved in permitted construction, landscaping, or other work on or at a specific residence, building, or commercial enterprise.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002; Ord. No. O-05-0006, Rep&ReEn, 2/8/2005; Ord. No. O-09-0022, Amended 10/27/2009)

B. When there is an emergency requiring the parking of a vehicle at a particular location.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002; Ord. No. O-05-0006, Rep&ReEn, 2/8/2005)

C. When the vehicle is owned or operated by federal, state, or local government authorities and is parked for governmental purposes.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002; Ord. No. O-05-0006, Rep&ReEn, 2/8/2005)

**19-3-5. Trailers.**

It shall be unlawful to park or keep any trailer, unattached camper, or boat on a public street for a period of time exceeding seventy-two (72) hours.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002; Ord. No. O-03-0004, Amended, 01/14/2003)

**19-3-6. 72 hours.**

It shall be unlawful to park any vehicle in the same location on a public street for a continuous period of time exceeding seventy-two (72) hours.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

**19-3-7. Parking cars on vacant lots.**

It shall be unlawful for the owner of a motor vehicle or trailer to park it or allow it to be parked on a

vacant lot or parking lot owned by another person for the purpose of displaying it for sale, unless the owner or lessee of the property on which it is parked has a City business license to engage in the business of selling motor vehicles or trailers at that location. It shall also be unlawful for the owner or lessee of such property to allow another person to park a motor vehicle or trailer on the property for the purpose of displaying it for sale unless such owner or lessee has a City business license to engage in the business of selling motor vehicles or trailers at that location.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-02-0010, Amended, 02/05/2002)

**19-3-8. Parking cars, trailers on highways.**

A. As used in this section, "highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(Ord. No. O-02-0010, Rep&ReEn, 02/05/2002)

B. As used in this section, "shoulder area" means that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices," or that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and lateral support.

(Ord. No. O-02-0010, Rep&ReEn, 02/05/2002)

C. It shall be unlawful for the owner or operator of a motor vehicle or trailer to park it or allow it to be parked on any highway, street, or shoulder area for the purpose of displaying it for sale. As used in this section, "displaying it for sale" shall be defined as:

1. Parking and leaving a motor vehicle or trailer in one location, with a "For Sale" sign or similar device, displayed on or in the vehicle, for more than 12 hours;

2. Parking and leaving a motor vehicle or trailer in a publicly owned area, with a "For Sale" sign or similar device, displayed on or in the vehicle, for more than 12 hours;

3. Any violation of section 19-3-7, Orem City Code.

(Ord. No. O-02-0010, Rep&ReEn, 02/05/2002)

D. It shall not be a violation of this Chapter for a vehicle with a "For Sale" sign:

1. To be parked incidental to actual operation and immediate use of the vehicle by the vehicle owner.

2. Unless otherwise prohibited by this Code, to be displayed on a public street that is adjacent to real property in which the person offering the

vehicle for sale has a legal interest or is temporarily visiting.

3. To be temporarily parked on any highway or street for the purpose of servicing, repairing or otherwise working upon any vehicle which is temporarily disabled.

(Ord. No. O-02-0010, Rep&ReEn, 02/05/2002)

**19-3-9. Requirements for vehicles parked in public.**

Every vehicle while parked upon the public highways, streets, alleys, or City-owned parking lots in the City of Orem, shall:

A. Be registered in the name of the owner thereof in accordance with the laws of Utah;

(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. Display in proper position two valid, unexpired license (registration) plates, one on the front and one on the rear of such vehicle; and

(Ord. No. O-02-0010, Enacted, 02/05/2002)

C. When required, have current validation or indicia of registration attached to the rear plate and in a manner complying with the laws of the state of Utah, and such plate shall be free from defacement, mutilation, and sight obscuring matter so as to be plainly visible.

However, if such vehicle is not required to be registered in Utah, and the indicia of registration issued by another state, territory, possession or district of the United States, or of a foreign country, complies with the laws of Utah and substantially complies with the provisions hereof, such registration shall be considered as compliance with this section.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

**19-3-10. Fire Lanes.**

A. It shall be unlawful for any person to park or stop a vehicle on any designated fire lane, regardless of whether or not the driver of the vehicle remains with the vehicle. This section shall not apply to any Public Safety emergency vehicle being used on official business.

(Ord. No. O-93-0001, Enacted, 01/26/93; Ord. No. O-02-0010, Ren&Amd., 02/05/2002)

B. "Designated fire lane" shall mean any area in front of the entrance to a commercial or public building, which area has been marked with a red curb, or red writing on the pavement or signs posted which prohibit parking or designate the area as a fire lane.

(Ord. No. O-93-0001, Enacted, 01/26/93; Ord. No. O-02-0010, Ren&Amd., 02/05/2002)

C. Any vehicle parked in violation of this section is hereby declared a hazard to public safety and may be removed at the direction of the owner of the property or any public safety officer.

(Ord. No. O-93-0001, Enacted, 01/26/93; Ord. No. O-02-0010, Ren&Amd., 02/05/2002)

**Article 19-4. Impounding**

- 19-4-1. Vehicles may be impounded.**
- 19-4-2. Notice.**
- 19-4-3. Prerequisites to redemption.**
- 19-4-4. Sale if not redeemed.**
- 19-4-5. Refund of proceeds of sale.**
- 19-4-6. Records required.**
- 19-4-7. State impounds.**
- 19-4-8. Impounding not a bar to prosecution.**

**19-4-1. Vehicles may be impounded.**

A. The following are hereby declared to be nuisances:

1. Any unattended vehicle stopped, standing or parked in violation of any of the provisions of this chapter.
2. A vehicle found upon the streets or alleys of this city with faulty or defective equipment.
3. Any disabled vehicle upon a street so located as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
4. Any vehicle left unattended upon a street or alley in such a location as to constitute a definite hazard or obstruction to the normal movement of traffic.
5. Any vehicle the driver of which has been taken into custody by the Department of Public Safety under such circumstances as would leave such vehicle unattended in a street, alley, or restricted parking area.
6. Any vehicle found being driven on the streets in a dangerous condition.
7. Any vehicle found so parked as to constitute a fire hazard or an obstruction to fire-fighting apparatus.

(Ord. No. 661, Revised, 04/10/90)

B. Vehicles constituting a nuisance under subsection (A) may be removed or impounded by or under the direction of the Department of Public Safety. Those vehicles which constitute an immediate traffic hazard or danger may be impounded without any notice to the owner thereof; provided, however, that notice shall be given to the registered owner as soon as possible after the impounding and an opportunity for a hearing before the Director of Public Safety shall be afforded the owner in order to determine if the vehicle was rightfully impounded. Any other vehicle may not be impounded until written notice and an opportunity to be heard are given to the owner.

