



The Amalga TOWN Land Management and Development Code Of 1999

Passed and Adopted September 8, 1999

EDITION 2010

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ACKNOWLEDGMENTS

The 1999 Town of Amalga Land Management and Development Code

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Preface Note on Conventions Used in this Code:

This code is designed to be as readable and as legible as possible. The large left-hand side bar is designed to accommodate liberal hand written notes or comments. Any comments or symbols printed in this margin of the code, as part of this or future editions, is not officially part of the code, but is used for clarification or guidance on important issues and possible cross references. Further, any italics, bolding or underlining of certain passages is only for that purpose and should not be construed to mean anything beyond that which is stated in the full context.

GENERAL PROVISIONS and PROCEDURES

This Chapter describes the General Rules and Regulations necessary to effectively administer the Land Management and Development Code of the Town of Amalga. Procedures for permitted use and conditional use applicants are defined. Code and Zoning amendments, as well as appeal procedures and non-conforming uses are explained in detail. The infrastructure impact review process is also emphasized throughout the permitting procedure. Other important procedures and provisions are defined in this chapter as well.

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1.1 Short Title

This ordinance shall be known as the Amalga Town Land Management and Development Code, and is referred to herein as this Code, or just the Land Management Code or the Development Code or the Code.

1.2 Statement of Purpose

After considerable public input and several public hearings over a period of three years, this Code was developed, designed and enacted to implement the goals and objectives of Amalga Town's 1996 General Plan, a document designed to protect its special rural, agricultural quality of life. More generally, the following goals and objectives define the major purposes of this Code:

- (a) To promote the health, safety, convenience and general welfare of the present and future inhabitants of the community.
- (b) To encourage and facilitate the orderly growth and development of the community and to implement the goals and policies of the Town General Plan.
- (c) To provide adequate open space for light, air, agriculture and environment; to prevent overcrowding of the land and to minimize congestion on the streets.
- (d) To secure economy in municipal expenditures and to encourage adequate provisions for transportation, water, sewage, schools, public safety, parks and other public facilities and services .
- (e) To increase the security of home life and to preserve a more favorable environment for the citizens and visitors of the community.
- (f) To ensure safety from fire and other man-made or natural dangers.
- (g) To stabilize and protect property values and to place compatible uses together in the community.
- (h) To enhance the economic and cultural well being of the inhabitants of the community.
- (i) To promote the development of a more wholesome, serviceable and attractive community resulting from an orderly, planned use of resources.
- (j) To establish proper zoning regulations; to ensure the suitability of the land for particular uses, and to conserve the value of buildings and encourage the most appropriate use of land throughout the community.
- (k) To preserve the rural, agricultural quality of life enjoyed by the residents of Amalga Town.
- (l) To further the purpose of this Code and to promote the objectives and qualities of the respective zones.

It is the intention of the Town in adopting this Code to fully exercise all of the powers granted to the Town by the provisions of the Utah Zoning Enabling Act,

Section 10-9-1 et seq. Utah Code Annotated, 1953, as amended, and all other powers granted by statute or by common law for the regulation of land uses and improvements. The intention of the Town is to assure the managed, proper and sensitive/critical development of land within Amalga Town and to protect and enhance the quality of rural life in general. The Code is intended to allow development in a manner that encourages the preservation of scenic values, historic structures, the unique agricultural setting of Amalga Town, and provide for well-planned commercial and residential centers, smooth traffic circulation, and efficient delivery of municipal services. The Code seeks to prevent development influenced by existing geologic hazards, erosion, flooding, or other conditions that create potential dangers to life and safety in the community, or development that influences critical wildlife habitats, or developments that detract from the rural quality of life in the community.

1.3 Conflict

The provisions of this Code are in addition to all other Town ordinances, the Laws of the State of Utah, the Laws of the United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

1.4 Effect on Previous Ordinances and Maps

The existing zoning ordinances of Amalga Town, including the official zoning maps adopted with those ordinances, are hereby amended in their entirety to conform to the provisions of this Code, providing that this Code is a continuation of those existing ordinances, and not a new enactment, in so far as the substance of the old and new provisions are the same. This Code shall not be construed as affecting the term of office of any board or commission member appointed under the prior enactment. Structures built prior to the adoption of this ordinance, or for which zoning clearances or building permits were issued and on which work commences as required under the permit shall, to the extent they do not conform to this ordinance, be considered as non-conforming uses, and shall not be affected hereby. Uses which were non-conforming under the old enactment's shall not be affected by this Code, unless the Code is changed in a manner that makes the use conforming to the new code or zone.

1.5 Amendments to the Land Management Code and Zoning Map

It may become desirable from time to time to amend the provisions of this Code or the zoning map. This code should be constantly reviewed and improved upon to stay viable and useful to the Town. All amendments shall be made in the following manner:

1.5.1 Amendments

Amendments to the provisions of the Code may be made by the Planning Commission and Town Council, as originated in either body (although normally

originated by the Planning Commission), from time to time following a properly posted public hearing of each body. Hearings shall be advertised for 14 days, prior to the date of the hearing, in a newspaper having general circulation in the Town and posted in three (3) or more conspicuous places within the Town.

These two hearings may be combined by consensus of the Town Council and Planning Commission. If conducted separately the first hearing must be held by the Planning Commission and the proposed changes then must be certified to the Town Council for their action. After the Town Council hearing, the amendment(s), as proposed, amended and/or rejected may be adopted on the day of the hearing or at any time following the hearing, provided they are adopted at a Town Council meeting.

1.5.2 Types of Amendments

The types and nature of Amendments that may be made are classified as follows:

- (a) allowing a use previously prohibited
- (b) prohibiting a use previously allowed
- (c) increasing or decreasing the density of the uses previously allowed
- (d) changing a permitted use to a conditional use
- (e) changing a conditional use to a permitted use
- (f) changing the zone of any property
- (g) procedural or regulatory changes, both minor or major
- (h) zone map amendments or modifications
- (i) repealing of any regulation or procedure
- (j) adding of any regulation or procedure
- (k) any other miscellaneous changes that may become necessary

1.5.3 Petition for Zone Change or Code Amendment

A petition to change the zone of any land within Amalga Town or to amend this Code other than changing the Zone map, shall be filed first with the Planning and Zoning Commission in a letter or on a form prescribed for that purpose. The form or letter shall contain a legal description of the land affected by the petition, and a statement of the petitioner's interest in the land included within the petition. The petition shall state the current zone of the property and the zone which the petitioners desire to have a new zone designation established, the petition shall so state, and give some indication of the reasoning for the change as well as the uses and standards requested to be allowed in the new zone. A fee will be established for acting on a petition for a zone change as described in the current Town Fee Resolution in effect at the time. (To change or amend the zone within a legally recorded subdivision, the petition must also include signatures of approval by the owners of at least 51% of the platted lots in the subdivision.) The petition must also include all of the names of property owners as required by section 1.6.3 for courtesy notice purposes.

1.5.4 Hearings before the Planning Commission

The Planning Commission shall hold a public hearing on all petitions for zone changes and receive comments from citizens or property owners affected by the change. The Commission shall also hold a public hearing on other amendments to the Land Management and Development Code. Notice of all zone change hearings before the Planning Commission shall be given as set forth in Section 1.6 of this Code. The notice shall state generally the nature of the proposed amendment as outlined in 1.5.2 and the land affected, and the time, place, and date of the public hearing. The notice shall also state that more detailed information shall be available for public inspection at the Town Office, or other specified location at the time the notice is published.

1.5.5 Action by Planning Commission

Following the hearing, the Planning Commission shall adopt formal recommendations to be presented to the Town Council regarding the matter before it, approving, disapproving, or modifying the proposal. The Planning Commission shall act on the proposal at the time of the hearing or at its next regularly scheduled meeting following the hearing, unless the proponent or petitioner has requested the matter be tabled for further consideration, or the petition is withdrawn. If the Commission fails to act within two (2) regularly scheduled meetings on the proposal, the proposal shall be deemed disapproved by the Planning Commission and the proposal shall be forwarded to the Town Council for their consideration with that recommendation.

1.5.6 Hearing before Town Council

The Town Council shall hold a public hearing on all petitions for zone changes and all amendments to the Land Management and Development Code. Following the hearing, the Council shall approve, disapprove, or modify and approve the recommendation of the Planning Commission. The hearing may be continued, if necessary, without republication of notice. The recommendations of the Planning Commission are advisory only, and the Council may overrule the recommendations of the Commission. Council action on amendments to the Code or to the zoning map require the affirmative vote of three or more Town Council members. The Council may act on the petition at the time of the hearing or at subsequently scheduled meetings.

1.5.7 Joint Hearings

At the option of the Town Council and in rare instances, the hearings before the Planning Commission and the Town Council may be consolidated into a single hearing, provided however, that separate votes shall be taken by the Commission and the Council. Joint hearings cannot be held for amendments to this Code that are beyond the scope of a regular zone map change. The Commission vote shall be taken first. Notice for any joint hearing shall comply with the notice standards set forth in Section 1.6 of this Code.

1.6 Notices

Notice of hearings before the Town Council, Planning Commission and Board of Adjustment concerning amendments to the General Plan, zoning and zone changes, amendments to the Land Management and Development Code, preliminary and final subdivision plat approvals, conditional use permits, master planned development approvals, temporary use permits, certificates of appropriateness for design or demolition, appeals, variances and other requests of actions of the Board of Adjustment shall be provided in accordance with this section. Notice of amendments to the General Plan, this Code and zoning actions shall be given at least fourteen (14) days before the date set for the hearing. Notice of amendment or vacation of subdivision plats, when required, shall be given in accordance with State law. All other notice required herein shall be given at least fourteen (14) days before the date set for hearing, if a hearing is required under this code. See Table 1.1 in this section for a general summary matrix of the notice requirements. All notice required under this section shall be given as follows:

1.6.1 Posted Notice

The Town Staff or Planning and Zoning Secretary shall post or cause to be posted notice on the property affected by the application and in at least three

other public places within the Town, stating that an application concerning the development of that property has been filed, and stating that more detailed information concerning the application is available from the Town Recorder.

1.6.2 Published Notice

Published notice shall be given by publication in a newspaper having general circulation in Amalga Town. Published notice shall state that an application has been filed affecting the subject property, or that an appeal has been requested, the nature of the application or action, and the time, place and date set for public hearing on the matter. The published date of the notice, not the date of submittal to the newspaper must meet any notification timing requirements designated in this Code for the meeting.

1.6.3 Courtesy Notice

As a courtesy to property owners, the applicant shall provide the Town with stamped and pre-addressed envelopes for each owner of record of each parcel located entirely or partly within 1000 feet from any boundary (2500 feet for zoning or re-zoning) of the property subject to the application, together with a mailing list for those owners. The addresses for adjacent owners shall be as shown on the most recently available Cache county tax assessment rolls. The courtesy notice shall state that an application has been filed affecting the subject property, or that an appeal or call-up has been made, the nature of the application or action, and the time, place and date set for public hearing on the matter. Courtesy notice is not a legal requirement, and any defect in courtesy notice shall not affect or invalidate any hearing or action by the Town Council or any board or commission.

1.6.4 Proof Of Notice

Proof that notice was given pursuant to either subsection 1.6.1 or 1.6.2, above is prima facie evidence that notice was properly given. If notice given under authority of this section is not challenged as provided for under State law within 30 days from the date of the hearing for which the challenged notice was given, the notice is considered adequate and proper.

AMALGA TOWN	APPLICATION NOTICE MATRIX		
	ACTION	POSTED	MAILED *

Zoning or Re-Zoning	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Council	To all owners of the Property and all owners within 2500 feet, 14 days prior to each hearing	Once, 14 days prior to each hearing before the Planning Commission and Town Council
Amendment to the Land Management and Development Code	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Council	-NA-	Once, 14 days prior to each hearing before the Planning Commission and Town Council
Amendment to the General Plan	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Council	-NA-	Once, 14 days prior to each hearing before the Planning Commission and Town Council
Preliminary and Final Subdivision, Plat, Conditional Use Permits, Master Planned Developments	At least 3 places, 14 days prior to each hearing before the Planning Commission and Town Council	To all owners of the Property and all owners within 1000 feet, 14 days prior to each hearing	Once, 14 days prior to each hearing before the Planning Commission and Town Council
Appeals to Board of Adjustment - Variance Requests, etc.	At least 3 places, 14 days prior to each hearing before the Board of Adjustment	To all owners of the Property and all owners within 1000 feet, 14 days prior to each hearing	Once, 14 days prior to each hearing before the Board of Adjustment

*courtesy notice – see section 1.6.3

Table 1.1 Application Notice Matrix

1.7 Creation of Districts and Zone Map

In order to carry out the purposes of the Code, zone districts have been established as set forth in Chapter 7 of this Code. These zone districts are identified on the official zoning map, which is adopted as a part of this Code. In interpreting the zoning map, the following standards shall apply:

- (a) The zoning boundary lines are intended to conform to existing property boundary lines when not in a public right-of-way, or to follow the center line of public rights-of-way (including prescriptive rights-of-way), unless the lines are located by specific dimensions, in which case the dimensions shall control. Where the zoning district lines approximately follow the lot lines as they exist at the date of adoption of this Code, the district lines shall be conformed to the lot lines.
- (b) Where the zoning district lines appear to have intentionally divided a lot or parcel between two or more districts, the applicable zoning for each portion of the lot or parcel shall be determined by using the scale shown on the map. If the placement of the district line cannot be

determined, the standards of the zone allowing the less intensive land use shall be applied to the entire parcel.

- (c) Where the district lines are intended to follow natural land contours, such as the ridge tops, hillsides or waterways, the line shall be determined at the point at which the general slope of the land changes to 15% grade or in the case of waterways, the average centerline of the waterway. In the event of a dispute as to the location of the change in grade, the point shall be fixed with reference to topographic data submitted to the Town. Where land of less than 15% slope is surrounded by land of 15% or greater slope, the Planning Commission shall entertain an application to rezone the land of less than 15% slope to a suitable residential use if the Town Board determines that the land is adequately accessible and not within a sensitive lands overlay zone or designation, and one access of which is a road of standard width that does not exceed 8% grade, and that the grading of the road or roads to reach the land in question will not create hydrologic, erosion, geologic, or similar hazards for land lying below the proposed road, and that all cuts and fills for the road can be safely stabilized.

1.8 Penalties

Any person, firm, partnership, or corporation, or the principals or agents thereof violating or causing the violation of this Code shall be guilty of a Class "C" misdemeanor and punished upon conviction by a fine and/or imprisonment. In addition, the Town shall be entitled to bring an action to enjoin the continuation of the violation. Private Citizens of Amalga Town or property owners shall also have a right to file actions to enjoin the continuation of a violation affecting their interests, provided that the plaintiff in such action shall give notice of the action to the Town Recorder prior to filing the action.

1.9 Licensing

All departments, officials and public employees of the Town who are vested with the duty or authority to issue permits or licenses, including business licenses shall conform to the provisions of this Code, and shall issue licenses and permits only in conformance with the provisions of this Code. Licenses issued in violation of this Code shall take no effect, and are null and void.

1.10 Zoning Map Adopted

The zoning map for Amalga Town as presented to the Town Council and executed by the Mayor is the official zoning map for Amalga Town. Upon amendment to the zoning map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon in a timely manner.

1.11 Permit Procedure Under the Code

No zoning clearance shall be issued for any building project unless the plans for the proposed structure have been submitted to and approved by the Planning and Zoning Commission. Proposals submitted to the Planning Commission shall be reviewed according to either the Permitted Use Review process or the Conditional Use Review process, which includes Planned Residential Unit Developments. Subdivisions, including Planned Residential Unit Developments and conditional use applications, may be initially reviewed by Town staff and submitted to the Planning Commission for review and approval. Final approval of subdivisions and conditional use permits must be granted by the Planning and Zoning Commission. No planning review shall occur until all applicable planning application fees have been paid, and no final Town Council approval shall be effective until all other fees assessed by this Code or other ordinance, including applicable staff review and engineering fees have been paid. Upon issuance of final approval under either review process, the plans are forwarded to the Building Department or Building Official for zoning clearance issuance under the provisions of the International Building Code, as adopted and/or amended by Amalga Town.

1.12 Permitted Use Review Process

On any proposal to construct a building or other improvement to property which is defined by this Code as a permitted use in the zone in which the building is proposed, the Planning Commission shall review the submission to determine whether the proposal:

- (a) is a permitted use within the zone for which it is proposed,
- (b) complies with the requirements of that zone for building height, setback, side and rear yards, and lot coverage;
- (c) complies with the applicable parking requirements;
- (d) the plan conforms to any architectural design guidelines established for that zone or area;
- (e) will require an environmental impact statement if it lies in a sensitive lands area as defined in chapter 7;
- (f) has met the requirements of the infrastructure review process as defined in 1.13;and
- (g) will require a certificate from the technical review committee as outlined in Section **3.25**

Upon finding that the proposal complies with the applicable zoning requirements, and can be adequately serviced by existing utility systems or lines, the plans shall be reviewed for Building Code compliance and permit issuance.

If the submission does not comply with the requirements of the zone, the Planning Commission Secretary shall so notify the owner of the project or his agent, if any, stating specifically what requirements of the zone have not been satisfied, and also stating whether the project should be reviewed as submitted or as a conditional use for that zone.

1.12.1 Application for Permitted Uses

The application for a zoning clearance for a permitted use shall contain the following information, in addition to information required by the International Building Code:

- (a) When a structure is to be built; the footing and foundation details, site plan, and elevations of all sides of the structure shall be submitted with the application, and all fees paid, prior to excavation.
- (b) A Site Plan Showing the Lot and the Location of the Proposed Structure on the Lot. The site plan must be drawn to scale if required by the Planning Commission. A certified survey may be required on projects with structures on or near the lot lines, or when the lot lines are difficult to determine from existing plats and monuments. Topographic data may be required when the site is sloping or when the building height cannot be readily determined from the elevations without topographic data.
- (c) A statement of the name and address of the owner or responsible agent, and a telephone number.
- (d) The location of the proposed structure by street address or by reference to existing structures so that the location can be identified and assigned a street address.
- (e) A legal description of the property and proof of ownership.
- (f) The location and size of adjacent utility lines.
- (g) Approval of permitted uses shall be noted by the issuance of a zoning clearance in compliance with the provisions of the International Building Code, and this Code.

1.13 Review and Regulations for Impact on Public Infrastructures

1.13.1 Infrastructure Review

Although the Town endeavors to provide infrastructure which will adequately serve buildings and structures allowable within each zone in Amalga Town, certain buildings, developments, and structures, because of size, type of construction, or lot characteristics, present peculiar or excessive demands on Town infrastructure. For these reasons, the developer may be held responsible to perform an impact analysis in a form and methodology acceptable to the Town to determine the possible impacts on infrastructure.

In order for the Town to determine whether existing infrastructure is adequate, or what additional infrastructure is needed to meet the particular needs of certain types and sizes of buildings and structures which are permitted uses in the zone;

the following types and sizes of proposed buildings and structures as well as developments are subject to the review process for impact on existing infrastructure, whether the uses are permitted or conditional:

- (a) All commercial or multifamily buildings or structures of Class III, IV or V construction, as defined by the International Building Code, greater than 10,000 square feet, or;
- (b) Any building or structure over 10,000 square feet within fire separations as defined in the International Building Code, or;
- (c) All commercial or multifamily buildings and structures located on parcels of one-half acre or larger, or;
- (d) All buildings or structures which are required to have fire sprinkling systems under Amalga Town or Fire District ordinance or resolution, or;
- (e) All buildings or structures located on lots which have an average slope of more than 15 percent, or;
- (f) Any industrial or manufacturing facility that deals with products or processing materials that are or could become explosive, flammable or toxic according to the Uniform Fire Code, or,
- (g) Any Subdivision or Master Planned Development project with 4 or more dwelling units, but not including minor subdivisions or minor MPD's, or
- (h) Any development that requires the extension of any public infrastructures or utilities of over 1000 feet.

1.13.2 Scope of Review

For proposed buildings, structures or uses which are permitted or conditional uses in the zone in which the building or structure is proposed, the review shall include the determination of the ability of existing Town infrastructure to provide adequate water for culinary, irrigation and fire flow purposes, the proper handling of snow melt, snow storage, storm drainage, slope preservation, mitigation of impact on roads by construction and permanent traffic, and ensuring safe access for users and emergency vehicles in accordance with Town codes, standards, and ordinances as set forth in this ordinance which shall be in addition to all other adopted codes and ordinances, including the Codes of other Jurisdictional Governing Authorities. For conditional uses or master planned developments in the zone in which the building, structure or use is proposed, the infrastructure review which is a part of the regular conditional use or master plan development review process is specified below and may involve additional regulations. The technical review committee may be used if constituted as per this code, to assist in the infrastructure impact review process.

1.13.3 Review Procedure

Conditional uses and buildings and structures which, although are permitted uses in the zone proposed and not subject to zoning or use review, are subject to review for impact on existing infrastructure according to the standards described in this section. The following review procedure shall be followed:

- (a) **Application for Zoning Clearance.** Upon making an application for a zoning clearance, the applicant shall supply the Planning Commission with plans and specifications sufficiently detailed to determine whether the proposed building(s) or structure(s) are subject to further infrastructure review. If, according to the standards found in this section, any proposed building or structure triggers infrastructure impact review, then a zoning clearance shall not be issued until the Planning Commission or other Town Staff reviews the impact of the proposed buildings and structures on existing Town and/or other infrastructure to determine what, if any, additional infrastructure is necessary.
- (b) **The Application.** Upon referral of the application for a zoning clearance to the Town for infrastructure impact review, the Town may request from the applicant any additional studies, plans, surveys, specifications and information necessary to review the infrastructure impacts. The following types of information may be requested by the Planning Commission to the extent relevant:

1.13.3.1 To Determine the Impact on Drainage:

- (a) A map of the site showing the existing conditions prior to the demolition of any existing structures and any grading, any known geologic or natural hazards, with north arrow and scale;
- (b) topography with contours shown at intervals of not more than five feet of the site and as the site adjoins contiguous properties;
- (c) vegetation type and location;
- (d) soil type and load carrying capacity information;
- (e) 100 year flood plain and high ground water areas, known spring and seep areas and ditches or canals;
- (f) all existing roads, fences, irrigation ditches, and drainage facilities;
- (g) location and size of the nearest storm drainage facilities the site could drain to, water lines and sanitary sewer lines; and where and how the developer proposes to connect to the existing drains.
- (h) site plan of the proposed buildings and structures showing building locations;
- (i) proposed road locations and other circulation features;
- (j) proposed finished grades;
- (k) proposed drainage, drainage works, detention ponds, retaining walls, and erosion control plans;

1.13.3.2 To Determine the Impact on Culinary Water, Fire Flows and Sewage:

- (a) location and size of the nearest water main and sanitary sewer lines to the project to which the project can drain or be supplied; and where and how the applicant proposes to connect to the systems;
- (b) site plan and floor elevations (including building height) of all proposed buildings and structures showing building locations, construction type and materials;
- (c) proposed easements for new utility services or relocated utility services;
- (d) fire hydrant locations and building sprinkling plans;
- (e) estimated peak culinary water demands, including irrigation and water demand for fire flows;
- (f) proof of “wet” water in adequate quantity and quality, acceptable to the Town standards. if the developer is supplying his/her own water or is transferring water rights to the Towns culinary system;
- (g) other specific information and scientific data and opinions which, in the opinion of the Planning Commission, is useful or necessary for the meaningful review of the project. Such additional information may be required from the applicant based on the nature of the project or the site.

1.13.3.3 To Determine the Impact on Slope Retention:

- (a) Topography existing before construction and proposed finished grades, both on the site and as they relate to adjoining property;
- (b) proposed drainage, drainage works, retaining walls, and erosion control plans;
- (c) proposed landscaping;
- (d) complete, detailed construction drawings and support documentation of any and all structures sufficient to demonstrate compliance with applicable standards, codes and ordinances; or general architectural concept drawings of proposed buildings, showing roof plan and cuts and fills;
- (e) other specific information and scientific data and opinions which, in the opinion of the Planning Commission, is useful or necessary for the meaningful review of the project. Such additional information may be required from the applicant based on the nature of the project or the site.

1.13.3.4 To Determine the Impact on Streets and Pedestrian Facilities:

- (a) prepare a site plan which coordinates pedestrian connections, sidewalks, and bike paths if any such pedestrian facilities are shown on

the Trails Element of the General Plan or the Transportation Element of the General Plan, if they are currently adopted;

- (b) submit construction staging location plan;
- (c) submit estimated truck traffic trip numbers for construction traffic;
- (d) if requested by the Town Engineer, the project applicant shall submit reproducible measurable pavement quality testing analyses for each street or roadway which will be utilized by any traffic generated by or relating to the proposed project, including but not limited to construction traffic. Such analyses will be submitted both before permit issuance and before building occupancy and shall use a nationally recognized pavement quality testing machine as approved by the Town Engineer. Such analyses will be used to determine construction impacts on existing streets at the end of construction such that repairs can be made at the expense of the project proponents to return the pavement to its original quality.

1.13.4 Department Action

Within 30 working days from the receipt of the complete application including all requested information for infrastructure impact review, the Planning Commission and/or other appropriate Town officials shall have reviewed the project and determined whether existing infrastructure is sufficient to adequately serve any proposed buildings or structures. If the data is sent to an engineer or other consultant for determination of impacts, the applicant shall pay the costs associated with the professional review.

If the existing infrastructure is adequate to serve any proposed buildings or structures, then a zoning clearance shall be issued in accordance with the International Building Code and Town Ordinances. If upon review existing infrastructure is found to be inadequate to serve any proposed buildings or structures, the zoning clearance shall be withheld. At the option of the Town, the applicant may either

- (a) Change the type, scale or location of any and all proposed buildings or structures in such a manner that existing infrastructure may adequately serve all proposed buildings or structures, or
- (b) Provide at applicant's expense the additional infrastructure necessary to adequately serve all of applicants proposed buildings or structures according to designs and specifications approved by the Town, or
- (c) Pay a proportionate share of a Town project that would mitigate the impact as detailed by the Town Council and/or its staff.

Upon submission of plans changing the type, scale or location of any or all proposed buildings or structures in such a manner that existing infrastructure is adequate to serve all proposed buildings or structures; or, upon submitting plans for additional infrastructure and a letter of credit or escrow agreement to the Town for the full cost of the additional infrastructure required as estimated by the Town Engineer, a zoning clearance shall be issued in accordance with Town codes and ordinances.

1.13.5 Appeal and Review

If the applicant does not agree with the determination of the Planning Commission or Town Staff that existing infrastructure is inadequate, or with the requirement for additional infrastructure, the applicant may request Town Council review. The Town Council is empowered to affirm, reverse or modify the determination of the Planning Commission, Town Staff or Town engineer/consultant. All actions regarding infrastructure impacts and their requirements of the Planning Commission or Town Staff are appealable to the Town Council and notice of any appeal shall be filed with the Town Recorder within seven (7) working days after the date of the decision which is being appealed.

If the Planning Commission or Town Staff has not acted on an application or has not indicated to the applicant what existing infrastructure is inadequate within 30 working days after complete information submission, the application shall be automatically forwarded to the Town Board for determination of adequacy of existing infrastructure.

1.13.6 Transferability

The infrastructure review and approval is transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

1.13.7 Expiration

If a zoning clearance is not obtained within twelve months from the date of approval, then the infrastructure review and approval process must be repeated prior to issuance of a zoning clearance. If a zoning clearance expires before actual construction of buildings or structures, the infrastructure review and approval process must be repeated prior to issuance of another zoning clearance.

1.13.8 Standards for Review

No zoning clearances shall be issued on buildings and structures subjected to infrastructure review unless it is found by the Town that there is sufficient infrastructure capacity, according to the standards adopted by the Town, either existing or to be provided by the applicant to adequately serve the proposed buildings and structures. Specific review items include: delivery of adequate water for culinary and fire flow purposes, safe vehicular and pedestrian access for owners, users and emergency vehicles, and proper handling of snow melt and storm drainage and slope preservation. The standards to be applied for review are:

- (a) **Standards for Water Delivery.** The standards for adequate delivery of water shall be as applicable: the Amalga Town Fire Flow Standards, if adopted; the Cache Fire District Fire Flow Standards; the ISO or NFPA standards for fire flow, the Amalga Town Design Standards, Construction Specifications and Standard Drawings, if adopted; and, the County and/or State Department of Health, Drinking Water Regulations as now constituted and as may be amended.
- (b) **Standards for Site Drainage.** The standards for adequate site drainage are the International Building Code, as adopted by statute, or its successor, and the Amalga Town Design Standards, Construction Specifications and Standard Drawings as now constituted or as may be adopted or amended.

- (c) **Standards for Access.** The standards for access to the building or structure are the 1985 Uniform Fire Code adopted by statute, or its successor, the Transportation and Circulation Element of the General Plan or Land Use Map, the Amalga Trails Element of the General Plan, if adopted, and the Amalga Town Design Standards, Construction Specifications and Standard Drawings as now constituted or as may be adopted or amended.
- (d) **Standards for Slope Retention.** The standards for slope retention are the International Building Code, as adopted by statute, or its successor and the Amalga Town Design Standards, Construction Specifications and Standard Drawings as now constituted or as may be amended.

1.14 Conditional Use Review Process

Although each zone district is an attempt to segregate predominant land uses within identified residential, commercial, agricultural, and similar districts, there will be proposals that are generally compatible in land use with other permitted uses in the zone, and if properly and carefully planned, these uses, which are different from the predominant use, or more intensive than permitted uses in the same zone, may become compatible and appropriate for the zone in question. For example, the location and nature of the proposed use, the character of surrounding development, traffic capacities of adjacent and feeder streets, environmental factors such as drainage, erosion, and soil stability, all may dictate circumstances where a more intensive use may or may not be appropriate for the zone. The conditional use procedure is intended to provide greater flexibility in land uses while at the same time, preserving neighborhood character and assuring compatibility between the conditional uses, the uses on adjoining properties, and the Town at large. Development of conditional uses will be subject to review by the Town Staff, the Planning Commission and the Town Council, and may be allowed subject to conditions imposed for the purpose of preserving the character of the zone district, and mitigating potential adverse effects of the conditional use. Where conditions to the use cannot be devised to satisfactorily mitigate adverse effects of the conditional use, the application for a conditional use permit shall be denied. Any land use that is defined in this Code as a conditional use for the zone in which it is proposed shall be reviewed according to the following procedure:

1.14.1 Pre-Application Conference

A pre-application conference may, at the request of the Planning Commission, be held with the Town staff or Planning Commission to determine the nature of the use and the general nature of conditions that might be imposed. At the pre-application conference, the Planning Commission or staff and the applicant shall review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the conditional use.

1.14.2 The Application

A conditional use application shall be filed on a form prepared by the Town, and shall, *if required by the Planning Commission*, be supported and accompanied by some or all of the following information (five sets are required):

- (a) A map of the site showing the existing conditions prior to the demolition of any existing structures and any grading, showing north arrow and scale;

- (b) A map identifying the subject site in relation to adjoining public streets and the neighborhood in which it is located with north arrow and scale;
- (c) The boundaries of the site, and any easements of record or known prescriptive easements;
- (d) Topography with contours shown at intervals of not more than five feet;
- (e) Vegetation type and location; soil type and load carrying capacity information;
- (f) 100 year flood plain and high ground water areas, known spring and seep areas and ditches or canals as well as known wetlands;
- (g) All existing roads, fences, irrigation ditches, and drainage facilities;
- (h) Location of public utility facilities and easements;
- (i) Site plan of the proposed conditional use showing building locations;
- (j) Proposed road locations and other circulation features;
- (k) Proposed finish grade;
- (l) Proposed drainage, drainage works, retaining walls, and erosion control plans;
- (m) Proposed location of all site improvements such as arenas, barns, plazas, tennis courts, pools, and similar improvements;
- (n) Proposed easements for new utility services or relocated utility services;
- (o) Proposed landscaping;
- (p) Designations of proposed ownership of areas shown on site plan as being part of a condominium unit, common area, dedicated open space;
- (q) Proposed intersections with existing public streets;
- (r) General architectural concept drawings of proposed buildings;
- (s) Lighting plans, if any;
- (t) Signage plans, if any;
- (u) Proposed location of a common satellite receiving station or other antennae;
- (v) And any other information as may be useful or necessary for the meaningful review of the project. Additional information may be requested at the pre-application conference or other appropriate time, based on the nature of the project or the site .

1.14.3 Written Statement and other Documentation

A written statement with some or all of the following documentation containing and/or explaining the following information may be required:

- (a) A preliminary title report showing the title to the property, and listing all encumbrances, covenants, easements, and other matters affecting title, and a legal description of the site;
- (b) Copies of any covenants or easements which are referred to in the title report;
- (c) A development schedule indicating phased development, if any, and the estimated completion date for the project;
- (d) Stamped and addressed envelopes for all property owners within one thousand (1000) feet of the perimeter of the site or lot line with their current mailing addresses as shown from the most recently available county assessment rolls.
- (e) A general description of the project, prospective tenants or types of tenants or occupants,.
- (f) Any other information that might be helpful to the Town in reviewing the proposed use.

1.14.4 Notice/Posting

Upon receipt of the complete conditional use application and payment of all applicable fees, the Planning Commission shall cause notice to be given to the public in accordance with the provisions of Section 1.6 of this Code.

1.14.5 Public Comment

The posted, mailed, and published notice shall advise the public that a conditional use application has been filed on the site, and shall state that interested persons may obtain a copy of the application from the Planning Commission Secretary. The notice shall provide a public comment period for not less than 14 days during which written comments may be submitted for staff consideration while reviewing the project. Comments filed after the close of the comment period may be considered or disregarded by the Town. Interested parties may also make comment at the Planning Commission conditional use hearing. All persons who have submitted written comments shall receive notice of the approval or denial of the application and the conditions imposed.

1.14.6 Town Action**1.14.6.1 Time Frame**

Once an application is received, the staff will work diligently to review the application as quickly as time and workload allows. It is reasonable to expect that an application will appear before the Planning Commission with a recommendation within 90 days of receipt of the application, if the developer has been diligent in responding to requests for additional information required to process the application. The scale or complexity of a project or staff workload may necessitate a longer processing period. In such cases, the staff will notify the applicant when an application is filed as to the projected processing time frame.

1.14.6.2 Staff Review

The Planning Commission, Town staff and other appropriate Town officials, including the Technical Review Committee shall review the project and propose a conditional use permit encompassing the conditions of development and approval. The permit shall incorporate the site plans and architectural plans for the project. If the developer accepts the conditions imposed, the conditional use application shall be placed on the agenda of the Planning Commission for final approval. The staff may recommend immediate review of the permit to the next scheduled Planning Commission meeting (if notice requirements under section 1.6 can be met) if the Town staff determines that the conditions may be better prepared and evaluated by the Planning Commission, or if the permit requested is a minor or temporary conditional use.

1.14.6.3 Planning Commission Review

The Planning Commission shall determine if all points of this Code have been complied with for review and compliance of the conditional use processes and may further amend, add or delete conditions recommended by the Town staff prior to their approval. When completed, the Planning Commission will approve or deny the permit. If the Planning Commission denies the permit, the applicant may not appeal to the Town Council, but must amend and re-submit the application or appeal to the Board of Adjustment.

1.14.6.4 Town Council Approval

The Town Council may approve, amend or deny the conditional use permit as proposed by the Planning Commission. After approval by the Town Council, zoning clearances are to be issued by the Town building official as provided in the International Building Code and this Code.

1.14.6.5 Staff Appeal

If the Town and the developer are not able to agree on conditions of approval, the developer may still go before the Planning Commission for review or may withdraw the application. The review shall appear on the agenda for the next regularly scheduled meeting that has available time and meets notice requirements of section 1.6. Priority shall be given to reviews in preparation of the agendas.

If the Town staff has not acted on an application or has not indicated to the developer what aspects of the plan are not acceptable as proposed within 90 working days after submission, the developer shall have the right of review by the Planning Commission. The developer may, at any time in the review process, request review of the conditions of approval by the Planning Commission.

If the applicant does not agree with the findings or actions of the Planning Commission or the Town Council, the only avenue for appeal is to be heard by the Board of Adjustment, as per chapter 5 of this code.

1.14.7 Plat Approval

When a conditional use requires the recording of a plat, the final plat shall be taken to Planning Commission for plat approval only. The scope of review for plat approval is limited as set forth below in Section 1.21. Plat approval may be granted at the same time as the conditional use approval.

1.14.8 Transferability

A conditional use permit may be transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the

applicant to others only upon review and approval by the Planning Commission. The permit cannot be transferred off the site on which the approval was granted.

1.14.9 Expiration

Unless otherwise specified during the review and approval process, Conditional use permits shall expire one year from the date of the Town Council approval of the conditional use, unless substantial construction activity has commenced on the project. Substantial construction activity is evidenced by the developer obtaining zoning clearances for the project (or for the first phase of a phased project). Permits may be issued in stages, but the issuance of a footing and foundation permit is not evidence of substantial construction activity unless the permits for the remainder of the structure (or remainder of the phase, in phased projects) are paid for within six months of the issuance of the footings and foundation permit. Demolition permits do not evidence substantial construction work for purposes of extending a conditional use permit. Whether construction has commenced or not, the Town Council may grant an extension of the conditional use permits for up to one additional year when the applicant is able to demonstrate a legitimate need to delay the start of construction, such as inclement weather, delays in financing, or similar factors.

Where the Town Council has granted a temporary Conditional Use permit, that permit's expiration will occur on the date specified in the permit. Renewal of the permit after expiration in any type of conditional use will require a complete re-application as if no permit was granted previously and as procedurally outlined in this code.

1.14.10 Standards for Review

No conditional use permit shall be issued unless the Town finds that the application complies with all requirements of this Code; that the use will be compatible with surrounding structures in use, scale, mass and circulation; that the use is consistent with the Amalga Town General Plan; and that the effects of any differences in use or scale have been mitigated through careful planning. Review for impact on Town Infrastructures will be made as previously outlined in the section 1.13 procedures. All Infrastructure improvements must be concurrently constructed and timed carefully with the development and costs associated with them born by the developer as previously outlined. The Town shall review each of the following items when considering a conditional use permit:

- (a) Size and location of the site;
- (b) Traffic considerations including capacity of the existing streets in the area;
- (c) Utility capacity;
- (d) Emergency vehicle access;
- (e) Location and amount of off-street parking;
- (f) Internal traffic circulation system;
- (g) Fencing, screening, and landscaping to separate the use from adjoining uses;

- (h) Building mass, bulk, design and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;
- (i) Usable and permanent open space considerations;
- (j) Signage and lighting;
- (k) Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;
- (l) Noise, vibration, pollution, odors, steam, or other mechanical factors that might affect people and property off site;
- (m) Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up or waste storage areas;
- (n) Expected ownership and management of the project as primary residences, time interval ownership, nightly rental, or commercial tenancies;
- (o) Design or Architectural Review as may be advised by the Town;
- (p) Other Technical Review matters as may be advised by the town or the Technical Review Committee.

1.14.11 Sensitive Lands Review

If a conditional use approval is located within the Sensitive Area Overlay Zone, or designated area, additional requirements and regulations may apply.

1.14.12 Technical Review

The Planning Commission or Town Staff may require a certification of review from the technical review committee if one is established. This Committee may be set up to review and make suggestions to the Planning Commission regarding unique concerns or features of a project that may be beyond the expertise of the Town Planning Commission or Staff. Recommendations of that committee may be used as guidelines in the establishment of conditions under this permit as outlined in Section 3.25.

1.15 Appeals and Review Process

Decisions by the Planning Commission, or Town Council, or other Town official regarding conditional uses and zoning decisions or application of this code, may be appealed to the Board of Adjustment. Any person(s) within the Town who believes he/she may be adversely affected by a decision of the Town Council, Planning Commission or other Town official regarding the application of the decision or this code, and/or the owner of the subject property affected shall have standing to appeal a decision of the Planning Commission, Town Council, and/or other Town official or staff. Appeals from Town actions shall be by letter or petition and contain the name, address, and telephone number of the petitioner, his or her relationship to the project or subject property, and the reasons for requesting review, including specific provisions of this Code, if known, that are violated by the action taken.

1.15.1 Written Findings of Denial Required

The Planning Commission or Town Council shall always prepare detailed written findings on any application that it denies, amends or approves. These findings shall state the reasons for the action and the provisions of this Code or other Town ordinances, or guidelines, or applicable State or federal laws or regulations that would be violated by the action, if any, and the proposed conditions of action to be imposed and the reasons why those conditions were thought necessary. These findings shall then be made available to the Board of Adjustment for their use in the appeal process.

1.15.2 Appeal Petitions Process

Besides the owner of the property acted on by the Town and Town officials, any person living within the Town who submitted written comment on a proposal before the Planning Commission or Town Council, and the owner of any property affected within the Town has the right to appeal to the Board of Adjustment any final decision of the Planning Commission or the Town Council. The petition must be filed in writing with the Town Secretary within fifteen (15) calendar days of final project action. The petition for the appeal shall state the name, address, and telephone number of the petitioner and his/her agent, if any, the name of the project, and the grounds for the appeal. The Board of Adjustment shall set a date for the appeal hearing, which shall be no more than thirty (30) calendar days from the date the notice of appeal is filed with the Secretary and meet the notice requirements of section 1.6. The Town Recorder shall notify the petitioner and the owner of the project of the appeal date. The Town Recorder shall obtain the findings and all other pertinent information from the Planning Commission and Town Council and transmit them to the Board of Adjustment.

1.15.3 Action on Petitions

The Board of Adjustment may affirm, reverse, or affirm in part and reverse in part any decision of the Planning Commission, Town Council, or other Town official regarding conditional use or zoning decisions. The Board of Adjustment may remand the matter to the Planning Commission, Town Council, or other Town official with directions for specific areas of review or clarification. Board of Adjustment review of petitions of appeal shall be limited to consideration of only those matters raised by the petition(s), unless the Board by motion, enlarges the scope of the appeal to accept information on other matters it may legally hear.

1.15.4 Stay of Approval Pending Review or Appeal

Upon the filing of an appeal for review by the Board of Adjustment of a Planning Commission or Town Council decision, any action passed on this matter by the Planning Commission or Town Council will be suspended until the Board of Adjustment has acted on the appeal.

1.15.5 Appeal from the Board of Adjustment

Any appeal of a Board of Adjustment decision shall be taken in accordance with the provisions of section 10-9-708, Utah Code Annotated, 1953, and as may be amended.

1.16 Termination of Projects

It is the policy of the Town to require developers submitting projects to the planning process to move their projects to either approval or denial in a reasonably expeditious manner. The time required in the planning review

process will vary with the size and complexity of each proposal, and the establishment of exact time requirements for review is impractical. It is the policy of the Town to formally deny projects submitted to the process which remain inactive for long periods of time due to acts or omissions of the developer.

1.16.1 Termination of Applications

When the Town Board believes that a project that has been formally submitted is not making normal progress towards final approval, it shall take the project before the Planning Commission and request the Planning Commission to deny the project application and close the files with respect to that project. No project shall be taken to the Planning Commission for denial on the basis of inaction without giving 60 days written notice to the developer and the responsible agent by certified mail. Such notice shall state the intent of the Town Board to have the project denied because of inaction and the time, place, and date when the matter will be taken before the Planning Commission.

1.16.2 Inaction Defined

A project shall be deemed inactive and subject to denial on the basis of inactivity if, through the act or omission of the developer and not the Town:

- (a) More than three months has passed since the last meeting of the Town staff or Planning Commission and the developer;
- (b) More than three months has passed since a request for additional information was made by the Town staff which request has not been complied with or the developer's reasons for non-compliance are not stated;
- (c) The developer is more than 60 days in default of the payment of any fee assessed by ordinance, or has not paid the fee under protest;
- (d) The developer has stated his intent to abandon the project;
- (e) The project appears to have been abandoned; or
- (f) The application appears to have been filed in bad faith for the purpose of attempting to vest rights prior to a zoning change or code change, without actual intent to construct the project applied for.

Delays occasioned entirely by internal delays of the Town or any commission or board shall not be cause for termination.

1.16.3 Reinstatement

A developer may appeal the Planning Commission's denial of a project for inactivity to the Town Council, or the action may be called up by the Council. The Town Council may reinstate subject to payment of full or partial submission fees, reinstate subject to specific ordinance changes, or deny reinstatement. If reinstatement is denied, all interest in the application ends. If the developer desires to proceed with the project, he must start at the beginning of the process with a new submission and payment of new submission fees, and shall be subject to all ordinances then in effect.