(Ord. No. 661, Revised, 04/10/90)

**19-4-2. Notice.**

As soon as is reasonable under the circumstances, a written notice that a vehicle has been impounded shall be mailed to the owner and recorded lienholder, if there is one, of the vehicle at their last-known address as shown by the records of the Motor Vehicle Division of the Utah State Tax Commission. If the license plates on the vehicle are from another state, written notice shall be mailed to the Department of Motor Vehicles in that state, requesting the Department to notify the registered owner of the vehicle that it has been impounded by the Department of Public Safety and that it will be sold at public auction if not claimed by the owner or his proper representative, as provided in this Article.

(Ord. No. 661, Revised, 04/10/90)

**19-4-3. Prerequisites to redemption.**

Before the owner or his agent shall be permitted to remove a vehicle which has been impounded, he shall:

A. Furnish satisfactory evidence to the Department of Public Safety of his identity and his ownership of the vehicle.

(Ord. No. 661, Revised, 04/10/90)

B. Request and obtain from the Department of Public Safety a written order directed to the place of storage in which the vehicle is impounded, authorizing the release of the vehicle to the owner or his agent upon the payment to the place of storage of towing and storage charges reasonably incurred from the date of the impounding to the time of presenting the order of release from the Department of Public Safety.

(Ord. No. 661, Revised, 04/10/90)

C. Sign a written receipt for the vehicle and deliver the receipt to the place of storage upon receiving the impounded vehicle.

(Ord. No. 661, Revised, 04/10/90)

**19-4-4. Sale if not redeemed.**

If, at the expiration of thirty (30) days after mailing the notice provided for in Section 19-4-2, the vehicle is not redeemed by the owner or his proper representative, the Director of Public Safety or his authorized agent shall proceed to sell it at public auction to the highest bidder after first giving at least ten (10) days' notice of the sale by publishing the notice at least twice in a newspaper of general circulation in the City, stating the time and place of the sale. The notice shall also describe the vehicle to be sold with reasonable certainty and shall state to whom, if anyone, the records of the office of the Motor Vehicle Division of the Utah State Tax Commission show it to belong, or that the owner is unknown, if such is the case. If the name of the owner or recorded lienholder, if any, is known, the

Department of Public Safety shall mail such owner or recorded lienholder a copy of the notice as published immediately after its publication to their last-known address or their address as shown on the records of the Motor Vehicle Division of the Utah State Tax Commission. A copy of this notice as published shall also be mailed immediately after publication to the owner of the place of storage. The money received by the Department of Public Safety from the sale of any such vehicle shall be applied first to the actual cost of towing and storage of the vehicle, then to pay the cost of advertising the notice of sale and the balance, if any, shall then be placed in the City Treasury.

(Ord. No. 661, Revised, 04/10/90)

**19-4-5. Refund of proceeds of sale.**

At any time within one year from and after a sale as provided by Section 19-4-4, the former owner of the vehicle sold, upon application to the Department of Public Safety and upon presentation of satisfactory proof that he was the owner of the vehicle sold, shall be paid the proceeds of such sale less the necessary expense thereof and less any towing, impounding and storage charges incurred.

(Ord. No. 661, Revised, 04/10/90)

**19-4-6. Records required.**

The Department of Public Safety shall keep a record of all vehicles impounded by manufacturer's trade name or make, body type, motor and license number, the names and addresses of all persons claiming the same, any other descriptive matter that may identify the vehicles, the nature and circumstances of the impounding thereof, the violation on account of which the vehicles were impounded, the date of such impounding, and the name and address of any person to whom any such vehicle is released.

(Ord. No. 661, Revised, 04/10/90)

**19-4-7. State impounds.**

Officers of the Department of Public Safety shall also have authority to impound any vehicle subject to impounding under State law and in so doing shall use the procedure prescribed by State law or regulation. The vehicles impounded shall be held or disposed of pursuant to State law.

(Ord. No. 661, Revised, 04/10/90)

**19-4-8. Impounding not a bar to prosecution.**

The impounding of a vehicle shall not prevent or preclude the institution and prosecution of criminal proceedings.

(Ord. No. 661, Revised, 04/10/90)

**Article 19-5. Residential Parking Permit Program**

- 19-5-1. **Legislative Purpose.**
- 19-5-2. **Legislative Findings.**
- 19-5-3. **Definitions.**
- 19-5-4. **Permit Parking Exemption.**
- 19-5-5. **Designation of Residential Permit Parking Areas.**
- 19-5-6. **Designation Criteria.**
- 19-5-7. **Designation Process.**
- 19-5-8. **Modification after designation of a residential permit parking area.**
- 19-5-9. **Issuance of Permits.**
- 19-5-10. **Residential Parking Permit.**
- 19-5-11. **Visitor/Guest Permits.**
- 19-5-12. **Posting of Residential Permit Parking Area.**
- 19-5-13. **Display of Permits.**
- 19-5-14. **Permit Fees.**
- 19-5-15. **Penalty Provisions.**
- 19-5-16. **Revocation of Permit.**
- 19-5-17. **Severability.**

**19-5-1. Legislative Purpose.**

This Article is enacted in response to the serious adverse effects caused in certain areas and neighborhoods of the City of Orem by motor vehicle congestion, particularly the parking of motor vehicles on the streets of such areas and neighborhoods by individuals parking in the area or neighborhood to visit facilities in adjacent areas. As set forth in more specific detail in section 19-5-2 of this article, such long-term parking by non-residents threatens the health, safety and welfare of all the residents of the City of Orem. In order to protect and promote the integrity of these areas and neighborhoods, it is necessary to enact parking regulations restricting unlimited parking by non-residents therein, while providing the opportunity for residents to park near their homes. Uniform parking regulations restricting residents and non-residents alike would not serve the public interest. Rather such regulation would contribute to neighborhood decline. For the reasons set forth in this article, a system of preferential resident parking is enacted hereby for the City of Orem.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-2. Legislative Findings.**

A. **General Finding.** The City Council finds as a result of public testimony and evidence derived from reliable sources, that the continued vitality of certain areas of the City of Orem depends on the preservation of safe, healthy, and attractive neighborhoods and other residential areas therein. Since there is in certain areas

of the city at any one time a large surplus of motor vehicles exceeding available on and off-street parking spaces, this condition detracts from a healthy and orderly environment. A system of preferential resident parking will serve to reduce a number of strains on residents of the city and thus promote the general public welfare.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. **Specific Findings.** The following specific legislative findings of the City Council in support of preferential resident parking are set forth as illustrations of the need compelling the enactment of this Article. They are intended as illustrations only and do not exhaust the subject of the factual basis supporting its adoption:

1. The safety, health, and welfare of the residents of the city can be greatly enhanced by maintenance of the attractiveness and livability of its neighborhoods and other residential areas;

2. It is a fact of modern living in the city that a majority of residents of the City of Orem possess automobiles and as a result are daily faced with the need to store these automobiles in or near their residences;

3. Certain neighborhoods and areas of the city are often burdened by influxes of motor vehicles owned by non-neighborhood residents which compete for inadequate available on-street parking spaces, congest City streets and highways, and detract from neighborhood values. Further, such influx of non-resident vehicles parking in the limited off-street parking spaces often disrupts basic essential services, such as trash collection and mail delivery, by blocking access to garbage cans, mail boxes, etc.;

4. There further exist certain parking "attractors" within the City of Orem, i.e. hospitals, schools, industrial and educational complexes, employment centers, UTA stops and stations, and locations convenient for commuter parking, which further aggravate resident parking problems;

5. Unnecessary vehicle miles, noise, pollution, and strains on relationships between residents and non-residents caused by the conditions set forth herein work unacceptable hardships on residents of these neighborhoods and other residential areas by causing the deterioration of air quality, safety, tranquility, aesthetics and other values available in a residential environment;

6. If allowed to continue unchecked, these adverse effects on the residents of the city will contribute to a further decline of the living conditions therein, a reduction in the attractiveness

of residing within the City and consequent injury to the general public welfare;

7. A system of preferential residential parking as enacted in this Article will serve to increase pedestrian and traffic safety by reducing traffic congestion, promoting the health and welfare of all the residents of the City by reducing unnecessary personal motor vehicle travel, noise and pollution, and promoting improvements in air quality, the convenience and attractiveness of urban residential living, and the increased use of public mass transit facilities available now and in the future, and encouraging the use of car pools. The public welfare will also be served by ensuring a more stable and valuable property tax base in order to generate the revenues necessary to provide essential public services.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

### **19-5-3. Definitions.**

A. “Dwelling” shall mean any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, but not including hotels, motels, bed and breakfast establishments, or residential or commercial buildings which are required to have off-street parking spaces such as apartments, condominium complexes, accessory apartments, etc.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. “Motor vehicle” shall include an automobile, truck, motorcycle or other motor-driven or self-propelled form of transportation intended primarily for use and operation on the highways, but shall not include motor vehicles longer than 20 feet.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

C. “Nonresident vehicle” shall mean a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this Article, for the specific area in which it is parked;

(Ord. No. O-01-0050, Enacted, 12/11/2001)

D. “Parking permit” shall mean the permit that is issued by the City and that is affixed to or displayed by a qualifying vehicle, as set forth in this Article.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

E. “Residential area” shall mean a contiguous or nearly contiguous area containing public streets and highways or parts thereof where residents dwell and upon which the City Council imposes parking limitations pursuant to the authority granted by this Article;

(Ord. No. O-01-0050, Enacted, 12/11/2001)

F. “Residential permit parking area” shall mean a residential area designated as herein provided wherein resident motor vehicles displaying a valid permit as described herein shall be exempt from parking restrictions established pursuant to this Article.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

G. “Resident vehicle” shall mean a motor vehicle which is eligible to be issued a residential parking permit pursuant to the terms and conditions of this Article and which shall be exempt from parking time restrictions established pursuant to this Article.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

H. “Visitor permit” means a parking permit issued to non-residents pursuant to this Article or an ordinance enacted pursuant to authority granted herein, which shall exempt a non-resident vehicle from parking restrictions established pursuant to this Article.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

### **19-5-4. Permit Parking Exemption.**

A. A motor vehicle on which is displayed a valid residential parking permit as provided for herein shall be permitted to stand or be parked in the residential permit parking areas for which the permit has been issued without being limited by restrictions established pursuant to this Article or any resolution thereunder. Any vehicle which does not display a valid parking permit shall be subject to the residential parking regulation and consequent penalties in effect for such area.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. In the case of any conflict between this Article and any other provision in the Orem City Code, the more stringent provision shall prevail.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

### **19-5-5. Designation of Residential Permit Parking Areas.**

The City Council shall upon recommendation of the City Manager or his designee, consider for designation as residential permit parking areas those residential areas meeting and satisfying the objective criteria therefor established in this Article. They may in their discretion then designate by resolution certain residential areas as residential permit parking areas in which resident motor vehicles displaying a valid parking permit may stand or be parked without limitation by parking time or parking area restrictions established by this Article.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-6. Designation Criteria.**

A. A residential area shall be deemed eligible for consideration as a residential permit parking area if based on surveys and studies prepared at the direction of the City Manager or his designee, objective criteria establish that the residential area is impacted by non-resident vehicles for any extended period during the day or night, on weekends, or during holidays.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. In determining whether a residential area identified as eligible for residential permit parking may be designated as a residential permit parking area, the City Council shall take into account the following factors:

1. The extent of the desire and need of the residents for residential permit parking and their willingness to bear any administrative costs in connection therewith;
2. The extent to which legal on-street parking spaces are occupied by motor vehicles during the period proposed for parking restriction;
3. The extent to which vehicles parking in the area during the period proposed for parking restriction are non-resident vehicles rather than resident vehicles;
4. The extent to which motor vehicles registered to persons residing in the residential area cannot be accommodated by the number of available off-street parking spaces; and
5. The extent to which any other factor contributes to the need for a residential permit parking area.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-7. Designation Process.**

A. Any resident(s) of the City may submit a written request to the City Manager, or his designee, that an area of the City in which the resident(s) live be designated as a residential permit parking area. Upon receiving a request that an area be so designated, the City Manager, or his designee shall direct that the necessary investigation, survey or study be completed to determine whether or not the proposed area is impacted to a degree that would warrant such a designation. The results of such investigation, survey or study shall then be presented to the City Council for consideration.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. The Council shall thereafter conduct a public hearing on the proposal. The City Recorder shall cause notice of such hearing or hearings to be published twice in a newspaper of general circulation in this city. The first publication shall be not less than ten days prior to

the date of such hearing. The notice of the public hearing shall be conspicuously posted in the proposed residential permit parking area. The notice shall clearly state the purpose of the hearing, the location and boundaries tentatively considered for the proposed residential permit parking area, any prohibition or time limitation under which permit parking shall be exempt therefrom and, if applicable, the permit fee to be charged therefor. During such hearing or hearings, any interested person shall be entitled to appear and be heard, subject to appropriate rules of order. Following the hearing, the City Council may enact, reject, or amend said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and any time or other restrictions imposed on such proposed area. In order to establish a permit parking area, the Council shall find that the designation will be a benefit to the health, safety, peace, morals, comfort, and general welfare of persons residing in the area of designation. In reaching this decision consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

C. The residential parking permit program shall balance all affected interests, including public safety, neighborhood concerns, and the welfare of the general public. The residential parking permit program shall specify the permit area and the various duration parking restrictions that may apply within portions of the residential parking permit area, which may be different than those requested in the petition. The City Council shall have final approval of the residential parking permit plan.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-8. Modification after designation of a residential permit parking area.**

After holding a public hearing with notice as provided in section 19-5-7(C), the City Council may, by appropriate resolution modify a designated residential permit parking area in any manner not inconsistent with this Article.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-9. Issuance of Permits.**

A. Each dwelling within a neighborhood parking permit area shall be eligible for a resident parking permit for every vehicle legally registered at that address and two visitor permits, except that the Director of Public Safety shall establish standards wherein

additional permits may be issued based on need and available off-street parking space.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. Parking permits available to any one address will be issued on a “first come, first serve” basis.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

#### **19-5-10. Residential Parking Permit.**

A. The City shall issue residential parking permits to motor vehicles, which comply with the requirements set forth in this section.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she currently resides in an eligible dwelling, as described in this Chapter, in the area for which the permit is to be issued; and

2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and

3. Any motor vehicle to be issued a permit must have a current vehicle registration; and

4. Any motor vehicle to be issued a permit must have a proof of current vehicle insurance.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

C. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

D. Residential parking permits shall be non-transferable from the vehicle to which the permit was originally assigned.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

E. The parking permit shall be of a design as designated by the Director of Public Safety and shall display and contain information as designated by the Director of Public Safety.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

F. The Director of Public Safety shall establish guidelines governing the expiration of all parking permits.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

#### **19-5-11. Visitor/Guest Permits.**

A. A visitor parking permit is a permit which is not affixed or assigned to an identified vehicle and which may be used on resident or nonresident vehicles as the user may need. The City Council may, by

resolution, authorize the issuance of visitor parking permits in any residential permit parking area. Visitor permits shall be obtained from the City by a qualifying resident and may be kept in the residents home to be used as needed, subject to any restrictions as stated in this Article. When authorized, visitor parking permits may be issued under the following conditions:

1. The permit is issued to a person who qualifies under Article 19-5-10.

2. Only two visitor parking permits shall be issued to any dwelling within the permit parking area.

3. Such other conditions and restrictions that the City Council by resolution imposes or that the City Manager deems appropriate.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. The visitor parking permit shall be of a design as designated by the Director of Public Safety and shall display and contain information as designated by the Director of Public Safety.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

C. The Director of Public Safety shall establish guidelines governing the expiration of all visitor parking permits.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

D. The Director or Public Safety shall adopt standards under which additional permits may be issued. The City may authorize the issuance of additional visitor permits upon completion of an application, provided such requests comply with those standards as adopted by the Director of Public Safety. Such application must state the owner’s name, address, phone number and reason why additional permits are needed.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

#### **19-5-12. Posting of Residential Permit Parking Area.**

Upon the adoption by the City Council of a resolution designating a residential permit parking area, the City shall cause appropriate signs to be erected in the area indicating prominently thereon the area prohibition or time limitation, period of the day for its application, and conditions, if any, under which permit parking shall be exempt therefrom.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

#### **19-5-13. Display of Permits.**

Permits shall be displayed in a manner determined by the Director of Public Safety.

(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-14. Permit Fees.**

No fee shall be charged for the permits.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-15. Penalty Provisions.**

A. It shall be unlawful for any person to stand or park a motor vehicle in violation of the area prohibition established pursuant hereto.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

B. It shall be unlawful for a person to falsely represent himself as being eligible for a parking permit or to furnish false information in an application therefor.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

C. It shall be unlawful for a person holding a valid parking permit issued pursuant hereto to permit the use or display of such permit on a motor vehicle other than that for which the permit is issued. Such conduct shall constitute an unlawful act and violation of this Article both by the person holding the valid parking permit and the person who so uses or displays the permit on a motor vehicle other than that for which it is issued.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

D. It shall be unlawful and a violation of this Article for a person to copy, produce or otherwise bring into existence a facsimile or counterfeit parking permit or permits. It shall further be unlawful and a violation of this Article for a person to transfer the beneficial ownership of or a continuous right to use a visitor parking permit or to knowingly use or display a facsimile or counterfeit parking permit in order to evade area prohibitions or time limitations on parking applicable in a residential permit parking area.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

E. Violation of any provision of this Article shall be prosecuted as a Class C Misdemeanor.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

F. Any motor vehicle that has received three (3) or more administrative or criminal citations is hereby declared to be a public nuisance and the City of Orem may authorize said motor vehicle to be towed from the public streets at the expense and risk of the registered owner. Said motor vehicle shall be held and not released until the reasonable costs of towing and storage have been paid.

1. If a motor vehicle has been towed from the public streets pursuant to the provisions of this Article and is being held for the payment of fees and charges, the owner thereof, or the agent of the owner, may, in writing, request a hearing to determine the validity of the action taken with

respect to said motor vehicle, and said hearing shall take place within 72 hours from the date of the request, unless the applicant agrees to a longer period of time before the hearing. The Director of Public Safety, or his designee, shall designate a hearing officer and said officer may be the same officer as designated in Article 19 of this code. The Hearing Examiner may order the release of any motor vehicle without cost to the owner or the owner's agent if said motor vehicle was towed from the public streets or is being held in violation of this Article or other applicable law.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-16. Revocation of Permit.**

The City is authorized to revoke the residential parking permit of any person found to be in violation of this Article and, upon written notification thereof, the person shall surrender such permit to the Director of Public Safety or designee. Failure when so requested, to surrender a residential parking permit so revoked shall constitute a violation of law and of this Article. If the resident is found violating the terms of this Article, such residential parking privileges may be revoked, and the resident may be prohibited from obtaining a residential parking permit for one year.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

**19-5-17. Severability.**

The provisions of this Article are severable and if any provision, clause, sentence, subsection, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, sections, words or parts of the Article or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Article would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, section, word, or part had not been included therein, or if such person or circumstance to which the Article or part thereof is held inapplicable had been specifically exempted therefrom.  
(Ord. No. O-01-0050, Enacted, 12/11/2001)