1.17 Appearance before Boards, Commissions and Councils

All persons speaking before any Town agency, department, committee, commission, or board or the Town Council on behalf of the owners of any project shall provide reasonable evidence of their agency relationship with the owner. This agency shall be presumed if the spokesman is associated with the architect or engineer whose name appears on the plans, or if the owner is present. The Planning Commission may request other persons appearing to speak in any agency position with any project to provide a statement signed by the owner indicating the nature of the relationship and the authority of the agent to make decisions or representations concerning the project.

1.18 Variances and Special Exceptions

Any variances or special exceptions to this Code shall be granted only by the Board of Adjustment under the provisions of Chapter 5 of this Code prior to the issuance of any conditional use, master planned development, or other approval by the Planning Commission. All action on an application shall be stayed upon learning that a variance or special exception is required until the applicant shall have obtained the variance or special exception or his request is denied by the Board of Adjustment. Appeals from final action of the Board of Adjustment shall be made to the District Court as provided by state law, and not to the Town Council.

1.19 Vesting of Zoning Rights

Upon payment of the required application fees and submission of a completed application, as determined by Planning Commission, an applicant shall be entitled to have the filed application reviewed and acted upon pursuant to the terms of the Land Management and Development Code or development code and zoning map in effect at the time of filing of the application, subject to the exceptions set forth below. The applicant may take advantage of changes in the Code and zoning map that would permit greater density or more intense use of the land, provided however, that these changes may be deemed a modification of the plan and require the payment of additional planning review fees.

Non-zoning related matters, including, but not limited to site development standards, procedural requirements and building code requirements, will not vest until complete zoning clearance applications have been filed and required fees have been paid. Water and Sewer connection availability, costs of water and sewer connection and water development fees, and applicable impact fees and other charges will vest only upon payment of the zoning clearance application fees and submission of all the materials necessary for the issuance of a zoning clearance.

Vesting of all permits and approvals terminates upon the expiration or termination of the permit or approval.

1.19.1 Exceptions

Applicants shall not be entitled to review and approval of applications pursuant to the terms of the Code in effect at the time of application when revisions to the Code are pending at the time of application which would prohibit or further condition the approval sought, or when there exists a compelling reason for applying a new standard or requirement retroactively to the time of application.

1.20 Non-Conforming Uses

1.20.1 Non-Conforming Use Defined

As used in this Code, a non-conforming use is the use of any building, structure, or land which is prohibited by any zoning, building, or other regulatory ordinances, but which was lawfully existing prior to the effective date of such ordinance. Residential uses and residential structures occupied for residential purposes or vacant at the time of adoption of these provisions shall be exempted from the provisions of this Code. This shall not be construed to allow new residential construction except as provided by the provisions of the respective zones.

1.20.2 Non-Conforming Use of Open Land

A non-conforming use of land lawfully existing on the effective date of this Code may be continued provided such non-conforming use shall not be expanded or extended into any other portion of a conforming building or open land, and no structures, additions, alterations, or enlargements thereto shall be made thereon, except those required by law. If said non-conforming use is discontinued for a continuous period of more than one year, any future use of such land shall conform to the provisions of the zone in which it is located.

1.20.3 Non-Conforming Buildings

- (a) A nonconforming building in any zone may be continued for the period prescribed in this section, provided no additions or enlargements are made thereto and no structural alterations are made therein, except as allowed by a conditional use permit.
- (b) Subject to the provisions of this code, a conditional use permit may be granted to allow the expansion of a building which does not conform to height, lot coverage setbacks or area requirements if the following standards are met:
 - (1) That granting the expansion will not adversely impact the attainment of the General Plan.
 - (2) That the expansion will improve the general appearance or safety of the area.
 - (3) That by expanding the building, the character of the neighborhood is not adversely impacted.
 - (4) That the expansion will improve the area by providing additional or adequate parking, if necessary.
 - (5) That any expansion will be adequately screened or buffered, if needed, so as not to increase impacts to the adjoining properties.
- (c) Notwithstanding subparagraph (b) above, an existing single family dwelling, non-conforming as to side yard requirements but having a minimum side yard of not less than three feet may be extended in depth along the non-conforming building line to a maximum of one-half the length of the existing dwelling if such extension is for the purpose of enlarging and maintaining the existing dwelling or required parking and provided such enlargement does not increase any other non-conformity

which may exist and conforms to all other regulations of the zone in which it is located.

- (d) If a non-conforming building is removed, every future use of the land on which the building was located shall conform to the provisions of this Code.

1.20.4 Non-Conforming Use of Conforming Buildings

- (a) The non-conforming use of any conforming building lawfully existing on the effective date of this Chapter may be continued provided such non-conforming use shall not be expanded or extended into any other portion of the conforming building nor shall any structural alterations except those required by law be made, and if such non-conforming use is discontinued for a continuous period of more than six (6) months, any future use of such building shall conform to the provisions of the zone in which it is located.
- (b) A building or structure non-conforming as to use regulations shall not be added to or enlarged in any manner if the expansion involves any structural alteration of the building, except as allowed by a conditional use permit. Subject to the provisions of this code, the use of a building or structure may be expanded, subject to the terms of an approved conditional use permit, if the following standards are met:
 - (1) The expansion of the use will not adversely impact the surrounding properties.
 - (2) The proposed expansion is compatible with the surroundings.
 - (3) The site of the proposed expansion conforms to all site development requirements as physically possible, given existing site limitations.
 - (4) The proposed expansion shall not create new nonconformity.
 - (5) No expansion of a non-conforming use shall be allowed which would extend beyond the original lot or tract of land.

1.20.5 Non-Conforming Use of Nonconforming Buildings

The non-conforming use of a non-conforming building lawfully existing on the effective date of this Code may be continued for the period prescribed in this section, and may be expanded or extended throughout such building provided no structural alterations except those required by law are made therein. If no structural alterations are made or required, a non-conforming use of a non-conforming building may be changed to another use of the same or more restrictive classification. If such non-conforming use is discontinued for a continuous period of more than one (1) year, any future use of the said building shall conform to the provisions of this code and of the zone in which it is located.

1.20.6 Change in Status of Non-Conforming Use

If a non-conforming use is vacated, it may be succeeded by an equally restrictive or more restrictive non-conforming use provided such change is effected within six (6) months. After a change to a more restrictive use is in effect that change shall be evidence that the less restrictive non-conforming use has been abandoned and thereupon loses any vested right as such, and the degree of non-

conformity may not subsequently be increased by changing back to a less restrictive use.

1.20.7 Reconstruction of Non-Conforming Building Partially Destroyed

A non-conforming building destroyed to the extent of not more than fifty (50) percent of its reasonable replacement value at the time of its destruction by fire, explosion, or other casualty or act of God or public enemy, may be restored and the occupancy or use of such building or part thereof which existed at the time of such partial destruction may be continued subject to all of the provisions of this Code.

1.20.8 Non-Conformance Limited to Zone Groups

Notwithstanding any other provisions of this Code, no uses permitted in any one of the Residential or Agricultural zones and lawfully existing in any one of the residential or agricultural zones at the time of the effective date of this Code shall be considered non-conforming in the zone in which it is located; no uses permitted in any one of the commercial or light manufacturing or industrial zones and lawfully existing in any one of the commercial or light manufacturing or industrial zones at the time of the effective date of this Code shall be considered non-conforming in the zone in which it is located. This Section shall be applicable only to non-conforming uses.

1.21 Repealer, Savings Clause and Continuation Of Prior Ordinances

1.21.1 The 1975 Amalga Town Zoning Ordinance

The Amalga Zoning Ordinance of 1975 and all previous zoning ordinances enacted by the Town of Amalga are hereby amended and re-codified in their entirety to read as herein provided by this Amalga Town Land Management and Development Code.

1.21.2 Continuation of Prior Ordinances

The amendment of all zoning and/or development ordinances heretofore enacted by the Town of Amalga shall not:

- (a) Affect suits pending or rights of the Town existing immediately prior to the effective date of this ordinance.
- (b) Impair, void, or affect any grant or conveyance made or right acquired or cause of action as of the effective date of this Code or now existing.

1.21.3 Continuation of Similar Provisions

The provisions of this ordinance insofar as they are the same or substantially the same as any prior ordinances shall be construed as a continuation of the prior ordinance.

1.21.4 Severability

If any phrase, clause, sentence, paragraph, or section of this Code shall be declared unlawful by any court of competent jurisdiction, such decision shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

1.21.5 Effective Date

This Ordinance shall become effective upon adoption by vote of the Amalga Town Board and posting required by law.

1.22 Conflicts Within the Code

Every effort is made by the Town to insure that this code is readable, understandable, and contains as few defects as possible. If however, any conflicts, defects, inconsistencies or ambiguities are found within different sections and/or chapters of this code, the Planning Commission shall follow the section or wording that is more restrictive, stringent or of a higher standard as defined or interpreted by the Planning Commission.

The Planning Commission shall then make every effort to amend the code to further clarify or repair the defect, conflict, inconsistency or ambiguity.

2.0 Definition Usage

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

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

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

2.1 Access

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

2.1.1 Accessory Apartment (revised June 13, 2007)

An area within a single-family owner-occupied residential dwelling such as a basement or garage which may be independently rented or leased strictly in accordance with the requirement of section 3.16 of Chapter 3 of this Land Management and Development Code.

2.2 Accessory Building

A building upon the same lot (or on a contiguous lot under the same ownership) as the principal building and which is (1) clearly incidental to, and customarily found in connection with such principal building or use and (2) is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use. Small storage buildings of 120 square feet or less, without plumbing, natural gas or electricity do not require a zoning clearance, but must be located at least one foot from the property line and at least 30 feet from any public road. This provision applies in all zones. (Revised 05/2001)

2.3 Accessory Use

Shall mean a use conducted on the same lot as the principal use or structure with which it is associated; and is a use which is clearly incidental to and is customarily found in connection with such principal use; and is either in the same ownership as such principal use or is maintained and operated on the same lot substantially for the benefit or convenience of the owners, occupants,

employees, customers or visitors of the principal use. No accessory use shall be allowed on any lot or parcel unless the permitted use is being actively utilized.

2.4 Administrative Permit

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

2.5 Agriculture

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

2.6 Alley

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

2.7 Antenna

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

2.8 Apartment House

A multiple dwelling; see Dwelling, Multi-Family.

2.9 Applicant

The owner of land proposed to be subdivided and/or developed or his/her representative. Consent shall be required from the legal owner of the premises.

2.10 Application

A form or checklist supplied by the Town Council or Planning Commission indicating the data and information necessary to process the Applicant's proposed project(s).

2.11 Arterial

A road intended to allow through traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within or without the town and/or as a route for traffic between communities or large areas.

2.12 Attached Building

Units connected on one or more sides to an adjacent unit or units by a common party wall with separate exterior entrance for all unit(s). This shall apply to commercial as well as residential units.

2.13 Balcony

A platform that projects from the wall of a building and is surrounded by a railing or balustrade.

2.14 Bed and Breakfast Inns

A dwelling, including those dwellings of historical significance in which two to eight rooms are rented out by the day, offering overnight lodging to travelers, and where one or more meals are provided to the guests only, the price of which may be included in the room rate.

- 2.15 Block**
A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad or utility rights-of-way, shore lines of water ways, or boundary lines of municipalities.
- 2.16 Boarding House**
A building other than a hotel, cafe, or restaurant with two or more bedrooms where for direct or indirect compensation lodging and/or kitchen facilities or meals are provided for boarders and/or roomers not related to the head of the household by marriage, adoption, or blood.
- 2.17 Building**
Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.
- 2.18 Building, Attached**
(See Attached Building.)
- 2.19 Building, Detached**
Any building or structure clearly separated from another building on the same lot.
- 2.20 Building, Main**
The principal building, or one of the principal buildings on a lot, or the building or one of the principal buildings housing a principal use upon a lot.
- 2.21 Building Pad Line**
The building pad line denotes that area in which the entire new structure must lie..
- 2.22 Building, Public**
Structures constructed by or intended for use by the general public such as libraries, museums, the municipal or public works buildings, etc.
- 2.23 Building and Zoning Inspector or Official**
The person designated by the Town to enforce the Zoning Ordinance and development codes as enacted by the Town. Generally the Building Inspector or Official shall administer these regulations.
- 2.24 Business Offices**
Any site or location which provides space for the transactions, service, or administration by a commercial enterprise and/or where storage of goods and sale of merchandise is minimal and secondary to performance of the service.
- 2.25 Canopy**
A roof structure constructed of fabric or other material placed so as to extend outward from a building providing a protective shield for doors, windows, and other openings, supported by the building and supports extended to the ground directly under the canopy or cantilevered from the building.
- 2.26 Capital Improvements Program**
A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the physical assets for the community are included.

2.27 Caretaker Boarding

Boarding provided on premises to employees whose primary responsibilities are the care, maintenance, and upkeep of the house and grounds.

2.28 Child Care Center

A center-based facility in which the provision of Child Day Care for 13 or more children occurs on a regular basis.

2.29 Child Day Care

The provision (day or night) of supplemental parental care instruction and supervision (a) for a non-related child or children; (b) on a regular basis; and (c) for less than 24 hours a day. As used in this Ordinance, the term is not intended to include baby-sitting services of a casual, non recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocal child-care by a group of parents in their respective domiciles.

2.30 Collector Roads

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

2.31 Common Open Space

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

2.32 Conditional Use

A use requiring special consideration and review in the manner set forth in Chapter 1 of this Code and for which a conditional use permit is required pursuant to this code.

2.33 Condominium

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

2.34 Construction Plan

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

2.35 Convalescent Home

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

2.36 Coverage

Lot area covered by a building.

2.37 Cul-de-sac

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

2.38 Developer

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

2.39 Dwelling

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

2.40 Dwelling, Multi-Family

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

2.41 Dwelling, Single Family

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

2.42 Easement

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his or her property.

2.43 Escrow

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

2.44 Family

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

2.45 Family Day Care

The provision of child day care for four to six children, inclusive, including the provider's own children under the age of 18, if they are cared for in the same area of the structure designated for Family Day Care.

2.46 Family Group Day Care

The provision of Child Day Care for seven to 12 children, inclusive, including the provider's own children who are under the age of 18, if they are cared for in the same area of the structure designated for Family Group Day Care.

2.47 Fence

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

2.48 Final Approval

Final approval by the Town Council, Planning Commission or Board of Adjustment (if required), of a plan, project, rezoning, use, activity, or other

action that shall be given after all the requirements set out in the Preliminary Approval have been met and after all concerns of the reviewing agency regarding such plan, project, rezoning, use, activity, or other action have been addressed and answered. Final approval does not refer to plat approval unless the plat is submitted simultaneously.

2.49 Final Plat

The final map or plan or record of a subdivision and any accompanying material to be submitted before approval, as described in these regulations.

2.50 Flexible Zoning

Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, master planned developments, group housing projects, community unit projects, average density or density zoning projects, as this code may permit or regulate.

2.51 Flood Plain Area

An area adjoining a river, stream, or water course, or other body of standing water in which a potential flood hazard exists due to inundation or overflow of water having sufficient volume and velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses. Any area designated as a flood plain by the Department of Housing and Urban Development or the Federal Emergency Management Agency or any other agency of the United States Government or State and Local Government Agencies, including the Town of Amalga.

2.52 Floor Area

The floor area is the area of a building that is enclosed by surrounding exterior walls, excluding a 600 square foot allowance for garages. This definition is for planning purposes only and may conflict with other methods of calculating square footage such as the International Building Code.

2.53 Floor Area Ratio

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

2.54 Frontage

That side of a lot abutting on a street and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side on a corner lot. [Amended 2010]

2.55 Frontage Block

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

2.56 Frontage Street

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

2.57 Garage, Private

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

2.58 Garage, Public

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

2.59 General Plan

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

2.60 Geologic Hazard

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

2.61 Governing Body

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

2.62 Grade

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

2.63 Grade, Natural

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

2.64 Guarantee

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

2.65 Guest House

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

2.66 Habitable Space (Room)

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

2.67 *Hard-surfaced*

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

2.68 *Health Department and Health Officer*

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

2.69 *Height*

The vertical distance from natural undisturbed grade to the highest point of the roof..

2.70 *Highway, Limited Access*

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

2.71 *Home Occupation*

See the Supplementary Regulations in Chapter 3, section 3.11, for a detailed definition.

2.72 *Hotel/Motel*

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

2.73 *Hotel Room*

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

2.74 *Hotel Suite*

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

2.75 *Impact Analysis*

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

2.76 *Improvements*

See Lot Improvements or Public Improvements.

2.77 *In-Home Baby-sitting*

The provision of child day care for fewer than four children.

2.78 *Joint Ownership*

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

2.79 Kitchen

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

2.80 Limits of Disturbance

The limits of disturbance line indicates the area in which construction activity must be contained.

2.81 Local Government

The City or Town of Amalga, Utah.

2.82 Local Government Attorney

See Town Attorney.

2.83 Local Government Engineer

See Town Engineer.

2.84 Local Road

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

2.85 Lot

A parcel or unit of land, with the potential to meet frontage and rear and sideyard setback requirements, describable either by metes and bounds, or by other legal plat designation held or intended to be held in separate ownership or leasehold, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into smaller units. A lot may not necessarily be buildable. All structures must be built and maintained upon a qualified and approved lot. Required frontage and rear and sideyard requirements must also be maintained.

2.86 Lot, Corner

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

2.87 Lot Depth

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

2.88 Lot Improvement

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

2.89 Lot Line, Front

The property line dividing a lot from the right-of-way of the street. A front setback shall be required for each side of a parcel which borders a public street or right-of-way. See the Supplementary Regulation Chapter for specific setbacks on unusual lots. [Amended 2010]

2.90 Lot Line, Rear

The property line opposite the front lot line.

2.91 Lot Line, Side

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

2.92 Lot Width

The minimum distance between the side property lines.

2.93 Major Street Plan

See Official Zoning Map or Land Use or Zoning Maps. The Major Street Plan is part of these map(s).

2.94 Manufactured Home

A manufactured home is a structure transportable in two or more modules which is built on a permanent chassis and when connected to required utilities, and plumbing, heating, air conditioning and electrical systems contained therein, is designed to be used as a dwelling with a permanent foundation and footing.

2.95 Major Subdivision

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

2.96 Master Plan

See General Plan.

2.97 Master Planned Development

A development designed and reviewed under the Master Planned Development processes described in this Code.

2.98 Metropolitan or Regional Planning Commission and Metropolitan or Regional Council of Governments

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

2.99 Minor Subdivision

The subdivision of a single lot from an undivided tract, recorded as such in the County Recorder's office. Such divisions shall be considered a minor subdivision if:

- (a) Only one lot is divided from the property. Additionally, the construction of a dwelling upon either the original parcel or upon the newly created lot shall be deemed as the allotted construction for a minor subdivision. The remaining parcel shall be deemed as ineligible for dwelling construction under the minor subdivision provisions until four years from the issuance of the zoning clearance for either lot. This applies regardless of any property ownership changes.

- (b) No other division of this land, as identified by the county tax number, has occurred less than four years prior to this division.
- (c) No zoning change or rezone is required.
- (d) No street expansion or improvement is required.
- (e) The division requires no other infrastructure changes.
- (f) The division meets all other requirements of the Utah Code, Title 10, the Municipal Land Use & Development Act, Sec. 10.9.806.
- (g) The development is in harmony with the goals of the Amalga General Plan and does not conflict with any provision or portion of the Amalga Land Management and Development Code, Official Zoning Map, Land Use Map, Transportation and Circulation Element of the General Plan, or any other town ordinance or regulation.
- (h) The subdivider must agree to be bound by the current version of this code and the Town General Plan. The property must not contain sensitive lands or lie under the sensitive lands overlay zone. (Revised 05/2001)

2.100 Mobile Home

A moveable or portable structure designed to be towed on its own chassis and designed for continuous, non-recreational human occupancy without a permanent foundation and which contains one dwelling unit.

2.101 Municipality

The City or Town of Amalga, Utah.

2.102 Neighborhood Park and Recreation Improvement Fund

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

2.103 Nightly Rental

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

2.104 Non-Conforming Use

The use of a building, structure, or land which does not conform to current use regulations for the district in which it is situated, but which was in conformity with prior regulations at the time of its establishment, or which was in existence prior to the establishment of use regulations for the district in which it is situated.

2.105 Non-residential Subdivision

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

2.106 Nursery, Greenhouse

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

2.107 Nursing Home

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

2.108 Off-site

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

2.109 Official Zoning Map

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

2.110 Official Master Plan

See General Plan.

2.111 One Bedroom Apartment

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

2.112 Open Space

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

2.112.1 Agricultural Open Space

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

2.112.2 Natural Open Space

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

2.112.3 Neighborhood Open Space

Landscaped areas free of buildings, structures, and other substantial improvements, and includes without limitation (a) outdoor swimming pools, swimming pool areas, hard surfaced recreational areas, and other recreational areas that are unenclosed, and fences, canopies, bath houses, and accessory structures for recreation use, whether enclosed or unenclosed; (b) driveways that cross the required yard at approximately right angles and serve fewer than three parking spaces; (c) the ground surface above underground facilities provided it otherwise qualifies as usable open space under the provisions of this section; and (d) pedestrian ways to plazas within a building that are directly oriented to the major pedestrian entrance to the building and are open to view and use by the public; and (e) decks, porches, patios, terraces and steps

under 30 inches high provided they are not covered by a portion of a building;

2.112.4 Recreational Open Space

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

2.113 Ordinance

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

2.114 Owner

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

2.115 Parking, Public

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

2.116 Parking Lot

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

2.117 Parking Lot, Commercial

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

2.118 Parking Lot, Private

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

2.119 Parking Space

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

2.120 Parking Structure

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

2.121 Perimeter Street

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

2.122 Permitted Use

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

2.123 Planned Residential Unit Development

A development designed to preserve open space for agricultural, recreational, and aesthetic purposes. A PRUD may allow individual lots within developments to be smaller than those required in the respective zone, but must maintain the overall density required within that zone.

2.124 Planning Commission

The Planning Commission of the Town of Amalga, Utah established in accordance with law.

2.125 *Planning Commission Chairman*

The person elected by the planning commission to chair the commission, conduct the meetings and perform other leadership functions as determined by the commission and as directed by this code.

2.126 *Plat Amendment*

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

2.127 *Porous Paving*

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

2.128 *Preliminary Plat*

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

2.129 *Pre-schools*

Daycare centers designed to provide children with activities preparatory to the entrance of elementary school.