## **Article 19-6. Administrative Civil Infractions.**

- 19-6-1. Statement of Intent.**
- 19-6-2. Position of Civil Violations Hearing Officer Created – Powers and Duties.**
- 19-6-3. Acts Made Administrative Civil Infractions.**
- 19-6-4. Notice of Administrative Civil Infraction.**
- 19-6-5. Response to Notice of Administrative Civil Infraction.**
- 19-6-6. Fee for Administrative Civil Infractions – Payment.**
- 19-6-7. Contesting an Administrative Civil Infraction – Hearing.**
- 19-6-8. Special Provisions Relating to Parking Regulations.**
- 19-6-9. Administrative Civil Infraction Appeals.**
- 19-6-10. Default.**
- 19-6-11. Criminal Violation.**
- 19-6-12. Civil Collection Actions.**

### **19-6-1. Statement of Intent.**

The purpose of this Article is to decriminalize, where possible, certain violations of municipal law which have traditionally been regulated by the criminal laws. This is done to assist residents of the City of Orem, and others, by expediting the resolution of cases and to remove the social stigma attached to criminal actions. With the enactment of this chapter, the City of Orem is acting, in part, pursuant to authorization found in Sections 10-3-703, 10-8-84, 41-6-16 and 41-6-17(u), Utah Code, as amended. This Article is intended to address the constitutional issues set forth in 401 U.S. 395 (1971), and subsequent U.S. Supreme Court decisions.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

### **19-6-2. Position of Civil Violations Hearing Officer Created - Powers and Duties.**

The Director of Public Safety shall appoint a civil violations hearing officer(s) to perform all duties and exercise all powers described in this Article. The duties of a hearing officer may be performed through subordinates, except that a hearing shall be conducted only by a hearing officer if a person charged with an infraction so requests in writing.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

### **19-6-3. Acts Made Administrative Civil Infractions.**

A. **Civil Violations.** The following acts are hereby declared to be administrative civil infractions, unless otherwise specified, and within the jurisdiction of the hearing officer:

1. Violation of any of the parking regulations described in the Orem City Code;
2. Violation of parking laws and regulations not inconsistent with these ordinances which are described in state statutes, including those benefiting disabled (handicapped) persons;
3. Violation of motor vehicle license plate and registration regulations when the motor vehicle is parked on public property as described in Section 19-3-9, Orem City Code; and
4. Violation of Section 9-2-12, Orem City Code.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

### **B. Criminal Violations.**

1. Article 19-2 of this Chapter is expressly excluded from the jurisdiction of the hearing officer and it is the intent of the City Council that all violations contained within Article 19-2 remain criminal violations, unless otherwise stated.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

### **19-6-4. Notice of Administrative Civil Infraction.**

Any peace officer and any person trained and authorized by the Orem Department of Public Safety may issue a Notice of Administrative Civil Infraction (or Notice of Infraction) which notice shall contain the following information:

A. The name and address of the person charged with the infraction. Notwithstanding anything in this section to the contrary, a Notice of Infraction for a parking violation, placed on a parked motor vehicle need not include a name and address;

(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. The infraction charged;

(Ord. No. O-02-0010, Enacted, 02/05/2002)

C. The date and place of the infraction;

(Ord. No. O-02-0010, Enacted, 02/05/2002)

D. If the infraction involved the use of a motor vehicle, the make of the vehicle and its license number; and

(Ord. No. O-02-0010, Enacted, 02/05/2002)

E. Notice that the Notice of Infraction must be paid by a date certain or responded to by a date certain at the office of the Orem Department of Public Safety if the administrative civil infraction is to be contested.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

### **19-6-5. Response to Notice of Infraction.**

A. Any person to whom a Notice of Infraction has been issued shall respond within fourteen (14) days thereof by:

1. Paying the fee described in section 19-6-6 (for good cause, the hearing officer may allow reasonable terms for payment of the fine);

2. Contesting the violation in the manner described in section 19-6-7, Orem City Code; or

3. Entering into an agreement with the hearing officer to perform public service in lieu of paying the fee. This option shall only be available to persons who demonstrate the financial inability to pay the applicable fee on any reasonable terms. The public service shall be completed in not more than 30 days after the execution of the agreement. A person who elects the option described in this subsection (3) shall perform a number of hours of public service needed to equal the applicable fee for the infraction when multiplied by the minimum wage. The hearing officer shall determine the type of service and number of hours to be performed.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. All payments must be received by Orem Department of Public Safety within the times required by this Article. Fees may be paid by mail, but the risk of loss or delay of a payment shall be on the sender.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

**19-6-6. Fee for Infractions – Payment.**

A. All fees, penalties, and interest related to civil infractions shall be paid to the Department of Public Safety as the Director of Public Safety shall direct in harmony with the provisions of this Article. No hearing officer or any subordinate thereof shall receive any fees for civil infractions over which the hearing officer has jurisdiction.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. The City Council shall by resolution establish the fees to be imposed for all administrative civil infractions. The City Council may also by resolution establish penalties for late payment and a rate of interest to accrue on fees which are not paid in a timely manner.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

**19-6-7. Contesting an Administrative Civil Infraction – Hearing.**

A. A person charged with an administrative civil infraction may contest the same by delivering written notice of intent to contest to the Department of Public Safety. The person contesting the infraction is responsible for providing a correct mailing address to the Department of Public Safety.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. Upon the filing of a written notice of intent to contest, a date for an administrative hearing shall be set and notice of the hearing date shall be mailed to the

individual at the address provided. The hearing shall be conducted by the hearing officer as informally as the circumstances will allow and shall be based on the civil standard of a preponderance of the evidence. The Notice of Infraction shall constitute prima facie evidence that the infraction alleged therein actually occurred. Any party may be required to testify at the hearing. All witnesses shall be placed under oath by the hearing officer prior to testifying.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

C. The hearing officer shall consider all of the evidence presented at the hearing and shall determine the existence or non-existence of the infraction based on a preponderance of the evidence. If the hearing officer finds that the infraction alleged did not occur, the Notice of Infraction shall be without any further force or effect. If the hearing officer finds that the infraction alleged occurred, the person to whom the Notice of Infraction was issued shall respond as provided in subsection 19-6-5(A)(1) or 19-6-5(A)(3). The response shall be made within five (5) days after the hearing, unless the decision is given by mail and not at the hearing, in which event the response shall be made within ten (10) days after the decision is mailed to the address given in the notice of intent to contest.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

**19-6-8. Special Provisions Relating to Parking Regulations.**

If a Notice of Infraction relates to a parking regulation, the following rules shall apply:

A. The Notice of Infraction may be issued by affixing it to the subject motor vehicle in a conspicuous place.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. Whenever a motor vehicle has been parked in violation of any parking regulation, the registered owner of the vehicle shall be responsible for such violation and liable for payment of the applicable fee.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

C. Any motor vehicle with respect to which three (3) or more Notices of Infraction are in default is hereby declared to be a public nuisance and the City of Orem may authorize said motor vehicle to be towed from the public streets at the expense and risk of the registered owner. The motor vehicle shall be held and not released until the unpaid fees, penalties, accrued interest and reasonable costs of towing and storage have been paid.

(Ord. No. O-02-0010, Enacted, 02/05/2002)

D. If a motor vehicle has been towed from the public streets pursuant to the provisions of this Article

and is being held for the payment of fees and charges, the owner thereof, or the agent of the owner, may, in writing, request a hearing to determine the validity of the action taken with respect to the motor vehicle, and the hearing shall take place within three (3) business days from the date of the request, unless the applicant agrees to a longer period of time before the hearing. The hearing officer may order the release of any motor vehicle without cost to the owner or the owner's agent if the motor vehicle was towed or is being held in violation of this Article or other applicable law.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

#### **19-6-9. Civil Appeals.**

Any person dissatisfied with a decision of a hearing officer may appeal within fifteen (15) days to the District Court. A person that fails to timely respond to a Notice of Infraction shall not be entitled to appeal to the District Court.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

#### **19-6-10. Default.**

Any person who receives a Notice of Infraction shall be considered in default with respect to said infraction if the person:

A. Fails to timely respond to the Notice of Infraction as outlined in section 19-6-5;  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. Fails to provide a correct mailing address after filing a notice of intent to contest under section 19-6-7 unless the person has paid the fee or entered into an agreement to perform public service under section 19-6-5;  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

C. Fails to attend a hearing under section 19-6-7 unless the person has paid the fee or entered into an agreement to perform public service under section 19-6-5.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

D. Fails to respond as described in section 19-6-7(C) after a determination by the Hearing officer that an infraction occurred.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

#### **19-6-11. Criminal Violation.**

A. Notwithstanding any other provision herein to the contrary, it shall be a criminal Class C misdemeanor violation, with exclusive original jurisdiction in the district court:

1. for a person to whom a Notice of Infraction has been issued to allow the subject action to go into default. A person who allows a

Notice of Infraction to go into default shall be prosecuted for the underlying offense;

2. for a registered owner to fail or refuse to respond to a Notice of Infraction issued pursuant to subsection 19-6-4; or

3. for a person to willfully fail or refuse to completely perform the public service agreed to pursuant to subsection 19-6-5A(3), Orem City Code.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

B. For purposes of this Article it shall be a rebuttable presumption that the Notice of Infraction and any other notices have been received by the addressee when mailed to the last known address via first class, United States mail.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

#### **19-6-12. Civil Collection Actions.**

The City of Orem may pursue the collection of overdue and unpaid fees through any and all legal remedies available to the City.  
(Ord. No. O-02-0010, Enacted, 02/05/2002)

**Article 19-7. Towing and Parking Enforcement Companies.**

- 19-7-1. Definitions.**
- 19-7-2. Legislative Findings.**
- 19-7-3. General Provisions Applicable to Parking Enforcement and Towing Companies.**
- 19-7-4. Rotation List.**
- 19-7-5. Regulation of Non-Consensual Towing and Booting Practices.**
- 19-7-6. Repossession of Vehicles.**
- 19-7-7. Unauthorized Tampering with or Removal of a Boot or Other Vehicle Immobilization Device.**
- 19-7-8. Severability.**
- 19-7-9. Violation.**

**19-7-1. Definitions.**

The terms and definitions as contained in Section 12-5-13(A) are herein incorporated by reference. (Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**19-7-2. Legislative Findings.**

**A. General Finding.** A number of parking enforcement and towing companies conduct business within the City and want to be placed on the Department of Public Safety’s rotation list. While most of these companies conduct business in a reputable way, there have been instances of questionable practices. The City Council therefore finds as a result of public input and evidence derived from reliable sources, that there is a need to license/register companies wanting to work in the City and to set requirements for being placed on the Department of Public Safety’s rotation list.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, amended 08/14/2008)

**B. Specific Findings.** The following specific legislative findings of the City Council in support of licensing/registering parking enforcement and towing companies and their ability to be placed on the rotation list are set forth as illustrations of the need compelling the enactment of this Article. They are intended as illustrations only and are not all-inclusive.

1. Towing companies are needed to tow vehicles from traffic accidents, tow disabled or inoperable vehicles, or impound vehicles upon request of a public safety officer. In these instances, prompt response time is of the essence, especially when there is a need to clear an accident scene. Towing companies that fail to respond in a timely manner add to the confusion and delay in clearing these scenes.

2. Towing companies are responsible for clearing the scene of accident-related debris. When towing companies fail to do this or fail to completely clean the scene, motorists are exposed to driving around or over broken glass, vehicle fluids, and other debris which has the potential of harming their vehicles.

3. There is a need for parking enforcement and towing services within the City. Many businesses, apartment complexes and other private parking lots have a problem with individuals parking in these lots who either do not have permission or are parked in areas where they should not be parking. In order to discourage these individuals from parking where they should not, owners of these lots have a need for parking enforcement and towing services.

4. There are parking lots within the City where it is not apparent that parking is prohibited but from which a vehicle may be towed. In order that there be no question as to whether a vehicle may be towed from a parking lot, adequate signs stating that towing will take place should be posted at all entry points to the parking lots.

5. Being on the Department of Public Safety’s rotation list is a privilege and not a right. To be eligible to be on the list, parking enforcement and towing companies must comply with the rules and regulations as set forth in this Article and Section 12-5-13 of the Orem City Code.

6. The Department of Public Safety receives a regular number of confirmed reports from citizens of towing companies that engage in questionable business practices. In an effort to curtail these practices, companies that are found to engage in these types of activities will be in jeopardy of being taken off the rotation list and/or subject to criminal penalties as provided in this Article.