2.130 *Primary Use*

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

2.131 *Professional Office*

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

2.132 *Property Line, Front*

That part of a lot which abuts a public street or public right-of-way. [Amended 2010]

2.133 *Public Improvement*

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

2.134 *Public Use*

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

2.135 Quasi-Public Use

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

2.136 Recreation, Commercial

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

2.137 Recreation, Private

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

2.138 Recreation, Public

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

2.139 Registered Engineer

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

2.140 Registered Land Surveyor

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

2.141 Restaurant

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

2.142 Restricted Lot

A parcel of land severed or placed in separate ownership after October 29, 1975, and which does not meet all area, width, yard and other requirements of this title for a lot; or a parcel of land which does meet all the requirements of this title for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in area, width, setback, yard or other requirements of this title for a lot. (Revised 05/2001)

2.143 Restaurant, Drive-In

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

2.144 Re-subdivision

See - Plat Amendment.

2.145 Right-of-Way

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct

from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, canals, ditches, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

2.146 Roads, Classification

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

2.147 Road, Dead End

A road or a portion of a street with only one vehicular traffic outlet.

2.148 Road Right-of-Way Width

The distance between property lines measured at right angles to the center line of the street.

2.149 Sale or Lease

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

2.150 Same Ownership

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

2.151 Satellite Receiving Station

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

2.152 Screening

Either (a) a strip of at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four feet high at the time of planting,

of a type that will for a year-round period, will provide a dense screen at least six feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except the following: for each entrance, one directional arrow with the name of the establishment with "For Patrons Only" or like limitation, not over two square feet in area, which shall be non-illuminated. Where required in the district regulations, a screen shall be installed along or within the lines of a plot as a protection to adjoining or nearby properties.

2.153 Secondary Living Quarters (revised June 13, 2007)

[See 2.1.1 Accessory Apartment]

2.154 Semi-Detached Building

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

2.155 Setback, Front

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

2.156 Setback

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

2.157 Shade Tree

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

2.158 Single accessory apartments

A living quarters attached to, but separate from, a main dwelling, such as a basement, garage, or attic apartment.

2.159 Site Development Standards

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

2.160 Sketch Plat

A sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives and/or conditions of these regulations.

2.161 Street, Public

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

2.162 Structure

Anything constructed, the use of which requires fixed location on or in the ground, or attached to something having a fixed location upon the ground and

which imposes an impervious material on or above the ground; definition includes "building". All structures must maintain the minimum set-backs for the district in which they are located, both above and below the ground.

2.163 Studio Apartment

A dwelling unit consisting of a single room equipped for cooking, living, and sleeping, having a separate bathroom or kitchen for the exclusive use of that apartment, all having a combined floor area of not more than 1,000 square feet.

2.164 Subdivider

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

2.165 Subdivision

Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any or all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

2.166 Subdivision Agent

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

2.167 Subdivision Plat

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

2.168 Tandem Parking

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

2.169 Temporary Improvement

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

2.170 Town

The Town of Amalga, Utah.

2.171 Town Attorney

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

2.172 Town Council

The Town or City Council of Amalga, Utah.

2.173 Town Engineer

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

2.174 Town Staff

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

2.175 Trailer

A mobile home. A moveable or portable structure designed to be towed on its own chassis and designed for human occupancy without a permanent foundation and which contains onedwelling unit.

2.176 Unit Equivalent

The relative density factor applied in the Code to different sizes and configurations of dwelling units and commercial spaces within a master Planned Development or Planned Residential Unit Development.

2.177 Use, Intensity

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

2.178 Yard

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

2.179 Yard, Front

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

2.180 Yard, Rear

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

2.181 Yard, Side

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

be the minimum distance between the side lot line and the side line of the building, excluding porches and other minor protusions.

SUPPLEMENTARY REGULATIONS

The regulations set forth in this chapter qualify or supplement, as the case may be, the Amalga Land Management and Development Code and Regulations appearing elsewhere in this Code.

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3.1 Purpose

The regulations set forth in this chapter qualify or supplement, as the case may be, the regulations appearing elsewhere in this Code.

3.2 Substandard Lots

No new lots may be platted or created by deed which do not comply with the minimum lot size requirements established for that zone.

3.3 Reduced Site Requirements

Any lot under separate ownership of record prior to the adoption of the previous Amalga zoning ordinance, which has dimensions which would prevent building because of the area, front yard, rear yard, and side yard set back required by the zone in which the lot is located, and any lot which has been approved by the Town prior to the effective date of this Code which would prevent building because of the area, front yard, rear yard, and side yard set backs required by the zone in which it is located, shall be deemed to comply with the requirements of the zone in which it is located. The standards of the International Building Code for development or construction on or near lot lines must still be met.

The requirements of this title as to minimum lot area or lot width shall not be construed to prevent the use of a lot, which does not conform, for a single-family dwelling provided the lot was held in separate ownership prior to September 8, 1999.

This section is not intended to conflict with Subsection 3.9 nor shall it be interpreted as taking precedence over the requirements of Subsection 3.9.

3.4 Lot Standards

Except as may otherwise be provided in this Code, no zoning clearance shall be issued for a lot unless such lot shall have area, width, and depth as required by the regulations for the zone in which the lot is located, and the lot has the required frontage on a class A, B, or C street as defined in the Master Street Plan or the Transportation Element of the General Plan or the official zoning map(s), and defined in this code. (See 2.161 Street, Public)

Lots irregularly shaped solely for the purpose of complying with setback requirements, or with long narrow protrusions for this purpose, (flag lots) shall not be permitted. [Amended 2010]]

3.5 Sale or Lease of Required Space

No space needed to meet the width, yard area, coverage, parking, or other requirements of this Code for lot or building may be sold or leased away from such lot or building. All buildings in all zones shall be constructed and maintained on conforming lots unless otherwise provided for herein.

3.6 Sale of Lots Below Minimum Space Requirements

No parcel of land which has less than the minimum width and area requirements for the district in which it is located may be created from a larger parcel of land for the purpose, whether immediate or future, for building or development as a lot.

3.7 Fences, Walls and/or Hedges

Fences, walls, and hedges higher than six feet may be erected or allowed within the buildable area, provided that any physical structure over six feet in height shall receive conditional use approval and a zoning clearance. Fences, walls, and hedges shall not exceed four feet in height within any required front yard or side street side yard and shall not exceed six feet within any required rear yard or interior side yard. Where a fence, wall, or hedge occurs along a property line separating two lots and there is a difference in the grade of the properties, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

3.7.1 Restrictions on Materials

Chain link fences over six feet are prohibited in all zones with the following exceptions which must be approved by the Planning Commission.

- (a) For recreational facilities such as tennis courts or other Town facilities,
- (b) As temporary vegetation protection during construction as directed by the Planning Commission.
- (c) Chain link fences over six feet in height may be permitted in other circumstances by the Planning Commission when it is found that the fence is necessary in the interest of security or public safety, and when the fencing needs cannot be reasonably met with any other type of fencing.

3.8 Frontage Protection, Safety, and Limited Access to Highways

The frontage along one or both sides of all State, County and Town roads are subject to special review for protection of the highway frontage and safety of access by roads and driveways. Any building or development proposal along these sections of roads and highways are subject to special review by the Town Planning Commission. The highway frontage review in these designated areas shall be limited to the following factors:

3.8.1 Consolidated Access

To the extent possible to minimize access points and driveways to the highways, access shall be from existing Town streets that join with the highways rather than direct highway access. Common driveways between adjoining projects shall be used when possible, and driveways that are required in order to provide access shall be placed where they create the least interference with traffic on the highways. [Amended 2010]

3.8.2 Public Safety

All access points along these designated corridors shall be reviewed for public safety of ingress and egress on intersections, pedestrian safety, safety of winter access on steep grades and possible flooding and erosion hazards.

3.8.3 Pathways, View Corridors and Future Improvements

The Town shall review proposals for pedestrian and bicycling pathways through the frontage property, proposals for open space, buffered areas, and preservation of view corridors where applicable.

3.8.4 Conditional Use along Frontage

All construction in the setback area between 30 feet and 100 feet from the nearest right-of-way line in the designated highway protection areas is a conditional use, and subject to the conditional use review process, including design review, even when the occupancy is a permitted use elsewhere in the zone.

3.9 Clear View of Intersecting Streets

In all zones, no obstruction to public street views in excess of two feet in height above road grade shall be placed on any corner lot within a triangular area formed by the streets at property line and a line connecting them at points 40 feet from the intersection of the street right-of-way lines, except a reasonable number of trees pruned enough to permit automobile drivers an unobstructed view. [Amended 2010]

3.10 Public Utility Structures

Public utility structures may be permitted on less than the required size lots in any district as approved by the Planning Commission. These facilities are conditional uses

3.11 Home Occupations

3.11.1 Preamble or Objective:

- (a) This ordinance establishes the criteria for home occupations based on the impact the business will have on the integrity and character of the neighborhood. It will apply to residential, residential agricultural, and agricultural zones in Amalga Town. Agricultural activities (as defined in Definition Usage 2.5 of this code) are not home occupations; therefore, this ordinance does not apply to them.
- (b) A home occupation is any full or part time occupation or business conducted within a dwelling or one accessory structure, or both, by a resident of the property.

- (c) A home occupation is a lawful and permitted use if it complies with the definitions and guidelines outlined in this ordinance, if it does not meet these guidelines, the resident may apply for a conditional use permit.
- (d) A home occupation requires a business license from the town. Before a business license can be issued the resident must first apply for a home occupation permit. An application for a home occupation permit shall be applied for and reviewed by the Amalga Planning and Zoning Commission. Validity of this permit is contingent on possession of a town of Amalga business license. [Revised 9 January 2008]

3.11.2 Appearance.

There shall be no exterior evidence that a building is being used for any purpose other than a dwelling or an accessory structure, excluding one permissible sign. [see 3.11.3]

3.11.3 Signs.

In all cases, there shall be no advertising of said home occupation on the property except by a small unlit sign no larger than 1 foot by 2 feet. The sign is to be attached to the main dwelling or accessory building.

3.11.4 Activity.

There shall be no vehicular congestion, noise, vibration, glare, fumes, odor, electrical interference, or other such condition created by said occupation(s) that alters the character of the neighborhood, or that has any observable impact upon any location outside the principal structure or accessory structure where said occupation(s) is/are conducted.

3.11.5 Operator.

The business must be conducted by a full-time resident of the property. Non-residents may be employed in the home occupation, if the business does not violate conditions of section 3.11.4.

3.11.6 Non-Conforming use.

Home occupations lawfully existing on the effective date of this ordinance [3.11 Home Occupations], but do not comply with the provisions of this ordinance, may continue as non-conforming uses; however, they shall be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than 90 days, or is in violation of the ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this ordinance.

3.11.7 Parking.

Parking for employees or customers is the complete responsibility of the full time resident of the property. Such parking must be off the public right-of-way.

3.11.8 Number of Occupations.

More than one home occupation may be conducted on the premises; however, the combined business-related impact of all home occupations shall be considered when evaluating the terms of this ordinance.

3.11.9 Severability.

The several sections of this ordinance [Home Occupations 3.11] are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Terms in any other section of the Amalga Town Land Management and Development

Code in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

3.11.10 Transferability.

Home occupation Permits shall not run with the land and shall not be transferable. The permit will terminate when the applicant no longer resides in the dwelling unit.

3.11.11 Enforcement.

This ordinance provides the definitions of compliance and is meant to be used for reactive enforcement. It is the responsibility of surrounding homeowners to bring objectionable activities to the attention of the planning and zoning commission or homeowners association for determination and enforcement. In the event covenants applicable to the property preclude the home occupation, the covenants shall supercede.

3.11.12 Inspection.

The town hereby reserves the right upon issuing any home occupation permit or license to inspect the premises in which the occupation is being conducted. The inspection will be conducted during normal business hours, or by appointment, to insure compliance with the provisions of this ordinance or any conditions additionally imposed.

3.11.13 Non-Compliance.

The commission may revoke a permit if it is determined that the applicant has misrepresented the description of the business activities of the home occupation enterprise, or if the home occupation is in violation of zoning law (See Violations in Section 6.8 of this code.).

3.12 Side Yard Exceptions

The area of a required side yard shall be open and unobstructed except for the following and similar uses:

- (a) The ordinary and reasonable projections of window sills, belt courses, cornices, and other ornamental features.
- (b) The ordinary and reasonable projection of an eve.
- (c) The ordinary and reasonable projection of steps or a porch.
- (d) Awnings projecting an ordinary and reasonable distance over doorways and windows.
- (e) A bay window or chimney not over ten feet long projecting a reasonable and ordinary distance from the outer wall.
- (f) A light or window well of reasonable and ordinary proportions.
- (g) Walls or fences not more than six feet in height.
- (h) A driveway leading to a properly located garage or parking area; however, a side yard cannot be used for a parking area except as hereinafter provided, nor for storage, nor can it be hard surfaced in such a way as to make possible the parking of automobiles or other vehicles unless it is a driveway that leads to a garage or a properly located parking area in the rear yard.

- (i) A detached garage may be located in a side yard provided said garage meets the requirements specified for the district in which it is located, and the requirements of the Building and Fire Codes for buildings in close proximity to the lot lines.
- (j) Hot tubs, decks or similar uses at ground level shall be allowed in a side yard provided they are located at least ten feet from a dwelling on an adjoining lot or five feet from property line.

3.13 Rear Yard Exceptions

The area of a required rear yard shall be open and unobstructed except for the following which are permitted:

- (a) A bay window or chimney not over ten feet long projecting a reasonable and ordinary distance from the outer wall.
- (b) Window wells of reasonable and ordinary proportions.
- (c) The ordinary and reasonable projection of an eave or cornice.
- (d) Private swimming pools, tennis courts, and similar uses shall be allowed in a rear yard provided they are located at least 30 feet from any dwelling on an adjoining lot and at least ten feet from any property line.
- (e) Garages and other accessory buildings as hereinafter provided. Such structures shall not cover over 50% of the rear yard area.
- (f) Hard surfaced parking areas subject to the same location requirements of a garage.
- (g) Underground bomb or fallout shelters for emergency use only provided they are constructed at least four feet from any property line and also that they conform to all requirements established by the Civil Defense Agency for approved shelters.
- (h) Air conditioners.
- (i) Fences not over six feet in height.
- (j) Hot tubs or similar uses shall be allowed in a rear yard provided they are located at least ten feet from a dwelling on an adjoining lot or five feet from the property line.

3.14 Front Yard Exceptions

The area of a required front yard shall be open and unobstructed except for the following which are permitted:

- (a) A fence or wall not more than four feet in height; no fence more than two feet in height shall be allowed within 25 feet of the intersection on any corner lot.
- (b) Eaves, porches, cornices, etc. projecting a reasonable and ordinary distance.

3.15 Height Provisions

The total height of the building shall be measured as the vertical distance from the natural grade, as defined in this Code, to the highest point of a flat roof or the deck line of a mansard roof, or to a point midway between the lowest part of the eaves or cornice and the ridge of a hip or gable roof. In no case shall a mansard roof or the parapet wall of a flat roof extend more than 13 inches above the maximum height limitation in the zone. Roofs not fitting clearly any of the above three classifications shall be classified by the Planning Commission in accordance with the roof it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration. To allow for roof pitches and provide usable space within the structure, the following exceptions apply:

- (b) Antennas, chimneys, flues, vents, or similar structures may extend up to ten feet above the specified maximum height limit for the zone.
- (c) Water towers and mechanical equipment may extend up to five feet above the specified maximum height limit.
- (d) Church spires, bell towers, and like architectural features, may extend over the specified maximum height limit, but shall not contain any habitable spaces above the maximum zone height stated. These features must be approved as a conditional use in the appropriate district.

3.16 Accessory Apartments within Residential Dwellings (rev. 6-13-07)

Any request for single accessory apartment such as basement, attic or garage apartment within a residential dwelling must be reviewed and approved by the Planning and Zoning Commission. A single-family, owner occupied dwelling may have one single-family accessory apartment within the dwelling. A single Accessory Apartment within a residential dwelling is a permitted use in all zones, however, the following criteria must be established to the satisfaction of the planning and Zoning Commission prior to Zoning clearance issuance or the use shall become conditional, and a conditional use permit shall be required.

3.16.1 Size

The maximum size for a single accessory apartment shall be 1000 square feet. This amount shall be included in the total square footage calculations for the single-family owner occupied residential dwelling where it is to be located.

3.16.2 Ownership of the Residential Dwelling

The primary residential dwelling of any single-family home containing an accessory apartment must be occupied by the owner of the home. If the primary dwelling has been rented, leased, or loaned to another single family, or other legally authorized tenant under this code, then the accessory apartment may not be independently rented or leased.

3.16.3 Parking

One on-site parking space shall be provided in addition to the underlying parking requirements for the zone.

3.16.4 Single Utility Meters

The main dwelling and the accessory apartment shall be on the same utility meters.

3.16.5 Building and Fire Code

The structure and/or improvements must meet International Building Code regulations as well as any Fire Codes in effect.

3.17 Completion of On and Off Site Improvement Work Prior to the Approval of Plats or Issuance of Certificates of Occupancy

3.17.1 Policy**3.17.1.1 Security Required**

In order to protect the Town from the financial burdens resulting from damage to or increased maintenance costs for Town facilities and Infrastructure that may occur as a result of incomplete or inadequate site improvements on private construction projects or off-site improvements performed by the developer as required by the Town and as required through the Infrastructure Impact review analysis process as defined in chapter 1, it is the policy of the Town to require that developers either complete all required on or off-site improvements prior to occupancy, or if that is not possible, that adequate financial security for that completion, together with a right of entry to the property to complete that work be granted to the Town. It is specifically the intention of the Town to require that storm drainage work, paving, curb and gutter, water and sewerage facilities, soil retention structure, and landscaping as needed to control erosion be completed according to standards adopted by the Town, so that residents and taxpayers at large are not required to pay the costs of damage repair or disproportionately increased maintenance for any of these facilities.

No plat will be approved, where required, and no certificate of occupancy granted unless and until adequate financial security is posted in accordance with this section.

3.17.1.2 No Third Party Beneficiaries Intended

It is the intention of the Town that this financial security given by the developer be limited to a contract between the Town and the developer for the express purpose of providing for the protection of Town facilities and elimination of conditions which could become public nuisances. It is not intended that this security be available for payment of subcontractors or material suppliers in the nature of a surety bond, or that the security provided become available to the purchasers of property to correct construction flaws or defects which are the fault of the developer. In no event will the funds be used for purposes other than those stated in this section and the time and manner of the expenditure, and prioritization of work performed shall rest in the sole discretion of the Town.

3.17.2 Construction According to Approved Plans

All construction shall be completed according to the approved plans and specifications on which the zoning clearances were issued. The approved plans shall also include the site improvements shown on the site plan. For purposes of this Code, the term "site improvements" shall include all roads, sidewalks, curbs, gutters, drains, drainage works, grades, walls, landscaping, planting, paving, utility lines and related facilities, paths and trails, and similar improvements as shown on the set of plans on which the final approval and zoning clearances are

based. "Off-site Improvements" shall refer to all facilities as defined in "site improvements" above but off of the development parcel(s) and required by the infrastructure impact review studies. These improvements will be constructed at the same time as the building development that required the improvements and will be constructed to Town standards and approved, inspected and constructed under the authority of the Town Engineer or his/her representative. These two types of improvements may be referred to collectively as "Improvements". Deviations from the approved plans must be approved in advance by the Town or its staff.

3.17.3 Security for Completion

No certificate of occupancy will be issued, nor any plat approved when plats are required by this Code, unless the building and all required on and off site improvements are completed, or the developer has provided adequate security to guarantee timely completion of the improvements. When all of the improvements and the building cannot be completed simultaneously due to weather conditions or other factors beyond the control of the developer (excluding financial inability to complete the project) the Town may grant plat approval for recording and/or issue certificates of occupancy for the project, provided the following conditions are met:

- (a) The building or buildings, or portions thereof, on the property to be platted or occupied have been constructed in accordance with the approved plans for those buildings, and are in full compliance with applicable building and fire codes, and are completed to the extent that only exterior site improvement work remains unfinished; and,
- (b) The Building Official determines that occupancy of the buildings, or portions thereof, prior to completion of required site improvements is safe and that access for emergency vehicles is adequate with the site improvements unfinished; and,
- (c) The developer posts adequate security for the benefit of the Town to insure completion of the site improvements in full compliance with the approved plans within one year from the date of plat approval (if required) or issuance of the certificate of occupancy, whichever occurs first.

3.17.4 Amount of Security

The amount of the security to be posted by the developer shall be determined by the Town Engineer, and shall be equal to 125% of the amount reasonably estimated by the Town as being necessary to complete remaining on and off site improvements as shown on the approved plans. In the event that the developer disputes the cost estimate of the Town, the developer may prove a lower construction cost by providing binding contracts between the developer and contractor or subcontractor appropriate to perform the required work at a stated, fixed price. These contracts must be supported by a 100% performance bond, insuring performance by the subcontractor or contractor. Bid proposals are not satisfactory for this purpose. If the contracts submitted are acceptable in form, the amount of security required shall be 125% of the total contract price of all such contracts submitted, plus the estimated reasonable cost of performing any work not covered by the contracts. Specifications in such contracts shall be sufficiently clear to identify the work called for under the contract.

3.17.5 Terms of Security

The terms of any security arrangement offered to the Town shall state a date certain by which the developer agrees to have on and/or off site improvement work completed in accordance with the plans, and further provide that in the event that the developer has not completed required site improvement work by that date, the Town may at its option and on its schedule, draw on the funds escrowed, or credit established, or such other security device by its own act, and shall not be required to obtain consent of developer to withdraw funds for completion of the work shown on approved plans. The Town's actual costs in administering the completion of work in the event of a default by the developer shall be reimbursed from the escrow or other security arrangements in an acceptable and timely manner.

3.17.6 Form of Security

Security arrangements offered in lieu of simultaneous completion of buildings and site improvements shall be in an amount fixed under the terms of Section 3.17.4, and shall be in one or more of the following forms as approved by the Town Attorney:

- (a) An irrevocable letter of credit from a bank authorized to do business in the State of Utah, naming Amalga Town Municipal Corporation as the payee of funds drawn against that letter of credit and guaranteeing the availability of funds for one year, or,
- (b) A deposit of cash with a third party escrow, or,
- (c) An agreement with the construction lender providing that the lender will withhold funds in the construction loan in an amount equal to the amount calculated in Section 3.17.4, above, and will disburse those funds only with the written consent of the Town, and only for the completion of any required improvements. As improvement work is completed, the Town will consent to the disbursement of the funds set aside by the lender.
- (d) Some combination of the above approved by the Town.