7. In the past, personal property has been stolen from vehicles that have been towed. Personnel from towing companies have been charged with the thefts. In an effort to prevent this type of activity in the future and to limit those individuals who will be allowed to tow vehicles to those without a history of property crime, background checks will be conducted on towing company employees prior to being allowed to tow vehicles within the City.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**19-7-3. General Provisions Applicable to Parking Enforcement and Towing Companies.**

A. A person conducting towing or parking enforcement operations shall furnish without charge an itemized statement of services performed, labor and special equipment used in completing a tow or boot of a vehicle, and the charges made therefore to and upon the request of:

1. The person requesting the towing or booting service; or
  2. The owner of the vehicle towed or booted;
- or
3. The duly authorized agent of either of the foregoing.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

B. Parking enforcement and towing companies shall post a copy of a schedule of fees in a prominent place at the business location where vehicles are released from storage. Upon request, a parking enforcement or towing company shall show a current copy of its fee schedule to a person whose vehicle is being towed or booted and shall provide the name and phone number of the owner or agent of the property from or on which the vehicle is being or has been towed or booted.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

C. Parking enforcement and towing companies shall maintain personnel authorized to release any vehicle to its owner twenty-four (24) hours each day. A vehicle shall be released immediately upon payment of any required fees authorized by this Article.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**19-7-4. Rotation List.**

A. **Creation.** The Director of Public Safety or his designee shall create and administer a rotation list comprised of those towing companies who comply with all the terms of this Article and Section 12-5-13 of the Orem City Code and are authorized to respond to calls for service by the Department of Public Safety.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

B. **Duties of companies on list.** In addition to any other requirements set forth in the Orem City Code or required by federal or state law, a towing company, which has been placed on the rotation list, shall:

1. Respond to a call for service from the Department of Public Safety and arrive on scene within fifteen (15) minutes of receiving the call. In the event that the company fails to arrive within

fifteen (15) minutes from receipt of the call, the Department of Public Safety shall be permitted to secure the services of an alternate company from the rotation list. The late-responding company shall not be entitled to any fee for a late response or costs and expenses incurred as a result thereof. Any company that fails to respond within the required fifteen (15) minutes will be placed at the bottom of the rotation list. Only those tow truck companies that have been called from the rotation list may respond to a public safety request. Towing companies that have not been specifically called may not respond on behalf of another tow truck company, regardless of the circumstances. Responding tow truck companies that have not been called, shall be placed on the bottom of the rotation list.

2. Have a vehicle storage facility within the City corporate limits that has a fenced area, enclosed yard, or building. No vehicle may be moved to a location which is not within the City limits without the prior consent of the owner or operator of the vehicle. Such vehicle storage facility must comply with all state requirements.

3. Have the capability of transporting abandoned or inoperable vehicles.

4. Clean up any mess, debris, rubble or any other items that may be located on the roadway or in the immediate vicinity of the location from which an abandoned or inoperable vehicle is to be towed. To achieve this requirement, and in addition to any other state or administrative requirements, the tow truck must be equipped with adequate equipment and materials to clean up the area. Failure to clean up the area is a violation of this Section and can result in being removed from the rotation list.

5. Ensure that all its authorized agents agree to follow the instructions or orders of a public safety officer at the towing scene.

6. Comply with all federal, state, and local requirements governing parking enforcement and towing companies.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

C. **Removal from list.** A towing company may voluntarily request in writing to be removed from the rotation list. A towing company may lose the privilege of being on the rotation list and subject to removal from the rotation list for a ninety (90) day or twelve (12) month period for any of the following reasons:

1. Failure to comply with any of the requirements of this Article;

2. Failure to comply with any of the requirements of Section 12-5-13 of the Orem City Code;

3. A conviction of any of the towing company's employees of a crime involving dishonesty or moral turpitude. A conviction includes the entry of a plea in abeyance; or

4. Being the subject of three (3) or more complaints received within a ninety (90) day period that are later substantiated. A complaint is substantiated when the following occurs:

a. The complaint has been lodged against a towing company by the owner or the owner's agent of a motor vehicle that was towed or by a Public Safety officers;

b. The complaint alleges a violation of federal, state or local law or rule regulating towing companies;

c. The Department of Public Safety has, within ten (10) days of receiving the complaint, given the towing company written notice of the complaint that contains information about the vehicle that was towed, the date, time and place of the tow, and a statement of the complaint including the federal, state or local law or regulation that the towing company is alleged to have violated;

d. The complaint has been investigated by the Director of Public Safety or his designee after having given the towing company ten (10) days to respond in writing to the complaint; and

e. The Director of Public Safety or his designee has determined the towing company violated any federal, state, or local law or rule regulating towing companies and has given the towing company written notice of his decision.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**D. Notice of Removal.** Prior to removing a towing company from the rotation list for any of the reasons listed above, the Director of Public Safety or his designee shall give the towing company written notice of his decision to remove the company from the rotation list. The notice shall contain the basis for the decision; notice that the towing company will be removed from the rotation list, if applicable; and the conditions under which the towing company will be reinstated on the rotation list, if applicable.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**E. Appeal.** Any towing company that has been removed from the rotation list pursuant to this Article may appeal to the City Manager or his designee the

decision of the Director of Public Safety or his designee's decision to remove the towing company from the rotation list. Any appeal must be in writing and filed with the City Manager or his designee within ten (10) days of receiving notice of the removal. Within ten (10) days of receiving a notice of appeal the City Manager or his designee shall render a decision upholding the removal or reinstating the towing company on the rotation list.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**F. Removal Period and Reinstatement.** Removal from the rotation list shall be for a ninety (90) day period for the first or second removal within a three (3) year period. Removal from the towing rotation list shall be for one (1) year for the second removal from the rotation list within three years of any prior removal. The date of removal shall be the later of ten (10) days after the Director of Public Safety or his designee sends a Notice of Removal or the date the City Manager or his Designee renders a decision in response to an appeal.

Any towing company that has been removed from the rotation list may file a written request with the Director of Public Safety or his designee to be placed back on the list no sooner than ten days prior to the expiration of the removal period. The Director shall place the company back on the towing rotation list upon a showing that all previous problems for which the company has been removed have been corrected, and the company certifies it is willing and able to comply with all the requirements for being on the rotation list.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**19-7-5. Regulation of Non-Consensual Towing and Booting Practices.**

**A.** Owners of private property may, to the extent authorized by this Section, boot or tow away any unauthorized vehicle on their premises. An unauthorized vehicle is any vehicle parked or stopped in violation of private property parking regulations which govern parking for authorized tenants and visitors or which restrict parking in loading zones, handicapped spaces, fire lanes, or other "no parking" zones. All restricted parking areas and visitor parking spaces, if any, shall be clearly marked to give notice that parking is prohibited or otherwise restricted in a particular area.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

**B.** It shall be unlawful for any person, firm, or corporation to boot or tow away a motor vehicle on or

from private property without the vehicle owner or his agent's consent unless authorized by the private property owner or his agent or a police officer or a person acting on behalf of a law enforcement agency.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