3.17.7 Retainage

The amount in excess of the actual construction costs, but in no event more than 25% of the actual construction cost, shall be held for a period of one year following final inspection and approval of the required on and/or off site improvement work by the Town. No retainage shall be held for landscaping improvements once the installation of the required materials has been approved by the Town. The retainage amount may be provided in any of the ways described in Section 3.17.6. If the developer fails to provide new security instruments within 30 days from the expiration of the security instruments provided for the initial construction under Section 3.17.6, the Town shall make a demand or draw on that security to the extent of the required retainage amount, and hold the proceeds in cash until and unless other adequate security, as provided in this Code, is posted by the developer. Retainage will be used to replace or repair any site improvements which fail or appear to be defective during the one year retainage period. The corrective work may be done by the Town or the developer. At the completion of that work, the retainage, or so much of it as remains, shall be released. Retainage amounts may be drawn and applied to any outstanding fees owed by the developer to the Town, provided that such fees are imposed by ordinance and the amount of the fees is not to be contested by the developer. Any amount in excess of the retainage amount

necessary to complete any replacement or repair, shall be paid by the developer or reimbursed to the town, upon demand.

3.17.8 Modification of Plans

A developer may, at its option, request modifications to plans covering on and/or off site improvement work by submitting revised plans to the Town for review and action. Until the revised plans have received approval by the Town, the developer shall be required to offer security for the performance of the improvement work as shown on the last set of plans to have received Town approval. Upon acceptance of revised plans by the Town, the Town shall release any cash, credit or other security held, which is in excess of 125% of the completion cost (estimated) of work shown on the most recently revised plan. If the modification of the plans increases the cost of required improvements, additional security must be provided by the developer to cover the increased costs.

3.17.9 Payment of Interest

Any interest accruing on escrowed funds shall, unless expended for completion of site improvements required, inure to the benefit of the developer upon release and not to the Town, and the Town shall not be required to pay interest to the developer on any funds escrowed for this purpose.

3.17.10 Detailed Improvement Plans and Specifications

Detailed on and/or off site improvement plans and specifications shall be presented, showing the location, design and nature of all Streets, Drainage drainage works, utility pipelines, storage tanks, pumping systems and related facilities, grade changes, retaining walls and landscaping, together with any trails, paths, or walkways that may be included or required under these or other provisions of the Land Management and Development Code. All plans and supporting documentation must be approved by the Town and/or its Engineer before commencement of any work by the Developer. The Developer is responsible for all plan review fees that must be incurred by the Town or its consultants.

3.17.11 Phased Projects and Concurrency

On and/or off-site improvements applicable to each phase of a phased project or development shall be completed concurrently with the first phase of the project and appropriate securities shall be put in place to insure that the total infrastructure is completed along with the first phase. Phasing of improvements may be allowed only under special circumstances as outlined by the Town planning staff and/or technical review committee and approved by the Town Council. If phasing is allowed, adequate security for completion of each phase must be provided to insure that each phase of infrastructure is constructed and either platted or occupied.

3.18 Regulation of the Placement of Satellite Receiving Antennas

3.18.1 Purpose

To ensure that satellite receiving stations do not have an adverse impact on aesthetic values and public safety in residential, commercial and industrial areas, installation of these devices is governed by the following regulations. The intent

of these requirements is to locate such antennae and equipment where they are least visible from public streets and public areas and, to the extent possible, provide screening from adjacent property owners. Digital satellite dishes of less than or equal to 36 inches in diameter are exempt from this section.

3.18.2 Requirements

Satellite dishes, antennae, and equipment shall be located so as to be safe and unobtrusive to the character and uses of the zone in which it is located. Where reasonable they shall be screened from public view. Satellite receiving stations must maintain all normal building setbacks applicable to the zone in which the station is located.

3.19 Setback Requirements for Unusual Lot Configurations

All lots shall have a front, two side and a rear setback with the following exceptions and clarification's:

- (a) Development on corner lots shall have two front setbacks. The rear yard will be the side of the property opposite the driveway access from the street. If it is not clear which boundary should border the rear yard, the owner or developer may specify which is the rear yard.
- (b) Lots with more than four sides shall have a sideyard on either side of the front yard. The third side yard and rear yard may be specified by the developer or owner.
- (c) Lots with three sides will have a front setback, side setback and rear setback. In those cases where one side is clearly opposite the front, the rear setback must be opposite the driveway. If it is not clear where side and rear setbacks should be, the developer or owner may choose which is side and which is rear.
- (d) On those lots which border a street on both the back and front, both sides must have a front setback.
- (e) Any lots which are not specified in this section shall have setbacks determined by the Planning Commission.

3.20 Sensitive Lands Review

Any project falling within the Sensitive Lands Overlay Zone or containing lands designated as sensitive by the Town Planning Commission may be subject to additional requirements and regulations as outlined in the Sensitive Lands Regulations of Chapter 7 of this code.

3.21 Day Care Services (Including Preschools)

- (a) **Family Day Care** services as defined in chapter 2 of this code, require a business license. The provider is limited to six children. The provider must reside in the residence where services are provided. The provider must receive a license from the State of Utah within sixty (60) days after approval by the Town.

- (b) **Family Group Day Care** services as defined in chapter 2 of this code requires a Conditional Use Permit. The provider is limited to 12 children. The provider must reside in the residence where services are provided. The subject residence must conform to the International Building Code prior to operating the facility. The provider must receive a license from the State of Utah within sixty (60) days after approval by the Town.
- (c) **Child Day Care or Child Care Centers** as defined in chapter 2 of this code require a Conditional Use Permit. All Centers must comply with the International Building Code prior to occupancy and must receive a license from the State of Utah within sixty days after approval by the Town.
- (d) The license from the state of Utah must be obtained before any services under (a), (b), or (c) are offered to the public.

3.22 Temporary Uses

3.22.1 Purpose and Objectives

The following regulations are provided to accommodate those uses of land or buildings which are temporary in nature and are not, therefore listed as regular permitted or conditional uses in any zone of the Town. The character of these uses is such that proper conditions are required to protect adjacent properties and the general health, safety, and welfare of the citizens of Amalga. Any building or structure which does not meet the requirements of this Chapter shall be treated as a permanent land use and shall conform to all required standards of the building, health, fire, zoning, and other similar codes.

3.22.2 Uses Allowed:

- (a) Uses allowed on a temporary basis in accordance with provisions of this Chapter may include, but are not limited to, the following: carnivals, circuses, fireworks stands, fireworks displays, Christmas tree lots, promotional displays, tents for religious services, revivals, retreats, political rallies, or campaign headquarters. Uses shall be allowed for not more than forty five (45) days duration.
- (b) A temporary use permit shall not be required for a garage sale, provided that the garage sale shall not operate for more than a total of five (5) days in any calendar year, and shall be conducted by bona fide residents of the premises. Goods for sale shall consist of personal belongings of the residents. Goods offered for sale shall not be placed over a public sidewalk or in a public right-of-way.

3.22.3 Prior Approval Required

Prior to the establishment of any of the above uses, or any qualifying temporary use, (except fireworks stands or fireworks displays, permits for which shall be administered by the Fire Department), a temporary use permit must be obtained from the Planning Commission with any conditions specified on the permit as required by the Town. A temporary use permit shall not be construed as a conditional use permit and therefore is not required to meet the notification requirements of this code, however, the application procedure is similar to a

conditional use permit in that specific conditions may be required of the applicant and compliance to the conditions and the International Building Code, if applicable shall become necessary to the granting, continuance or administration of the permit. Any application for such permit shall meet any necessary requirements of this code and this section and shall be made by the property owner or his/her authorized agent. The granting of said permit shall require the following findings:

- (a) That the conduct of the requested use will not have any detrimental effects on adjacent properties and will be in general harmony with surrounding uses.
- (b) That the requested use will not create excessive traffic or parking hazards on adjacent streets and that traffic control, if necessary, shall be provided at the expense of the applicant.
- (c) That the applicant shall have sufficient liability insurance for the requested use or event.

3.22.4 Standards and Requirements

A temporary use established under the provisions of this Chapter shall conform to the following standards and requirements:

- (a) Any structure requiring sanitary facilities by building, fire, health, or other similar codes shall be located on the same lot as a host structure unless independent water and sewer service is provided to the temporary structure. Where such codes require sanitary facilities, they may be provided by a host structure provided that there is:
 - (1) No preparation of any food on the premises;
 - (2) No indoor seating of patrons;
 - (3) Written evidence that a host structure will provide permanent sanitary facilities for any employees and that such facilities are conveniently located not more than three hundred (300) feet from the structure and will be accessible during all periods of operation of the use;
 - (4) Written evidence from the County Health Department that all food will be prepared and delivered from an approved commissary and that all waste resulting from the operation of the use will be properly disposed.
- (b) The minimum required parking shall be two (2) spaces except that a reasonable number of additional parking places may be required. Such parking shall not have the effect of decreasing any existing parking that is required for any other use existing on the site. All parking shall meet the standards for off-street parking as specified in this chapter except that required parking may be provided on a gravel rather than a concrete or asphalt cement surface.
- (c) The layout of the proposed use shall be compatible with the access, parking, circulation, and other significant elements of any other uses or structures existing on the site.

- (d) All structures shall be securely anchored to the ground at not less than four (4) points as directed by the Building Official or Town Engineer.
- (e) The right to occupy the site shall be secured by a written agreement with the owner of the parcel and the owner of any host structures. Said agreement shall address the question of use of restroom facilities by employees, responsibility for maintenance, and restoration of the site upon termination of the use. A copy of the proposed agreement shall be part of the application.
- (f) Approval for each temporary use permit shall bear an expiration date based upon the nature of the use. In no case shall approval be given for a period exceeding forty five (45) days. Garage sales need not obtain a Temporary Use permit, but shall not operate the sale for a period exceeding five (5) days in any calendar year, and shall be conducted by bona fide residents or lessors of the premises. Goods for sale shall consist of household type items used by residents of the premises. If any temporary structure becomes vacant prior to the expiration of the permit, it shall be removed within fifteen (15) days of the vacancy.
- (g) The landowner of the parcel shall provide for the restoration of the site of said use to its original condition, including cleanup, replacement of facilities, and removal of any structures

3.22.5 Action on Application

A use meeting the requirements stated above shall be approved and a use not meeting the requirements stated above shall be denied, or may be approved with appropriate conditions to assure that the use will be compatible with and will not pose any detriment to persons or property. Said conditions may include a limitation upon hours of operation and/or a time limitation which is less than the maximum established by this section.

3.22.6 Revocation of Permit

A permit may be revoked in the event of a violation of any of the provisions of this section or the conditions set forth in the temporary use permit.

3.22.7 Business License Required

A temporary use permit is not a business license and the granting of said permit shall not relieve the permittee of any other license requirement of the Town or any other public agency.

3.22.8 Fees

In order to offset a portion of the costs incurred by the Town in processing temporary use permits, a fee may be charged as established by the Town in its fee and/or rate resolutions as may be applicable at the time.

3.22.9 Town Celebrations or Events

Any Town sponsored celebrations or special events of a temporary nature, including but not limited to the annual Twenty-fourth of July Celebration are exempt from the requirements of obtaining a temporary use permit as described by this section. Individually operated booths, exhibitions, fund raisers, and other displays operated in conjunction with Town celebrations are also exempt.

3.23 Off-Street Parking

3.23.1 General Requirements

There shall be provided and maintained at the time of erection of any main building or structure off-street parking space with adequate provisions for ingress and egress by standard sized vehicles as hereinafter set forth. Such parking space shall be located on the same lot as the building it is to serve. No parking shall back directly onto any state road or highway, or onto any street where traffic flow would make it regularly unsafe to do so, as determined by the Planning Commission.

3.23.2 Remodeling or Enlargement of Buildings

Whenever existing buildings are enlarged or increased in capacity, or a change in use occurs, additional off-street parking spaces shall be provided which will meet the requirements applying to such enlargement or change in use.

3.23.3 Quantity of Parking Spaces

The number of parking spaces for uses not specified herein shall be determined by the Planning Commission being guided where appropriate by the regulations set forth herein for uses of buildings which are similar to the use or building under consideration .

3.23.4 Setback Exclusions and Conflicts

In a residential zone, no part of any private or public parking lot shall be located in a set back adjacent to a street except under the following circumstances:

- (a) Parking may be approved in a portion of a front or side setback area if it can be demonstrated that vehicles will be far enough from the street to avoid any interference with traffic, snow removal, pedestrian traffic, activities on adjoining properties, or other normally occurring functions. If safety, aesthetic factors or other considerations require it, landscaping or other dividers may be required by the Planning Commission between the setback parking and the street.
- (b) Required landscaping is approved by the Planning Commission.
- (c) In cases where there is a unique lot configuration, or an existing structure that the applicant is remodeling, or when it is necessary to change the parking requirements, the Board of Adjustment may, upon appeal of the applicant, consider lowering the landscaping or parking requirements provided such variance does not create increased hazards to the health, safety, and general welfare of the residents in the area.

3.23.5 Landscaping

In reviewing the landscape plans, the Planning Commission shall consider the location, number, size, and type of plants, the method of irrigation to be used and other similar factors.

3.23.6 Conversion of Parking to Other Uses

Space allocated to comply with these regulations shall not be used later for additional structures or uses unless other space so complying is provided.

3.23.7 Area of Spaces

For the purpose of this Chapter, a space of not less than eight and one-half feet (8 1/2') by twenty feet (20') of lot area with access to public streets by standard-sized automobiles shall be deemed to be parking space for one vehicle.

3.23.8 Mixed or Combined Parking Uses

In the case of mixed uses on the same site the amount of off-street parking spaces required shall be the sum of the parking required under this ordinance for the principal use together with a reasonable amount for all accessory uses. Said reasonable amount shall be determined in light of the uses, location and circumstances of the building or structure and in consideration of the provisions of this ordinance.

3.23.9 Parking Surfaces

All required parking areas shall be surfaced with either concrete or bituminous asphalt as approved as to specifications by the Town Engineer, unless otherwise granted by the Planning Commission.

3.24 Signs and Outdoor Advertising

3.24.1 General Requirements

The following general requirements shall apply to all signs and outdoor advertising structures which may be erected or maintained within the Town of Amalga.

3.24.1.1 Sign Approval

Except as otherwise provided, it shall be unlawful and a Class B Misdemeanor to erect or maintain any sign or outdoor advertising structure in the Town of Amalga without first obtaining the approval of the Planning Commission for said sign or advertising structure, the giving of which shall be based upon the provisions of this section. Said approval shall not be required for temporary non-electrical wall and nonelectrical freestanding signs of less than thirty-two (32) square feet in area. (Examples of signs not requiring planning commission approval are real estate "for sale" signs and election campaign signs.)

3.24.1.2 Permits

The approval of the Planning Commission shall be evidenced by a permit issued by that body. All signs shall be constructed and all permits shall be issued in accordance with the provisions of the International Building Code. All standards in this section are minimum standards, greater restrictions or limitations may be imposed by the Planning Commission. Permits for off-premise non-conforming signs shall be renewed on an annual basis. Applications for permits, or for the renewal of permits, shall require the applicant to disclose the owner of the sign and the owner of the property on which the sign is or will be located, all relevant dates in regard to expiration of any lease or lease option, the date and cost of construction of the sign, the date and cost of any modification of the sign, the fair market value as appraised for property tax purposes, the date the sign will be depreciated for federal income tax purposes, the cost of operating the sign, and any other information reasonably required by the planning commission. A permit may be revoked and a sign removed pursuant to Section 3.24.1.7 if the applicant for a permit makes a false or misleading statement in the permit application or renewal.

Small window displays and small (fifteen sq. ft. or less) freestanding signs are permitted for home businesses, and do not require a permit. These displays and signs must be non-obtrusive, neat, and not obstruct vehicular or foot traffic or the clear view of traffic. They must be compatible with the rural or residential nature of the area where they are located.

3.24.1.3 Animated Signs

Flashing or rotating signs may be allowed in Light Industrial or Commercial - Residential zones with appropriate conditions. Flashing shall be limited to sequential, chasing, or subdued color change. No intense strobe-type flashing will be permitted. Rotation shall be limited to eight (8) revolutions per minute; provided, however, that the lights described above may not be used within five hundred (500) feet of a residence, apartment, hotel, or other residential structure.

3.24.1.4 Sound or Emissions

No sign shall be designed for the purpose of emitting sound, smoke, or steam.

3.24.1.5 Movable, Freestanding Signs

Subject to the other provisions of this Chapter, small movable, freestanding signs, including A-frame signs, are allowed. They must not obstruct vehicular or foot traffic, or the view of traffic. They must be otherwise safe, nonoffensive, and in keeping with the rural, residential nature of the area in which they are located. Signs mounted or painted upon vehicles or trailers which are parked in any location for the purpose of calling attention to or advertising a person, place, or thing at or near that location, are prohibited. This does not include customary business logos painted on vehicles.

3.24.1.6 Canopy Signs

Signs painted on or affixed to canopies which are part of the building shall be considered part of the total allowed area of wall signs for the walls from which the canopy projects. Signs painted on or affixed to canopies which are freestanding shall be considered part of the total allowable area of freestanding signs for that use. Signs suspended under canopies (marquees) which project over public rights-of-way shall be limited to six (6) square feet.

3.24.1.7 Violations

It is unlawful to erect or maintain a sign contrary to the provisions of this section. If a sign is erected or maintained in violation of this section the planning commission may do the following:

- (a) order the defect corrected within a fixed period of time, not exceeding thirty (30) days, if correction of the defect will bring the subject sign into compliance with the provisions of this section; but,
- (b) if correction of the defect will result in a violation of the provisions of this section, order that the subject sign be removed by, and at the expense of the owner of the sign, within a fixed period of time not exceeding thirty (30) days.

If the owner of the sign contests the order of the Planning Commission, the remedy shall be an appeal to the Board of Adjustment, which appeal shall be taken in the time and manner otherwise provided in this code for appeals to the Board of Adjustment. If the owner of the sign fails or refuses to remove the subject sign at the order of the Planning Commission, the Town may remove the sign at any time after the owner thereof exhausts his or her administrative remedies in relation thereto, unless otherwise ordered by a court of law. Removal by the Town shall be at the expense of the owner, and the Town may obtain judgment against the owner in an amount equal thereto, together with reasonable attorneys fees and costs.

3.24.2 Signs on Premises

Except as provided within the provisions of respective zoning districts, and unless otherwise expressly provided in this section, no sign shall be permitted

which is not used exclusively to advertise the ownership, sale, or lease of property upon which said sign is placed, or to advertise a business conducted, services rendered, goods produced or sold upon such premises, or to advertise or identify any other lawful activity conducted upon such premises.

3.24.3 **Exceptions**

This Chapter shall have no application to signs used exclusively for:

- (a) The display of official notices used by any court or public body or official, or the posting of notices by any public officer in the performance of a duty, or by any person giving legal notice.
- (b) Directional, warning, or information signs of a public or semi-public nature, directed and maintained by an official body or public utility.
- (c) Barber poles not to exceed six (6) feet in height located on private property and bearing no advertising copy or message.
- (d) Any sign of a non-commercial nature when used to protect the health, safety, or welfare of the general public.
- (e) Any official flag, pennant, or insignia of any nation, state, city, town, or other political unit.
- (f) Time and temperature signs and elements of commercial signs which convey only time, temperature, or weather conditions.

3.24.4 **Location Standards**

All signs and outdoor advertising structures shall comply with the following location requirements:

- (a) **Fire Escapes.** No sign shall be erected in such a manner that any portion of the sign or its support will interfere with the use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator, or window.
- (b) **Traffic.** No freestanding or projecting sign shall be erected at any intersection improved for vehicular traffic within a triangular area formed by the property lines and their projections and a line connecting them at points forty (40) feet from the intersections of the projecting property lines; unless same in its entirety is less than three (3) feet tall, or more than eight (8) feet above the curb grade, no part of its means or support has a single or joined horizontal dimension exceeding twelve (12) inches, or said sign is within an area in which a building or structure is permitted by the provisions of the respective zone.
- (c) **Utility Lines.** No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the State of Utah or rules and regulations duly promulgated by agencies thereof.
- (d) **Clearance.** No sign shall be erected in such a manner that any portion of the sign or its support will extend over a public or private walkway with a minimum clearance of less than ten (10) feet.

3.24.5 *Special Purpose Signs*

In addition to any other permitted sign(s), signs for special purposes set forth in this Sub-Section shall be permitted as provided herein.

- (a) **For Sale, Rent, or Lease Signs.** In all zoning districts, signs may be erected to advertise the sale, rent, or lease of property upon which said signs are placed. Said signs shall be limited to one (1) sign per street face, unless otherwise provided by the zoning provisions, and shall not exceed an area of twelve (12) square feet in residential zones or thirty-two (32) square feet in non-residential zoning districts. Said signs shall be exempt from project plan approval.
- (b) **Directory Signs.** In all districts where group occupancies in office buildings, commercial buildings, or industrial buildings are permitted, directory signs may be erected displaying the names of occupants of a building who are engaged in a particular profession, business, or industrial pursuit. Said sign shall be situated at least two (2) feet inside the property line and shall not exceed ten (10) feet in height. Said sign shall not exceed an area of fifty (50) square feet and shall not be placed within a clear-vision area of a corner lot as set forth in this Section.
- (c) **Construction Project Signs.** Signs may be erected in conjunction with construction projects and used for the purpose of publicizing the future occupants of the building; architects, engineers, and construction organizations participating in the project; and such other information as may be approved by the Planning Commission. In residential districts no such sign shall exceed thirty-two (32) square feet in area. In other districts, no such sign shall exceed an area of sixty-four (64) square feet, and no freestanding sign shall exceed twelve (12) feet in height. All such signs shall be removed before a final inspection is granted by the Building Inspector or an occupancy permit is issued.
- (d) **On/Off-Site Directional Signs.** Directional signs may be erected for the purpose of facilitating or controlling the efficient or safe movement of pedestrians or vehicles on or into private property and shall be located on the properties to which they pertain. No such sign shall exceed twelve (12) square feet.
- (e) **Open-House Signs.** Open-house signs advertising real estate open for inspection for a prospective sale may be placed on private property in all districts with the consent of the owner, lessee, or occupant. Such signs may state the name of the person or firm sponsoring the open-house. Such signs shall not exceed twelve (12) square feet.
- (f) **Church, Quasi-Public Organizations and Apartment House Identification Signs.** In all districts, a church or quasi-public organization may erect one (1) wall sign on the premises to identify the name of the organization and announce activities thereof. Apartment houses of five (5) or more dwelling units may erect one (1) sign on the premises to identify only the name of the apartment complex and to indicate a vacancy. Said wall sign shall not exceed an area of twenty-five (25) square feet, and may be mounted upon a freestanding, ornamental masonry, wood or stone wall.
- (g) **Bus Bench Signs.** In all zones, one (1) bus bench sign may be installed at each bona fide stop along a public transit route provided the owners

of said benches are authorized to operate in Amalga Town and advertising on said benches does not exceed an area of twenty (20) square feet each.

- (h) **Development Promotional and Directional Signs.** One (1) development promotional sign may be placed on the premises of each subdivision or master planned development, having four (4) or more lots or approved dwelling units. Said promotional sign may have an area of thirty-two (32) square feet. A second development promotional sign may be placed on the premises of each subdivision, or planned development, having two (2) or more separate, major points of access. Said promotional sign may have an area of thirty-two (32) square feet. In addition, two (2) directional signs may be located off-site to contain only the name and direction of any subdivision or master planned development. Said signs may have a maximum area of twelve (12) square feet each and shall not be located in the right-of-way of any public street. All of the above signs shall be removed not later than thirty (30) days following the sale of all lots or dwelling units in said development, and before a final inspection is granted by the Building Inspector.
- (i) **Name Plates.** Name plates or markers shall be allowed for each dwelling to indicate the occupant's name or the name of the residence. Reasonable and attractive signs shall also be allowed to indicate the names and addresses of farms, dairies, estates, and other primarily rural or residential activities.

3.24.6 Classification of Signs

Every sign erected or proposed to be erected within the Town of Amalga shall be classified by the Planning Commission in accordance with the definitions of signs contained in this Chapter. Any sign which does not clearly fall within one (1) of the classifications shall be placed in the classification which the sign, in view of its design, location, and purpose, most clearly approximates in the opinion of said Planning Commission.

3.24.7 Signs Permitted - Agricultural and Residential Zones

No sign shall be erected in any agricultural or any residential zones except as provided within the provisions of the respective zoning districts as established in this Code, except that certain special purpose signs may be erected in all zones in compliance with the provisions of Sub-Section 3.24.5 of this Section.

3.24.8 Signs Permitted in Residential - Mixed Use Zone I and Light-Industrial Zones

The signs described in the (a) and (b) below are permitted in a Residential - Mixed Use Zone or Light-Industrial zone. The signs described in (c), (d), (e) and (f) are permitted pursuant to the conditional use process.

- (a) **Nameplates.** Nameplates not exceeding fifty (50) square feet placed upon a building which identifies the name and/or address of a structure or complex.
- (b) **Sign or Monument.** A sign or a monument identifying points of interest or building complex not exceeding thirty-two (32) square feet placed upon a suitable wall which identifies the name and/or address of the structure or complex. The freestanding sign shall be five (5) feet or less in height and there may be one such sign for each frontage of the property plus one (1) additional sign for each two hundred (200) foot

increment of said frontage in excess of two hundred (200) feet. Said signs shall be placed no closer than one hundred (100) feet apart.

- (c) **Wall Signs.** Except as otherwise provided in this section, every wall sign in a C-R or Industrial zone shall comply with the following requirements:
- (1) **Areas:** Maximum area shall be no greater than thirty-two (32) square feet for the Residential - Mixed Use Zone. The maximum area may be greater for the Light Industrial Zone if approved by the Planning Commission.
 - (2) **Number:** There shall be one (1) such sign for the front face of each building fronting a public street.
 - (3) **Height:** No part of any such sign shall extend above the top level of a wall upon or in front of which it is situated.
 - (4) **Thickness:** All such signs, including any light box or structural part, shall not project more than twelve (12) inches from the front face of the part of the building to which it is attached. No copy is permitted on the sides of any such sign.
- (d) **Freestanding signs over five (5) Feet in Height.** Pertinent freestanding signs over five (5) feet in height shall be allowed only with the issuance of a conditional use permit by the Planning Commission, and subject to the conditions established therein. Said sign shall not exceed a height of fifteen (15) feet.
- (e) **Projection.** No signs shall project over a property line.
- (f) **Lighted Signs.** Only indirect and diffused lighted signs are permitted in the Residential, Residential – Agricultural, and Agricultural Zones. Lights that are an integral part of a sign must be directed away from surrounding properties and oncoming traffic.

3.24.9 Signs Permitted in other Zones

For those zoning districts which do not have sign regulations as a part of the zone provisions, and for those which are not readily placed into classifications referred to in preceding sections, the Planning Commission shall classify said zones as either: residential, residential-agricultural, agricultural, residential - mixed use, or light industrial/manufacturing zones depending upon the similarity of the characteristics and permitted uses of said zone to those already classified. When such a classification has been made by the Planning Commission, the sign provisions applying to the respective classification shall apply to said zones.

3.24.10 Off-Premise Advertising Structures

3.24.10.1 Prohibition of New Off-Premise Signs

Except for off-premise public information and logo signs meeting the size, shape, color, and other requirements described below in sub-paragraph 3.24.10.2, no permits shall be issued for the construction of off premise signs or outdoor advertising structures. All lawfully existing off-premise signs and outdoor advertising structures at the time this code is adopted are nonconforming uses in all zones of the Town.

3.24.10.2 Public Information and Logo Signs

Off-premise public information signs are permitted pursuant to this section for the purpose of directing the traveling public to points of interest, historical sites, and other locations of interest, approved as such by the planning commission. Off-premise "logo" signs are permitted under this section for the purpose of directing the traveling and general public to business establishments which provide lodging, food, camping, gas, or other services. Identified by the State of Utah Department of Transportation as the "Logo Sign Program," these signs shall comply with the following regulations:

- (a) **Logo Sign Program.** In constructing and maintaining a logo sign program of signs, the owner and installation contractor shall comply with and adhere to all applicable state and federal laws and regulations, and to UDOT Policy and Procedure. All signs that will be placed within the Town, must be approved by the Town planning commission prior to installation.
- (b) **Logo Structures.** All logo structures shall conform to specifications as shown in the Utah Department of Transportation approved drawings or must be approved by the Planning Commission. Directional signs shall not exceed 42" x 48" in size, and accommodate no more than two businesses .
- (c) **Placement.** Placement of logo signs within the Town of Amalga shall follow the guidelines outlined in any applicable contracts with the State of Utah, department of transportation. Contractors shall obtain the necessary approval and permits from the Town.
- (d) **Height.** No sign shall exceed 12 feet from ground level.
- (e) **Offset.** In general, the offset (location) of the sign shall be setback equal to existing signage in the right of way. If no other signage exists, offsets shall be no less than 8 feet. All locations must be reviewed and approved by the Town for traffic safety.
- (f) **Design.** Business logo sign design shall consist of the business name, trademark, or symbol, provided it does not resemble any traffic sign, symbol, or device. The business symbol, name, etc. must be consistent on all business signs for that business. Business logos will contain no supplemental advertising and be uniform in size. The size of the logo plates shall be 18" x 24".
- (g) **Number.** There may not be more than one directional sign per type, (camping, gas, lodging, food, etc.) per each location.
- (h) **Removal.** If any business which is participating in logo sign program closes, the logo for said business must be removed within 15 days from closure of said business. If said sign(s) are declared to be a traffic hazard, they must be removed as determined by the Town Engineer. Failure to remove the sign within the fifteen (15) day period shall be unlawful, the sign shall be a nuisance, and the sign thereafter may be removed by the Town and the expense of removal charged to the owner.

3.24.10.3 Acquisition of Interests

Amalga Town may acquire title to off-premise non-conforming signs or outdoor advertising structures by gift, purchase agreement, exchange, or eminent domain, and shall have the right to amortize off-premise non-conforming signs as permitted by state or federal law.

3.24.11 Non-conforming Signs

- (a) **On-premise signs.** All on-premise or appurtenant signs which have been made non-conforming by the adoption of provisions contained within this code shall be subject to the following regulations:
- (1) **Unsafe Signs:** Any sign or portion thereof declared unsafe by a proper public authority must be restored to a safe condition or removed within thirty (30) days of mailing or otherwise given notice of the unsafe condition.
 - (2) **Alterations:** A non-conforming sign shall not be reconstructed, raised, moved, placed, extended, or enlarged unless said sign is changed so as to conform to all provisions of this Code. Alterations shall also mean that changing of the text or message that the sign is conveying from one (1) use of the premise to another use of the premise and the changing of the ownership of the sign when that ownership necessitates a change in the text or message of the sign. Alterations shall not be interpreted to include changing the text or copy on off-premise advertising signs, theater signs, outdoor billboards or other similar signs which are designed to accommodate changeable copy.
 - (3) **Restoration:** Non-conforming signs which have been allowed to deteriorate or which have been damaged by fire, explosion, act of God, act of a public enemy, or damaged by any other cause, to the extent of more than sixty (60) percent of its assessed value shall, if repaired or rebuilt, be repaired or rebuilt in conformity with the regulations of this Code or shall be removed.
- (b) **Off-premise signs.** All off-premise signs which are made non-conforming uses by the provisions of this Code shall be subject to the following:
- (1) **Unsafe Signs:** Any sign or portion thereof found or declared unsafe in a manner provided by law, which may be repaired without violating (b) below, must be restored to a safe condition within thirty (30) days after the owner is given notice of the unsafe condition. Any sign not repaired as required and permitted by this subsection is unlawfully maintained and subject to the provisions of this section.
 - (2) **Alterations:** All off-premise signs and their supporting structures shall be kept in good appearance and condition with normal maintenance and repair (example: painting), but it shall be unlawful to reconstruct, raise, move, place, extend, or enlarge such signs or the structure supporting such signs. Any sign altered contrary to the provisions of this subsection is unlawfully maintained and subject to the provisions of this section.
 - (3) **Deterioration and Abandonment:** A non-conforming off-premise sign or sign structure that ceases to be used for sign purposes for a period of one year shall be deemed abandoned on the ground that

the non-conforming use has been abandoned, the non-conforming use has substantially changed, and/or such other grounds as may be appropriate. Any sign or sign structure which is abandoned or in an unreasonable state of repair is unlawfully maintained and subject to immediate revocation of its permit and removal pursuant to the provisions of this Code.

(4) **Termination of Non-conforming Signs.** Except where preempted by federal law, a sign permit for an existing off-premise non-conforming sign shall terminate and the sign shall be removed pursuant to the provisions of this Code on the date the owner of the sign has been able to recover or amortize the fair market value of the sign pursuant to State law. Using relevant information including but not limited to, information provided by the sign owner in the sign permit application, relevant aesthetic and traffic engineering information, and amortization periods used by other jurisdictions, the Town may establish an amortization period and condemnation value for each non-conforming sign as of the date of adoption of this Code that balances the harm to the owner against the public good, without imposing an undue burden upon the owner. The amortization value may not be less than the condemnation value, but no more, and shall take into consideration the cost of operation to the owner over the amortization period. A sign maintained after expiration of the related permit, as described in this subsection, is unlawfully maintained and subject to revocation of its permit and removal.

3.24.12 Definitions Pertaining to Signs

The following words and phrases, whenever used in this chapter, shall be construed as defined in this Section.

- (a) **A-Frame Sign.** Any sign or structure composed of two (2) sign faces mounted or attached back-to-back in such a manner as to form a basically triangular vertical cross-section through the faces.
- (b) **Animated Sign.** Any sign which is designed and constructed to give its message through movement or semblance of movement created through a sequence of progressive changes of parts, lights, or degree of lighting.
- (c) **Appurtenant Sign.** See On-Premise Sign.
- (d) **Building Face.** The visible outer surface of a main exterior wall of a building. The area of the face of the building shall be the total area of such surface including the area of doors and windows which open into surface.
- (e) **Canopy.** See Marquee.
- (f) **Erect.** To build, construct, place, relocate, enlarge, substantially alter, attach, suspend, paint, post, or display. Normal maintenance, including refinishing, is not included in this definition provided the sign copy is not changed or altered.
- (g) **Freestanding Sign.** Any sign that is standing on or erected into the ground. Such signs are usually, but not necessarily, supported from the ground by one (1) or more poles or posts or similar uprights, with or

without braces. Any sign which is mounted into the ground, but has the supports passing through any portion of the roof of a building or structure, shall be considered to be a roof sign.

- (h) **Frontage.** The length of the sides along the street or any other principal public thoroughfare, but not including such length along an alley, water course, railroad, street, or thoroughfare with no permitted access.
- (i) **Marquee.** A marquee shall mean and include any roofed structure attached to and supported by a building, and projecting outward from the building.
- (j) **Movable, Freestanding Sign.** Any sign not affixed to or erected into the ground or another structure or building.
- (k) **Nonappurtenant Sign.** See Off-Premise Sign.
- (l) **Off-Premise Sign or Nonappurtenant Sign.** Any sign which advertises products, services or business establishments which are not located conducted, manufactured, or sold upon the same premises upon which the sign is erected.
- (m) **On-Premise Sign or Appurtenant Sign.** Any sign which advertises products, services, or business establishments which are located, conducted, manufactured, or sold upon the same premises upon which the sign is erected.
- (n) **Outdoor Advertising Structure.** A structure erected and maintained for outdoor advertising purposes upon which a poster, bill, printing, or painting may be placed to advertise products, goods, services, or business establishments located, conducted, manufactured, or sold upon the premises on which the structure is erected.
- (o) **Projecting Sign.** Any sign attached to a building or structural wall and extending horizontally outward from such wall more than eighteen (18) inches.
- (p) **Property.** Land or real estate, with or without structures; not goods or services.
- (q) **Roof Sign.** Any sign which is erected upon or over the roof or over a parapet of any building or structure.
- (r) **Sign.** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, devices, designs, pictures, trade names, or trademarks by which anything is made known, such as are used to designate a firm, association, corporation, profession, business, or service, whether placed on the ground, rocks, trees, stumps, or other natural objects, or on a building, wall, roof, frame, support, fence, or other manmade structure, which are visible from any public street, public highway, or public road right-of-way. For the purpose of this Code, the word "sign" does not include the flag, pennant, or insignia of any nation, state, city, town, or other political unit, or of a nonprofit organization. It shall not include, further, any official notice issued by any court, public body or officer, or directional warning or information sign or structure required or authorized by law.

- (s) **Sign Area.** Sign area shall mean the area of a sign that is used for display purposes, excluding the minimum frame and supports. In computing sign area, only one (1) side of a back-to-back or double-face sign covering the same subject shall be computed when the signs are parallel or diverge from a common edge by an angle of not more than forty-five (45) degrees. In relation to signs that do not have a frame or a separate background, sign area shall be computed on the basis of the least rectangle, triangle, or circle large enough to frame the display.
- (t) **Time and Temperature Device.** Any mechanism that displays the time and/or temperature, but does not display any commercial advertising or identification.
- (u) **Wall Sign.** Any sign posted or painted upon, suspended from, or otherwise affixed to a wall, fascia, canopy, or marquee in an essentially vertical position or with exposed face of the sign in a place approximately parallel with the wall or fascia upon which it is attached.
- (v) **Wind Sign.** Any propeller, whirligig, or similar commercial device which is designed to flutter, rotate, or display other movement under the influence of wind. This definition shall not include pennants, flags, or banners.

3.25 Technical Review

The Amalga Town Council and the Amalga Planning Commission, which advises the Council on zoning matters, have determined that the various aspects of the Permitted and Conditional Review process, as well as the infrastructure review and environmental impact review process of sensitive lands require certain expertise in dealing with special or unique technical situations. These situations may be better dealt with through the formation of technical review committees made up of experts in the field to review the permit and make recommendations to the Planning Commission and/or Town Council regarding conditions of approval. The members shall be appointed by the Planning Commission, with input from the Town Council when necessary and the members shall act as staff to the Planning Commission.

These Committees may review projects as directed by the planning commission and submit certificates of review with findings and/or concerns to the Planning Commission prior to their adoption of conditions to the permit. Any appeal from the Committee's decision shall be reviewed by the Planning Commission. If necessary, the decision of the Commission may then be appealed to the Board of Adjustment, and ultimately to the courts.

Committees may be formed on a case by case basis as the need may arise and may consist of the same members of previous committees or additional and replacement members as necessary. These Committees may adopt administrative procedures as appropriate and the Committees derive their authority to meet and act under this section of the Code.

3.26 Right to Farm Provisions

Since Amalga Town is an agricultural community and because the Town Council places such a high value on the protection and preservation of

agricultural land uses, the Town has adopted the following right to farm provisions of this code.

All Subdivisions and Planned Residential Unit Developments that; (a) border an agricultural area, or; (b) contain within them an agricultural or irrigation right-of-way or easement, or: (c) will contain an agricultural open space or preservation, shall have additional requirements imposed upon the developer in the form of an analysis to be reviewed and implemented as part of the conditional use process, PRUD review process or subdivision process. This impact analysis shall be used to determine the impact(s) on associated farming and/or livestock operations affected by the development, and implement remediation and protection designs in the development to alleviate conflicts with the affected agricultural operations.

The developer is responsible for the performance of the analysis with the input and review by the Town. The Planning Commission and developer shall use the following review guidelines or issues in determining the impact on farming operations of the development, and will apply appropriate conditions during the approval process to insure that the farm or ranch affected is assured a right to farm without undue burden of residential or commercial growth and complaints by neighbors. All rights to farm are preserved to the best ability of the Town, taking into consideration practical land use applications and private property rights and concerns.

The following factors shall be used as guidelines or issues in the preparation and review of the agricultural impact analysis. Impact solutions may be developed as permit conditions and restrictive covenants or agreements:

- (a) Protection of irrigation access and maintenance of ditches and canals.
- (b) Safety and protection of the public from ditches, canals, ponds and drainage systems.
- (c) Livestock movement corridor protections and safety concerns.
- (d) Fencing safety (i.e. electrical, barb wire) and design.
- (e) Private property protection issues.
- (f) Hunting protection, access and livestock safety concerns.
- (g) Protection of farm equipment ingress and egress.
- (h) Erosion and soil protection and conservation concerns.
- (i) Drainage of the subdivision and designs to minimize the discharge or impact on agricultural lands and soils.
- (i) Noxious weeds, pests and pet (dog) controls in the subdivision.
- (j) Provisions, acknowledgments and understandings by new property owners (including hold harmless agreements if necessary) that farm work hours run late and begin early and that farm operations may contribute to noises and odors objectionable to some subdivision residents.
- (l) Screening provisions and landscaping designs to reduce noise or visual impacts on surrounding or conflicting land uses.
- (m) Any other provisions or concerns that the Planning Commission deems necessary to protect the rights to farm on adjoining or appurtenant properties.

3.27 Right of Way Encroachment (rev. 12 March 2008)

3.27.1 General

It is unlawful for any person to break, excavate, tunnel, undermine or in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an encroachment permit therefor from the Amalga Town Council. All permits shall be subject to revocation and the municipality may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this regulation. In the case of an emergency endangering life or property, encroachment permits will not be required prior to excavation, providing the council person over roads is notified and a permit is applied for as soon as practicable.

- (a) To obtain a permit the applicant must:
 - 1) Provide the Amalga Town council with a site plan showing location of proposed project indicating distance from property boundaries on both sides of the road, and location of all underground utilities, i.e. water, telephone, natural gas, sewer, etc.
 - 2) Provide adjacent property owners a courtesy notice as described in The Amalga Town Land Management and Development Code, 1.6.3.
 - 3) Provide the Amalga Town council with a traffic control plan, including a map illustrating location of all traffic control devices to be used. The plan must meet the Manual of Traffic Control Devices Specifications.
- (b) Any and all encroachment work on a public right-of-way in the Town of Amalga must be done by a licensed and bonded contractor.
- (c) All street surfacing, curbs, gutters, sidewalks, driveways or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the council person, or his/her representative, in accordance with the specifications contained in this regulation governing the various types of surfaces involved.
- (d) Undesirable Material: If material not suitable for backfill is encountered during excavation the contractor shall remove it to a site designated by the town council person over roads. Undesirable material must not be stored at the encroachment site, but must be removed prior to the conclusion of that day=s work shift on the day the undesirable material was excavated.

3.27.2 Excavation

Any trench excavated under the authority of the Amalga Town Encroachment Permit shall be excavated equal distance from the center of the pipeline. The trench shall not be excavated wider than twelve inches on each side of the sewer pipe, drainage pipe, water pipe, electrical conduit, telephone line, etc.

- (a) Bridging: The contractor shall construct suitable bridging over the trench at all street intersections and at driveways to property abutting the line of the work, and at such other points as may be required.

- (b) No excavations will be left open overnight. The excavations shall be backfilled and compacted at the close of each working day, or the contractor will provide a plate or bridge capable of supporting traffic without interfering with traffic. The plate or bridge shall be approved by the town engineer. Care and maintenance of the plate or bridge shall be the responsibility of the contractor. Traffic control devices shall remain in place to warn traffic of the hole under the plate or bridge.

3.27.3 Backfilling

Backfill shall be carefully placed around and over pipes and shall not be permitted to fall directly on a pipe from such a height or in such a manner as to cause damage. In these specifications the process of preparing the trench bottom to receive the pipe and the backfilling on each side of the pipe to a level twelve inches over the top of the pipe is defined as pipe bedding.