C. Except for tow truck service that was ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck operator shall:

1. Contact the Orem Department of Public Safety dispatch center prior to towing the vehicle and report the:

- a. location of the vehicle;
- b. date, time and location from which the vehicle is being removed;
- c. reasons for the removal of the vehicle;
- d. person who requested the removal of the vehicle;
- e. vehicle's description, including its vehicle identification number and license number or other identification number issued by a state agency; and

2. within two business days of performing the tow truck services send a certified letter to the last-known address of the registered owner and lien holder of the vehicle, if applicable, obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's current address, notifying the owner of the:

- a. location of the vehicle;
- b. date, time and location from which the vehicle was removed;
- c. reasons for the removal of the vehicle;
- d. person who requested the removal of the vehicle;
- e. vehicle's description, including its vehicle identification number and license number or other identification number issued by a state agency; and
- f. costs and procedures to retrieve the vehicle.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

D. Except for vehicles deemed abandoned under Orem City Code 12-5-13 (A), it shall be unlawful to boot or tow a motor vehicle in or from a private parking lot having four (4) or more parking spaces unless a clearly visible and conspicuous sign posted on, or immediately adjacent to the property provides notice that unauthorized vehicles will be booted or towed from the parking lot. Such signs shall:

1. Be at least eighteen inches (18") by twenty-four inches (24") in size;

2. Give warning, in large reflective lettering, that unauthorized vehicles or illegally parked vehicles will be booted or towed;

3. Give the name and telephone number of the firm(s) authorized to boot or tow vehicles;

4. State the fees charged for towing and/or booting operations; and

5. Except otherwise exempted below, be posted within approximately five feet (5') of every entrance to a parking lot.

a. For purposes of this subsection, a parking lot entrance shall mean any access allowing the entrance or exit of a vehicle between a private parking lot and a city street unless such access is not the property of the parking lot owner. In such case, the parking lot entrance shall mean:

i. The intersection of the parking lot property line and the property line of the access point; or

ii. Any privately owned road connected to a public right-of-way leading to the entrance of a parking lot located on private property.

b. A sign posted directly over a driveway leading to an underground lot shall be deemed to meet the location requirements of this subsection.

c. If signs cannot be posted within five feet (5') from the entrance to a parking lot for reasons of practical difficulty (such as the necessity of drilling a hole through concrete, removing a tree or shrubs, conflicting with the clear vision area, or because of an immediately adjacent private driveway not owned by the owner of the parking lot, etc.), a sign may be placed as close as reasonably practicable to the parking lot entrance. However, no sign shall be further than thirty feet (30') unless the property owner or his agent has consulted with the Department of Public Safety to ensure placement of signs in alternative locations that will meet the purpose of this Section.

7. Be posted at least four (4) feet and no more than seven (7) feet above the ground.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

E. It shall be unlawful to display signs, as required by this section that do not contain accurate and current information.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

F. Before booting or towing a vehicle located on private property, a parking enforcement or towing company shall receive from the property owner or his authorized agent, neither of whom shall be affiliated in any way with the parking enforcement or towing company, a signed request for each booting or towing of a particular vehicle; provided, however, that property owners who have a written contract with a parking enforcement or towing company where the provisions of the contract are consistent with the provisions of this Section shall not be required to sign a request before a vehicle is booted or towed from their property.

1. Written contracts for towing or parking enforcement operations shall specify when and under what conditions parked vehicles shall be subject to towing or booting.

2. Towing or parking enforcement companies who enter into written contracts with property owners for towing or booting operations pursuant to the terms of this section shall provide to the Department of Public Safety copies of the contracts prior to towing a vehicle from property covered by a contract or booting any vehicle on the property.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

G. Any parking enforcement or towing company booting or towing a motor vehicle pursuant to this Section shall release such vehicle to its owner or authorized agent immediately upon payment sufficient to cover the actual costs incurred in booting, towing, storing or providing other services rendered as the result of booting or towing the vehicle as provided in this Section.

1. The parking enforcement or towing company shall accept payment offered in cash or by major credit card, but shall not be obligated to accept checks or payment in coins and shall maintain sufficient cash on hand to make change of up to forty dollars (\$40).

2. No vehicle recovery, release or gate fee may be charged during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

3. A parking enforcement or towing company that has removed a vehicle to an impound yard under the provisions of this Section may not collect any fees associated with the removal or begin charging storage fees until the company has complied with the notification requirements under 19-7-5 (C).

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

H. A parking enforcement company that utilizes booting practices instead of towing shall be limited to a maximum fee for booting of one-half the current maximum towing fee established by the Utah Department of Transportation for towing services for Class A and B vehicles. In those situations where a boot has been applied to a vehicle and it is subsequently towed, the towing or booting company may only collect the fee associated with the towing of the vehicle.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

I. A parking enforcement company shall leave completed paperwork in a conspicuous place on the vehicle being booted. The completed paper work shall be legible and contain the following information:

1. The name of the company performing the booting service and the name of the employee who placed the boot on the vehicle.

2. The twenty-four (24) hour phone number which an owner can call to arrange for release of the boot.

3. The fees charged for booting and towing services.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

J. If the registered owner or authorized agent arrives at a vehicle before the parking enforcement or towing company has finished booting the vehicle and finished completing the required paperwork or before a tow truck operator has removed the vehicle from off the premises, the parking enforcement or towing company shall be entitled to only one-half the regularly charged fee for booting or towing a vehicle and upon payment shall release the vehicle to the registered owner or authorized agent.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

K. Property owners, managers, or their agents shall not receive any consideration whatsoever from any parking enforcement or towing company in exchange for utilizing such company's services to boot or tow unauthorized vehicles from the owner's property or for entering into a services contract with a parking enforcement or towing company.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

L. Except for vehicles deemed abandoned under Orem City Code 12-5-13 (A), all vehicles towed pursuant to this Section must be towed to a lot within the City limits that complies with State law

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

**19-7-6. Repossession of Vehicles.**

Nothing contained in this Article shall be construed to apply to the lawful repossession of vehicles by persons or entities that have valid security interests or liens on the vehicle being repossessed.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

**19-7-7. Unauthorized Tampering with or Removal of a Boot or Other Vehicle Immobilization Device.**

It shall be unlawful to tamper with or remove from a vehicle a boot or other device designed to immobilize a vehicle without the authorization of the parking enforcement or towing company which applied the boot or otherwise immobilized the vehicle.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Ren&Amd 08/14/2008)

**19-7-8. Severability.**

If any provision of this Article is held by a court of competent jurisdiction to be unconstitutional or for any reason invalid, it shall not affect the validity of the remaining provisions, which are adopted separately and independently.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)

**19-7-9. Violation.**

Violation of any provision of this Article is a class B misdemeanor.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-08-0020, Amended 08/14/2008)