- (a) Trench backfilling above the level of the pipe bedding shall be accomplished with excavated material, if approved by the town engineer, or imported pit run material free from rocks larger than eight inches in diameter. No washed rock or P-gravel shall be used in backfilling excavations in the public right-of-way above the pipe bedding. The trench above the pipe bedding shall be filled with pit run material within four inches of the top of the trench. The last four inches of fill beneath the asphalt layer shall be crushed aggregate base.
- (b) The backfill in all utility trenches shall be either compacted or consolidated according to the requirements of the materials being placed in the trench. Under pavements or other surface improvement the in-place density shall be a minimum of ninety-five percent of laboratory standard maximum dry density, as determined by AASHTO T-99. Roadway shoulders or other areas without hard surfacing shall be compacted to ninety percent.
- (c) In the event the native excavated material appears to be very difficult to compact or consolidate to the required densities, or is unacceptable as backfill in the opinion of the town engineer, the native material shall be removed from the construction site and disposed of at the landfill or at a site approved by the town council person over roads, and shall be replaced with pit run material as described above, and shall be free from sod, vegetation, and other organic or deleterious materials.
- (d) Fill material under, around, and to one foot over the pipe, referred to above as pipe bedding, shall consist of select earth, sand or fine gravel, free from clods, lumps or stones larger than 1 2 inches to their maximum dimensions. Size shall be limited to 3/4" maximum around PVC, ABS, or polyethylene pipes. In wet or unstable conditions, material in this zone shall be free draining, non-plastic material such as washed rock.
- (e) Pipe bedding material shall be placed in maximum layers of six inches. Holes of ample dimensions to accept bell ends shall be dug in the bottom of the trench for each pipe length. Uniform bearing for each pipe barrel shall be provided for the full length of each pipe. Above the pipe bedding to finished sub-grade, backfilling under unimproved areas (such as borrow pits), can be placed in eighteen inch layers. Back filling under improved areas (such as paved streets) shall be placed in

twelve inch layers. All layers throughout backfill zones in improved areas will be compacted to not less than ninety-five percent of the maximum Standard Proctor Density, except in areas without hard surfacing, as noted above. Adequate testing by the contractor shall be required to verify compaction requirements.

- (f) All subsequent settling of backfill areas and other damages resulting from the use of substandard materials and/or procedures, will become the sole responsibility of the contractor for a period of not less than two years following the final approval of the entire project.
- (g) Impervious backfill shall be required at irrigation canal crossings or other waterway crossings.
- (h) All areas disturbed by excavation and backfilling construction shall be restored to its original condition, or better, at the contractor's expense.
- (i) All backfilling operations shall be completed within ten calendar days from the starting of excavation.

3.27.4 Compaction

Backfilled material shall be compacted by means of mechanical compactors of a size and type sufficient to complete the compaction to required levels, and approved by the town engineer.

- (a) Prior to compaction, each layer shall be evenly spread and moistened as approved by the town engineer. The material shall be placed at a moisture content such that after compaction the required relative densities will be produced; also, the material shall be placed in lifts which, prior to compaction, shall not exceed twelve inches under improved areas or eighteen inches under unimproved areas.
- (b) Approval of equipment, thickness of layers, moisture content, and compaction effort shall not be deemed to relieve the contractor of the responsibility for attaining the specified minimum relative densities. The contractor, in planning his work, shall allow sufficient time to make tests for relative densities for the approval of the town engineer.

3.27.5 Bituminous Surface

Where trenches are excavated through bituminous surfaced roads, driveways, parking areas, etc., the surface shall be restored and maintained as follows:

- (a) The area over trenches to be resurfaced shall be graded and rolled to provide a sub-grade which is firm and unyielding. Density of the sub-grade materials shall be ninety-five percent of AASHTO T-99. Mud or other soft or spongy material shall be removed and the void filled with pit run material and rolled and tamped thoroughly in layers not exceeding twelve inches in thickness. The edges of trenches which are broken down during the making of sub-grade shall be removed and trimmed neatly before resurfacing.
- (b) Before any permanent resurfacing is placed, the contractor shall trim the existing paving to clean, straight lines as nearly parallel to the centerline of the trench as practicable. Removed asphalt shall be replaced to the line of the existing asphalt.

- (c) Existing bituminous paving shall be cut back a minimum of six inches beyond the limits of any excavation or cave-in along the trench so that the edges of the new paving will rest on at least six inches of undisturbed soil. The paving shall be cut vertically in such a manner as to not damage the adjoining pavement or hard surfacing. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced.
- (d) As soon as practical, weather permitting, the bituminous surface shall be restored by standard paving practices.
- (e) The surface of the pavement, after compaction, shall be uniform and true to the established crown and grade. When tested with a ten foot long straight edge placed parallel to the centerline of the roadway, the surface of the pavement at any point shall not deviate from the lower edge of the straight edge by more than 3/8 inch.
- (f) Pavement restoration shall include priming with a brush applicator the pavement edges and sub-base with Type MC-70 bituminous material and placing and rolling plant hot mix bituminous material. The thickness of the asphalt in the six inch cut back area (see 3.27.6c) shall be equal to the adjacent asphalt surface but not less than 3 inches thick. In the area directly above the trench the asphalt shall be one inch thicker, or at least four inches thick.

3.27.6 Concrete Surfaces

All concrete curbs, gutters, sidewalks, and driveways shall be removed and replaced to the next joint or scoring line beyond the actually damaged or broken sections; or in the event that joints or scoring lines do not exist or are three or more feet from the removed or damaged section, the damaged portions shall be removed and reconstructed to a neat saw cut vertical plane face. All new concrete shall match, as nearly as possible, the appearance of adjacent concrete improvements. Where necessary, lamp black or other pigments shall be added to the new concrete to accurately match the existing material.

3.28 GROUP LIVING FACILITIES [Amended 2010]

3.28.1 Purpose and Applicability

A. Purpose: It is the purpose of this regulation to:

1. Comply with Utah Code Ann. §10-9a-516 through 520;
2. Avoid discrimination in housing against any person regardless of age or disability in compliance with the Utah Fair Housing Act and the Federal Fair Housing Act as interpreted by the courts having jurisdiction in Utah.

B. Applicability: This regulation shall be deemed to govern any facility, residence, or other circumstance that meets the definition of a Residential Facility as set forth in this Code.

C. Limitations: Only such Residential Facilities as are specifically authorized in this chapter and in this Regulation as permitted or conditional uses shall be allowed. All other Residential Facilities are prohibited.

3.28.2 Terms

DISABILITY: A physical or mental impairment which substantially limits one (1) or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "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.S.C. 802, or successor law.

FAMILY: One individual, or two or more persons related by blood, marriage, or adoption, living together in a single dwelling unit and maintaining a common household. A family may include four, but not more than four, non-related persons living with the residing family. The term "family" shall not be construed to mean a group of non-related individuals, a fraternity, club or institutional group.

REASONABLE ACCOMODATION: A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

(a) "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

(b) "Necessary" means the applicant must show that, but for the accommodation, one (1) or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.

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

RESIDENTIAL FACILITY FOR ELDERLY PERSONS: A single-family or multiple-family dwelling unit that meets the requirements of Utah Code Ann., § 10-9a-516 to 519), as amended.

RESIDENTIAL FACILITY FOR PERSONS WITH A

DISABILITY: A residence in which more than one (1) person with a disability resides and which is licensed or certified by:

(a) The Utah Department of Human Services under Utah Code Ann., § 62A-2-101, et seq., as amended, or

(b) The Utah Department of Health under Utah Code Ann., § 26-21-3, et seq., as amended.

Treatment is not a necessary component of a Residential Facility for Persons with a Disability, but may be provided upon request. Any treatment provided shall be clearly ancillary to the use of the facility as a residence.

3.28.3 Permitted Uses

A. Permitted Use: A Residential Facility for Persons with a Disability or a Residential Facility for Elderly Persons shall be a permitted use in any zoning district where a single family dwelling is allowed.

B. Termination: A use permitted by this Chapter is nontransferable and shall terminate if any of the following occur:

1. A facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability.
2. The facility fails to comply with the requirements of the issued permits, this section, or other Amalga Town codes & ordinances; or
3. The license or certification issued by the Department of Human Services or Department of Health terminates or is revoked.

3.28.4 Residential Facility Development Standards

Each Residential Facility shall conform to the following requirements:

A. **Residential Facility Design Standards:** Any newly constructed or remodeled Residential Facility shall comply with the following design standards:

1. The Residential Facility shall comply with: all building, safety, and health regulations; the Americans with Disabilities Act; fire regulations; and all applicable State code standards and licensing requirements. Additionally, Residential Facilities shall comply with all standards set forth by any other local, state, or federal agency for the operation of the Residential Facility
2. All setbacks shall be according to the requirements of the zone in which the facility sits.
3. In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:
 - a. The roof design of the proposed or remodeled structure shall be a pitched roof of the same slope as the most common roof slope of the homes within the surrounding area of the proposed building; and
 - b. The type of exterior materials shall be of traditional home finished materials of brick, siding, rock, stucco, etc. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color, and/or their combination being

uncharacteristic of the other buildings in the neighborhood.

4. An existing structure may not be utilized as a Residential Facility unless no structural or landscaping alterations that change the structure's residential character are required for the Residential Facility to operate. Any alterations to the structure, landscape, or site will require the approval of the Amalga Town Planning and Zoning Commission and must be completed in compliance with this section.

B. Parking Standards: The residential facility shall be required to provide sufficient parking for the intended use as provided below.

1. Each facility shall be subject to minimum site development standards applicable to a dwelling unit in the zone in which the facility is located; and

2. The minimum number of parking spaces required shall be the same as the number required for a dwelling with similar occupancy density in the same zone.

C. Number of Occupants: Pursuant to the definition of "family" in Chapter 2.44 of this Code, not more than four (4) unrelated persons shall occupy a residential facility for elderly persons or any residential facility for persons with a disability established in a dwelling unit unless a reasonable accommodation is granted in conformance with Section 3.28.5.

D. License and Certification: Prior to the issuance of a Zoning Clearance by Amalga Town for the Residential Facility, the person or entity licensed or certified by the Department of Human Services or the Department of Health to establish and operate the Residential Facility shall:

1. Provide a certified copy of the license issued or the filed application for a license by the Department of Human Services or the Department of Health to the Zoning Administrator;

2. Certify, in a sworn affidavit submitted with the application for a Zoning Clearance, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a substantial risk or direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others.

3. Residential Facility for Persons with a Disability:

i. Certify, in a sworn affidavit submitted with the application for a Zoning Clearance, that all current residents/clients qualify and that all future resident/clients will qualify prior to admission to the facility as persons with a disability as defined within the Americans with Disabilities Act;

ii. Obtain a Town business license, if required under applicable provisions of the Amalga Town Code.

4. Residential Facility for Elderly Persons:

i. Certify, in a sworn affidavit submitted with the application for a Zoning Clearance, that all current residents/clients qualify and that all future resident/clients will qualify prior to admission to the facility as “elderly persons” meaning sixty (60) years of age or older.

ii. Certify, in a sworn affidavit submitted with the application for a zoning clearance, compliance with all relevant State Code requirements.

3.28.5 Reasonable Accommodation

A. Reasonable Accommodation Required: None of the foregoing conditions shall be interpreted to limit reasonable accommodations necessary to allow the establishment or occupancy of a residential facility for person(s) with a disability.

B. Application: Any person or entity who wishes to request a reasonable accommodation shall make application to the Amalga Town Planning and Zoning Commission in compliance with The Amalga Town Land Management and Development Code, Chapter 1. General Provisions and Procedures 1.5, Amendments to the Land Management Code and Zoning Map. Said applications shall specifically articulate, in writing, the following:

1. The name, mailing address, and phone number of the applicant;
2. The nature and extent of the disability;
3. An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;
4. The applicant’s proposed reasonable accommodation(s);
5. A statement detailing why a reasonable accommodation is reasonable and necessary in order to afford handicapped persons equal opportunity to use and enjoy housing; and
6. The physical address of the property where the applicant intends on living.

C. Decision. The Planning and Zoning Commission shall render a decision on each application for a reasonable accommodation within ninety (90) days. The decision shall be based on evidence of record demonstrating all of the following:

1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
2. That but for the accommodation, one (1) or more persons with a disability will be denied an equal opportunity to enjoy housing within the community.

3. That equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.

D. Appeal: Any person adversely affected by a final decision of the Planning and Zoning Commission may appeal that decision in compliance with the Appeals and Review Process section of the Amalga Town Code 1.15.

3.29 BUSINESS LICENSE PROVISIONS [Amended 2010]

3.29.1 PURPOSE

The purpose of this chapter is to provide for the regulation of all business activities within the Town of Amalga where authorized by the Amalga Town Code, as well as, applicable Cache County, and State of Utah Statutes.

3.29.2 DEFINITIONS: As used in this title:

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

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

EMPLOYEE: The operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any sales person, agent or independent contractor engaged in the operation of the place of business in any capacity.

ENGAGING IN BUSINESS: Means and includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within the town from which business activity is conducted or transacted.

WHOLESALE: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

WHOLESALER: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

3.29.3 LICENSE ASSESSOR AND COLLECTOR:

The town recorder is designated and appointed as ex officio assessor of license fees for the town. Upon receipt of any application for a license, the town recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by ordinance or resolution of the town council. He shall enforce all provisions of this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title.

3.29.4 LICENSE REQUIRED:

A. License Required; Penalty: It is a class B misdemeanor for any person to transact, engage in or carry on any business, trade, profession or calling, or to operate a vending or coin operated machine without first receiving the class or type of license required by the town.

B. Appearance Required; Renewal: After receiving an application for a business license, as per section 3.29.5 of this chapter, the applicant must appear before the Amalga Planning and Zoning Commission for approval of the initial business license. Thereafter, at the beginning of the calendar year, the license will automatically be renewed, upon payment of the annual fee, unless there is a change in the type of business being conducted, which would result in the applicant being required to appear before the town council for approval. [change approved 10-8-2014]

3.29.5 APPLICATION FOR LICENSE:

A. Information Required: All applications for a license shall include:

1. The name, address and phone number of the person desiring a license;
2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on;
3. The class of license desired, if such licenses are divided into classes;
4. The detailed address where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or enclosure having such number;
5. The period of time for which such license is desired to be issued.

B. Coin Operated Machines: In the event that the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

3.29.6**FEE FOR LICENSE; PAYMENT; DELINQUENCY:**

A. Fee Schedule: The business, location, trade, calling or profession of every person engaged in a business in the town shall pay an annual license fee in such amount as established by ordinance or resolution of the town council.

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

1. Annual fees shall be payable before each calendar year in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year.

2. Annual fees shall be due on the first day of each calendar year and shall become delinquent if not paid by February 1 each year.

3. All licenses will expire on December 31 of the calendar year in which the license is issued. Payment shall be made upon the date of application approval and before license issue.

C. Penalty For Late Payment: If any license fee is not paid within thirty (30) days of the due date, a penalty of ten percent (10%) of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full.

3.29.7**EXEMPTIONS TO LICENSE FEE:**

A. No license fee shall be imposed under subsection 3.29.6A of this chapter on any person engaged in business for solely religious, charitable, or related to charity, or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the state; nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; Nor shall a license fee be imposed on any agriculturally related business if it qualifies for an agricultural exemption for Utah State sales tax; nor shall any license fee be imposed upon any person not maintaining a place of business within the town who has paid a like or similar license tax or fee to some other taxing unit within the state and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the town and doing business in such taxing unit.

B. The license assessor and collector may, with approval of the governing body, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this section.

3.29.8**FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE:**

None of the license fees provided for by subsection 3.29.6A of this chapter shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed by subsection 3.29.6A of this chapter is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the governing body a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the governing body is satisfied that such license fee is the amount that the applicant should pay, it shall fix the license fee in such amount. If the regular license fee has already been paid, the governing body shall order a refund of the amount over and above the fee fixed by the governing body. In fixing the fee to be charged, the license assessor and collector shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

3.29.9**CERTIFICATE OF LICENSE:**

All certificates of license shall be signed by the mayor, attested by the town recorder, and shall contain the following information:

- A. The name and address of the person to whom such certificate has been issued;
- B. The amount paid;
- C. The type of license and the class of such license if licenses are divided into classes;
- D. The term of the license with the commencing date and the date of its expiration;
- E. The address where such business, calling, trade or profession is to be conducted.

3.29.10 DISPLAY REQUIRED:

A. Requirements: Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer

during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

B. Coin Operated Machines: In the event the license is for a coin operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

3.29.11 TRANSFERABILITY:

No license granted or issued under any ordinance of the town shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named unless by permission of the governing body.

3.29.12 BRANCH ESTABLISHMENTS:

A separate license must be obtained for each separate place of business in the town and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this title shall not be deemed to be separate places of business or branch establishments.

3.29.13 JOINT LICENSE:

Whenever any person is engaged in two (2) or more businesses at the same location within the town, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license fee to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for such business.

3.29.14 RECIPROCAL RECOGNITION OF LICENSES:

A. No license shall be required for operation of any vehicle or equipment in the town when:

1. Such vehicle is merely passing through the town;
2. Such vehicle is used exclusively in intercity or interstate commerce.

B. No license shall be required by this title of any person whose only business activity in the town is the mere delivery in the town of property sold by him at a regular place of business maintained by him outside the town, where:

1. Such person's business is at the time of such delivery licensed by the state, municipality or county in which such place of business is situated; and

2. The authority licensing such business grants to licensees of the town making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section; and

3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the town for compliance with health or sanitary standards prescribed by the town; and

4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

C. The town recorder shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified.

3.29.15 REQUIREMENTS

A. Compliance. Each place of business may be inspected by the town for compliance with building, fire, land use and health codes prior to opening for business. No business shall be licensed, if the premises and/or building to be used are not in compliance with the applicable codes as listed above. An inspection may be required when the general public will be entering the business, a product is produced, and/or hazardous chemicals are located at the business.

B. Inspections. Whenever inspections are required or considered reasonably necessary to ensure compliance with any provision on the license application; or state statute, or regulation; it shall be the duty of the licensee, or person in charge of the premises to be inspected to admit said inspectors. The inspection may be conducted by any official, officer or employee of the Town of Amalga, Cache County or State of Utah, who is authorized or directed to make such inspections at any reasonable time that admission is requested.

C. Nuisances. No business, whether licensed or not, shall be conducted or operated, so as to constitute a nuisance in any way. Sustained or repetitive complaints may be considered as grounds for revocation of the business.

D. Code Violations. No license shall be issued for the conduct of any business, if the premises and building to be used for said purposes do not fully comply with the requirements of this code, nor will a license be issued if the applicants fail to meet the requirements of the Town of Amalga Zoning Regulations. Any Business License fraudulently obtained shall be declared null and void.

3.29.16 REVOCATION OR DENIAL OF LICENSE:

A. Conditions: Any license issued pursuant to the provisions of this title or of any ordinance of the town may be revoked and any application denied by the governing body because of:

1. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the town;
2. Unlawful activities conducted or permitted on the premises where the business is conducted.
3. The license is obtained by deception or is issued to or obtained by any unauthorized person. [approved 10-8-2014]

B. Notice Required: Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the governing body intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the governing body (which shall be at least 10 days and not more than 30 days from the date notice is sent) and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

C. Nonapplicable: The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the town, and such applicants need only be informed that their application has been denied and the reasons for such denial.

Approved by the Amalga Town Council October 8, 2014

3.30 Amalga Northern Drainage Ordinance

3.30.1 Purpose, Scope and Objectives

This Drainage Ordinance is formed for the purpose of maintaining the integrity of the existing system, and detailing specifications to be used when it becomes necessary for individual property owners to add to, or modify the present system, by installing additional culverts, or causing

3.30.2 Drainage Area Defined

The Amalga Northern Drainage Area contains the drainage channel located on the eastern edge of 2400 West Street. The Northern boundary being the point where 2400 West Street intersects with 8600 North Street. From that point it extends South along the eastern edge of 2400 West Street to a Point at 7600 North. This being the southernmost end. The drainage from the North flows South to a point approximately 8115 North, and the drainage from the South, flows North to that common point. At that location, two stacked drainage culverts carry the flow under 2400 West Street and down to the west. At a point some 400 feet West, the topography falls rapidly to the west, resulting in an accelerated drainage flow and defining the West Boundary.

3.30.3 Material Specifications

The original Design Specifications called for 15 inch Reinforced Concrete Pipe (RCP). The Steel Reinforced Concrete Pipe is manufactured in 8 foot lengths, with one end belled to enable them to be fitted together. The RCP was selected because the Drainage System would need to be able to accommodate heavy equipment, and fires used for clean up, and weed control. All future Pipe additions will be held to the same specifications. No pipe manufactured of other materials will

be used in the above defined Drainage Area. The 15 inch Pipe specified above will be bedded using a minimum of six inches of compacted gravel.

3.30.4 Gradient

The drainage profile varies in the different sections, and must be maintained as it pertains to its specific site. As an example, the Northern Section, 8600 North to 8300 North, and Southern Section from 7600 North to 8115 North are 0.1%, or (0.12 inches /10 feet). While the Mid section- 8300 North is 0.21%, or (0.252 inches / 10 feet). When laying the 15 inch RCP in this drainage area, consult the original construction plans for specific area gradients, and comply as specified.

3.30.5 Zoning Clearance

A Town of Amalga Zoning Clearance will be required before any work is started.

3.30.6 Inspections

An inspection will be required before the project is backfilled, to ensure that the above detailed specifications have been followed. Said inspection to be sanctioned by the Amalga Town Mayor, or his Designated Agent. Any incurred Inspection Fees will be to the Property Owners Account.

3.30.7 Maintenance and care

To ensure the continued functionality of the overall system, it is deemed prudent to conduct an annual inspection, and use whatever equipment and means required to remove any obstructions that might later impede the water flow, and result in serious, and costly blockages in the culverts.

Chapter

4

PLANNING COMMISSION

The regulations set forth in this chapter describe the Planning Commission and its membership, function and responsibilities in administering and interpreting the Amalga Town Land Management and Development Code.

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4.1 *Planning Commission Created*

There is hereby created a Town Planning Commission to consist of five members. Members shall be appointed by the Mayor with advice and consent, by vote, of the Council.

4.2 *Terms and Eligibility of Members*

Members of the Planning Commission shall serve initial terms of four years. Members shall be appointed every other year in December of the year of the expiration. The terms shall be staggered so that two members shall be appointed together and then three members on the following appointment December, two years following. Terms may expire on the last day of the year, but members on the Planning Commission shall continue to serve until their successors are appointed and qualify. The Mayor shall appoint a new Planning Commission member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term. Members of the Planning Commission shall be residents of and land/property owners in Amalga, and have resided and owned property within the Town for at least ninety (90) days prior to being appointed. Members are deemed to have resigned when they move their residences outside the Town limits. A member of the Town Board shall serve as a liaison to the Planning Commission and may participate in discussion as a non-voting member.

4.3 *Absence Deemed Resignation or Grounds for Removal*

Any Planning Commission member who is absent from two (2) consecutive regularly scheduled meetings, or a total of four (4) regularly scheduled meetings per calendar year may be called before the Town Council and asked to resign or be removed for cause by the Council.

4.4 *Community Members*

Appointments to the Planning Commission shall be made on a basis which fairly represents the interests of all residents of the community of Amalga.

4.5 *Powers*

The Planning Commission shall have all necessary powers conferred on Planning Commissions pursuant to Chapter 9 of Title 10, Utah Code Annotated, 1953, as amended, and such other powers as are conferred on it by the Town Council.

4.6 *Chair*

The Planning Commission shall on or before the last Wednesday in January each year elect a Chair and Vice Chair who shall serve a term of one year, but may be re-elected for any succeeding consecutive terms. A person may not serve more than four consecutive terms as Chair of the Planning Commission. The Chair will direct all commission meetings and will be a voting member of the committee. In the absence of the Chair the Vice Chair shall serve as Chair.

4.7 Staff

In order to assist the Planning Commission in carrying out its duties, the Planning Commission may request the assistance of other employees, committees or agents of the Town, including the Mayor, Town Council, and Town Recorder. The Planning Commission may appoint a secretary to keep minutes and post agendas of meetings and/or hearings. The secretary may be paid for services rendered as agreed upon by the Town Council.

4.8 Purposes

The Planning Commission is intended to act as a non-political, long range planning body for the Town. Review of specific projects shall be limited to those matters specifically requiring their consideration as to the compliance of the application to the relevant Town codes. They shall constantly make sure that all development decisions in the Town are made in consideration of the intentions of the General Plan of the Town as adopted and/or revised by the Planning Commission and Town Council. It shall also be the responsibility of the Planning Commission to monitor said projects for compliance. The Planning Commission shall review those matters designated in this Land Management and Development Code and interpret and enforce this code to the best of their ability. The Planning Commission may also have joint meetings with the Town Council to advise or be advised on development matters as they may arise from time to time.

4.9 Meetings and Hearings

The Planning Commission shall establish procedures for its own meetings and hearings governing presentations of projects and public responses, and public impact or comment on specific projects or general issues. Planning Commission meetings are open to the public and will conform to the Utah Open Meetings Act. Notice will be provided for as per section 1.6 for hearings and an annual meeting schedule will be posted and published at least once a year in a newspaper of general circulation in Amalga Town.

4.10 Minutes

The Planning Commission shall keep official minutes of its meetings, which shall be permanently stored at the town hall and available for public inspection. Minutes released to the public prior to approval shall clearly, prominently, and legibly be endorsed “unapproved”.

4.11 Decisions

All decisions of the Planning Commission shall be included in the minutes. Where written findings are required, the findings may be prepared separately, but shall be incorporated into the minutes.

4.12 Quorum Requirement

The Commission shall not conduct any business at a meeting unless a quorum is present. A quorum shall consist of a majority of the appointed members of the Commission, including the Chairman for computation purposes.

4.13 Voting

Actions of the Commission pass by majority vote. A majority is a simple majority of those members present at the meeting and entitled to vote on the matter under consideration, but said majority shall never be less than three (3) members who are entitled to vote. The Commissioner elected Vice Chair shall, at all times, be entitled to cast his or her vote as a member of the Commission, including those occasions on which he or she is acting as Chair.

4.14 Review by Planning Commission

General planning and review of specific development projects by the Planning Commission shall be divided into the following functions:

- (a) Town Comprehensive planning and zoning review,
- (b) subdivision approval,
- (c) Planned Residential Unit Development approval,
- (d) all building applications, including residences,
- (e) approval and extension of all conditional use permits,
- (f) plat approval,
- (g) termination of inactive applications and
- (h) sensitive lands review.

The scope of review for each of these functions is as follows:

4.14.1 Town Comprehensive Planning and Zoning Review

The Planning Commission shall have the primary responsibility to initiate long-range general planning for the Town, including planning for adequate streets, parks, trails, and recreation facilities, long-range zoning objectives, and periodic review of existing plans

to amend them or keep them current. The Commission shall review proposed annexation to the Town and recommend action and zoning on land to be annexed. The Commission shall initiate or recommend zone changes and review the development standards within zones. The Commission shall hear all requests for zone changes. The Town Council shall advise and be kept informed by the Commission in this long-range planning function.

4.14.2 Subdivision Approval

The Planning Commission shall review all applications for subdivisions under the provisions of any applicable Amalga Subdivision Codes and regulations and this Code.

4.14.3 Planned Residential Unit Development Approval

All proposals for Planned Residential Unit Development approval shall be reviewed by the Planning Commission as a conditional use. An application must be filed with the Planning Commission in a form as described in the Amalga Land Management and Development Code. In reviewing requests for PRUD approval, the Commission shall consider the overall planning for the proposed project, including:

- (a) Site planning for the project;
- (b) Traffic circulation within the project and on the adjoining streets, both existing and proposed;
- (c) Land uses within the proposed project area including the mixture of commercial, agricultural, recreational, and residential;
- (d) Density of development;
- (e) Identification of development parcels within the larger tract, and the order in which development is proposed or should be permitted to allow for the orderly and economic expansion of Town services and infrastructure;
- (f) Compatibility with surrounding land uses;
- (g) Other pertinent planning and land use issues that are affected by the project, such as the effects on schools, fire protection, water, sewage disposal and utility services, drainage, and similar on and off site issues; and geologic or other natural hazards;
- (h) Compatibility with the General Plan adopted by the Town;
- (i) Utility capacity;
- (j) Emergency vehicle access;
- (k) Location and amount of off-street parking;
- (l) Internal circulation system;
- (m) Fencing, screening, and landscaping to separate the use from adjoining uses;
- (n) Building mass, bulk, and orientation, and the location of buildings on the site;
- (o) Usable open space and open space conservation alternatives;

- (p) Signage and lighting;
- (q) Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing, and general architectural theme;
- (r) Noise, vibration, odors, steam, smoke, or other mechanical factors that affect people and property offsite;
- (s) Control of delivery and service vehicles, loading and unloading zones, and screening of trash or re-cycling pick-up or storage areas;
- (t) Expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies;
- (u) Sensitive Lands issues and delineation (if needed) and mitigation measures if necessary or applicable;
- (v) Right to farm issues and impacts as per section 3.26 of this code;
- (w) Any other criteria or issues that the Planning Commission considers pertinent in dealing with the project.

4.14.3.1 Nature of Approval

Upon review and consideration of the proposal, the Planning Commission may approve, disapprove, or modify and approve the request for Planned Residential Unit Development approval. The approval process shall establish the following items:

- (a) Designation of land uses within the project area;
- (b) Designation of identifiable development parcels within the total project area. These development parcels are not required to be divided or platted as subdivision lots, but may be designated on maps as a part of the approval with a final legal description of the parcels to be required at the time each is developed or sold, leased, or otherwise transferred or separated from the whole tract.
- (c) Designation of the land use or mixture of uses for each development parcel;
- (d) Designation of density ranges in Unit Equivalents for each development parcel identified;
- (e) Designation of the order of development, including concurrency plans and issues to ensure economical and efficient expansion of Town services and infrastructure;
- (f) Designation of specific conditions to the development of any parcels which are by their nature more subject to development constraints than the typical parcel in the proposed development;
- (g) Designation of density transfers from one parcel to another, if any;

- (h) Whether or not there will be commercial uses on all or some of the development parcels identified, and if so, the specific parcels that will include commercial uses;
- (i) The general architectural or design theme and character of the overall development.
- (j) Adequate protection of rights to farm in adjacent agricultural areas.
- (k) Sensitive Lands protection and/or mitigation measures.
- (l) Any other measures established that the Planning Commission considers pertinent in approval of the project.

4.14.3.2 Length of Approval

The Planned Residential Unit Development approval granted by the Planning Commission shall be effective so long as construction is proceeding in accordance with the approved phasing plan. Approval will lapse after two years of inaction, unless extended for up to two years by the Planning Commission. Zone changes occurring while the approval is in effect shall not affect the approval. Changes in the PRUD plan requested by the developer will be reviewed and approved as a revision to the PRUD plan by the Planning Commission. A change will be defined as any change in concept, unit type, configuration or number. At that time, the Planning Commission shall review the entire PRUD, even if only one parcel or phase is involved in the modification under the regulations in effect at the time of review. Modification shall act as an extension of the approval.

4.14.3.3 Record of Approval

When a Planned Residential Unit Development approval is granted, the approval shall be noted in a recordable document stating the legal description of the property involved, and at least the general nature of the approval. The notice shall direct interested persons to the Town to review the actual master plan. The purpose of the recording is to put prospective purchasers on notice that the land has been included within a PRUD plan that has established density ranges and land uses that might be more or less restrictive to individual parcels than the underlying zoning regulations might imply. All platting requirements of non-PRUD planned subdivisions are also applicable.

4.14.3.4 Development on Planned Parcels

Development proposals for each approved development parcel within the Planned Residential Unit Development approval is reviewed by the Planning Commission under the conditional use process, regardless of the size or nature of the development.

4.14.4 Review by Planning Commission for Compliance

All building applications shall be reviewed by the Planning Commission for compliance to all applicable town codes and regulations. Applications shall be approved upon determination of compliance with said codes and regulations.

4.14.5 Plat Approval

The Commission shall review all plats to be recorded affecting land within the Town limits or annexations to the Town. The scope of review on plat approval is limited to finding substantial compliance with the provisions of the State Statute on recording of plats, and that all previously imposed conditions of approval, whether imposed by the staff or the Commission, have been satisfied. The Plat must also comply with all the regulations and procedures contained in this code. Upon finding that the plat is in compliance with the State Statute, the Town of Amalga Subdivision Ordinance and this code, and that conditions of approval have been satisfied, the plat must be approved. No new conditions may be imposed at the plat approval stage. The Town Engineer, Town Attorney, Town Recorder, Town Council, and Mayor shall all review the plat as required by statute before recording. Plats may be approved on the consent agenda.

4.14.6 Inactive Projects

See Termination of Projects in Chapter 1.

4.14.7 Sensitive Lands Review

Any project falling within the Sensitive Lands Overlay Zone or containing designated sensitive lands, may be subject to additional requirements and regulations as outlined in the Sensitive Lands Regulations contained in this code.

4.14.8 Right to Farm Review

Any project falling within the pervuew or scope of section 3.26 of this code, may be subject to additional requirements and regulations as outlined in the Right to Farm provision of that section of this code.

Chapter

5

BOARD OF ADJUSTMENT

The regulations set forth in this chapter describe the Board of Adjustment and its membership, function and responsibilities as defined in State Law and the Amalga Town Land Management and Development Code.

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5.1 Establishment of Board

In order to avail the Town of the powers provided in Chapter 9 of Title 10 of the Utah Code (1953, as amended), there is hereby created a Board of Adjustment, which shall consist of five (5) members. There may also be appointed up to two non-voting alternate(s) to vote when a regular member is absent. Members shall be appointed by the Mayor with the advice and consent of the Town Council. All members of the Board of Adjustment shall reside in and be property/land owners within the Town limits, and are deemed to have resigned if they move their residence or sell their property from the Town limits.

5.2 Term of Office

Each member of the Board of Adjustment shall serve for a term of five (5) years or until his successor is appointed and qualified provided that the term of the members of the first Board so appointed shall be such that the term of one member shall expire each year. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term.

5.3 Absence Deemed Resignation or Grounds for Removal

Any Board member who is absent for two (2) consecutive meetings, or a total of four (4) meetings per year may be called before the Town Council and asked to resign or be removed for cause by the Council.

5.4 Organization

5.4.1 Chair

The Board of Adjustment shall elect a Chair and may adopt such rules for its own proceedings as are deemed necessary.

5.4.2 Quorum

No business shall be conducted unless at least three members of the Board, not counting the alternate(s), are present.

5.5 Meetings

Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. The Chair of the Board of Adjustment or in his absence, the Acting Chair, may administer oaths and compel the attendance of witnesses at such meetings, and all meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the roll call of votes upon all questions or, if a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the Town hall and shall be public record. All meetings and hearings will be posted and noticed (in the case of hearings) as per section 1.6 of this code. An annual schedule of meetings will be published at least once annually, in a newspaper of general circulation in the Town of Amalga. The schedule may state that some meetings may be canceled upon 24 hours of posted notice if the meeting is not necessary or required.

5.6 Hearings Before the Board

The Board of Adjustments is created to hear four (4) classifications of cases as follows:

5.6.1 Variance Applications

Whenever any application or permit has been stayed or denied by the Planning Commission or Town on the basis that approval of the requested permit or application would violate the provisions of this code relating to set back, building height, side yard, lot size, site requirements, parking requirements, or some similar provision of the Code that has the effect of depriving the applicant of the reasonable use of his property, when others similarly situated are entitled to make such use of their property, the Board may hear the matter, and grant a variance from the strict enforcement of this Code. A variance is defined in greater detail in Utah Code, section 10-9-707, as amended.

5.6.2 Modifications of Non-Conforming Uses

The Board shall have the power to rule on all requests for enlargements, modifications, or changes in the character of any non-conforming use, and to have hearings to determine whether the use in question is in fact a non-conforming use, as opposed to a violation of the ordinance or an allowable use within the zone. Non-conforming uses are addressed in Chapter 1 of this Code.

5.6.3 Appeals

The Board shall hear and decide appeals where any party with standing as defined in Chapter 1 of this Code alleges that there is an error in any order, requirement, decision or determination made by the Planning Commission, Town Council or other Town official, in the enforcement of Article 1, Chapter 9, Title 10 of the Utah Code (1953, as amended), or any Town ordinance adopted pursuant thereto.

5.6.4 Special Exceptions

The Board may hear applications for special exceptions to the terms of this Code which apply to variances, modifications of non-conforming uses, appeals and other matters upon which the Board is required to pass judgment under this Code.

5.7 Variance

Variations from the provisions of the Code may be granted by the Board as per Utah Code, section 10-9-707, as amended, whenever a strict or literal application of the provisions of this Code would create a hardship on the owner of the subject property that is unique to that property. Variations shall be granted when the strict application of this Code would:

- (a) Deprive the owner of the property in question of the substantial property rights and privileges available to others owning similar property within the same zone, and
- (b) The deprivation results from conditions on the property, including irregular lot size, lot shape, access, presence of easements or rights-of-way across the property including non-platted but existing public streets, or similar factors not of general application to other properties in the zone, and not from conditions created by the applicant, and
- (c) The granting of the variance would not be detrimental to the public health and safety or contrary to the General Plan of the Town, and strict adherence to the letter of the Code will cause hardships, the imposition of which are not necessary in order to carry out the general purpose of the plan.

5.8 Application for Variance Review

A letter of application for variance review must be filed with the Chairman of the Board of Adjustment in advance. The application shall state the nature of the hardship and the nature of the variance requested. If the request for a variance is a result of a denial of any zoning clearance or conditional use approval, the application shall so state, and all documents on file concerning the matter shall be forwarded to the Board for review as a part of the request. The applicant or the Town may present any information as might be reasonably required by the Board in evaluating the request.

5.9 Hearing

The Board shall, upon receipt of the letter of application for a variance, schedule a date for hearing on the matter. The hearing date shall be no less than ten (10) days, nor more than thirty (30) days from the date of application. Notice shall be given to adjoining land owners in the manner described in Chapter 1 of this Code, and in addition, notice of hearing shall be published at least once prior to the date of the hearing in a newspaper having general circulation in the Town. The date and nature of the hearing shall also be posted at the Town hall prior to the hearing in accordance with the Utah Open Meetings Act.

5.10 Persons Entitled to Appear

At the hearing on any matter before the Board of Adjustment, any person aggrieved or interested in the matter may appear in person or through his attorney to testify on the matter. The applicant shall have the right to respond to testimony offered in opposition to the application.

5.11 Decision

In exercising the above-mentioned powers the Board may, in conformity with the provisions of the Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the official or board from whom the appeal is taken.

5.12 Vote Necessary for Reversal

The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, or determination of any such administrative official or board, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

5.13 Judicial Review of Board Decision

The Town or any person aggrieved by any decision of the Board of Adjustment may have and maintain a plenary action for relief therefrom in the First District Court in Cache County provided petition for such relief is presented to the court within thirty (30) days after the filing of such Board decision with the Town Recorder. The Town Board may not over-ride a decision properly made by the Board of Adjustment.

Chapter

6

**ZONING ADMINISTRATION and
ENFORCEMENT**

This chapter details zoning enforcement guidelines, as well as descriptions of some of the main duties of the Town Building Official. Building and occupancy permits, inspections, enforcement issues as well as violations of this code are described.

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6.1 Administration and Enforcement

6.1.1 The Town Board and Planning and Zoning Board

The provisions of this Ordinance or Code shall be administered by the Town Board acting under the supervision of the Mayor. The Planning and Zoning Commission shall, when deemed appropriate, recommend legal action to the Town Council in order to enforce this Code or other land use related ordinances or regulations. The Planning Commission in cooperation with the Mayor and Town Council shall determine when violations exist, when a development is in substantial compliance with this Code, or when strict compliance should be demanded, or other enforcement actions taken. The Planning Commission shall also advise the Town and developers as to application, submission, compliance and procedural matters as related to this code as well as the interpretation of this code's provisions to the best of its ability.

6.1.2 The Town Building Official

The Town Building Official shall operate under the direction of the Mayor and Town Council as well and is charged with zoning and other related enforcement duties of this code, as well as issuance, revocation and administration of occupancy permits as per this code and International Building Codes in effect. The Building Official is also in charge of building or use inspections, and all building inspectors shall work under his/her direction. Applications for permitted uses shall be evaluated by the Building Official to determine if approval can be given as a permitted use or if questionable, the use may be conditional or require further study or attention. In the latter case, the application shall be referred to the Planning Commission for further clarification or processing.

The Building Official shall work with and advise the Planning Commission and Town Council if necessary on zoning or land use matters as applied for and acted on by the Town of Amalga.

The failure of any person to properly interpret or apply this Code or any provision of it shall not operate to waive or estop the Town from subsequent enforcement action. Permits issued in violation of this Ordinance shall have no force or effect and persons knowingly or negligently building or subdividing under improperly issued permits or approvals do so at their own risk.

6.2 Zoning and Zoning Clearances

Construction, addition, alteration, repair or removal of any building, or structure or any part thereof, as provided for or as restricted in this ordinance and the current state adopted code, **and that would require a Cache County building permit**, shall not be commenced except upon issuance of a zoning clearance by the Town Planning and Zoning Commission.

Construction, addition, alteration, repair or removal of any public or commercial building or structure as provided for or as restricted in this ordinance and the current state adopted code, and that would require a Cache County building permit, also shall not be commenced except upon issuance of a zoning clearance by the Town Planning and Zoning Commission.

No zoning clearance for new dwellings shall be issued for or on any restricted lot.

If construction, alteration, or repair of any building or structure or any part thereof extends into two or more zones of which it is a permitted use, the entire process shall be regulated by the more restrictive zoning requirements. Zones listed as most restrictive to least restrictive being: wetlands; agricultural; residential-agricultural; residential; residential-mixed use; and light industrial as least restrictive. [Amended 2008]

6.3 Occupancy Permit

Land, buildings, or premises in any district shall hereafter be used only for a purpose permitted in such a district and in accordance with the appropriate regulations. A permit of occupancy shall be issued by the Building Official to the effect that the use, building, or premises conform to provisions of this and all related ordinances, regulations, and requirements prior to occupancy, for any building erected, enlarged or altered structurally for the occupancy or use of any land. Such a permit is needed whenever use or character of any building or land is to be changed.

6.4 Inspection

The Town, through its designated officials, shall, upon presentation of evidence of official authority, have the right of access to any premises at any reasonable hour for the purpose of inspecting all buildings and structures during the course of their construction, modification, or repair, and to inspect land uses to determine compliance with the provisions of this Code.

6.5 Site Plan Required

Apart from any project or building plans required to be submitted to the Town, a detailed site plan, drawn to scale, shall be filed with the Town Building Official, as part of any application for a zoning clearance for a non-residential permitted use. The site plan shall show where pertinent:

- (a) Scale and north arrow.
- (b) Lot lines and their dimensions.
- (c) Adjacent streets, roads, rights-of-way, ditches, easements and land uses.
- (d) Location of all existing structures on subject property and adjoining properties (completely dimensioned, including utility lines, poles, fences, etc.).
- (e) Existing utility line locations and sizes
- (f) Existing and proposed grading, drainage, and landscaping plans.

- (g) Location of proposed construction and improvements, including location of all landscape elements, retaining walls, drainage works, and signs.
- (h) Motor vehicle access, including individual parking stalls, circulation patterns, curb, gutter, and sidewalk and trail location.
- (i) Necessary explanatory notes.
- (j) Name, address, and telephone number of builder and owner.
- (k) Other information which may be requested by the Town Building Official, Town Staff or in this Code.

6.6 Time Limit

Unless there is a permit issued and actual construction within a period of one year from the date of plan approval by the Planning Commission and/or Building Official, the plan approval for a permitted use shall expire.

6.7 Penalties and Enforcement

The provisions of this Code may be enforced by either civil or criminal actions in courts of appropriate and competent jurisdiction. Suit may be brought by the Town, or by affected property owners in the manner set forth below:

6.7.1 Criminal Citations

The Building Official and other designated Town officials may, when there is probable cause to believe that a violation of this ordinance has occurred, cause a citation or criminal information and summons to be issued against the appropriate individuals and business entities. Specific approval from the Town Council for such misdemeanor citations is not required.

6.7.2 Civil Actions

The Town, with the authorization of the Town Council, may bring actions for civil and equitable relief, including enjoining specific land uses and affirmative injunctions. The Building Official, Planning Commission and other designated Town officials may recommend such actions at any time to the Town Council, provided that no civil proceeding shall be commenced without the specific authorization of the Council.

6.7.3 Third Party Actions

Individuals affected by zoning violations within Amalga shall have the right to maintain private actions to enforce the Code without joining the Town as a party.

6.8 Violations

Violations of this Code are Class "C" misdemeanors, and are punishable by a fine and/or imprisonment. The officers and directors of a corporation shall be responsible for the acts

committed by that corporation. Corporations and individuals shall be responsible for the acts of their agents committed in violation of this ordinance if they had knowledge of the act committed, and the owner of the property is presumed to have a knowledge of the uses of that property and improvements made to it. Each day that a violation occurs shall constitute a separate offense.

Chapter

7

ZONE DISTRICTS and REGULATIONS

The regulations set forth in this chapter detail each of the zone districts and describe the various uses, both permitted and conditional, as well as uses prohibited in each zone.

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7.1 The Agricultural Zone

7.1.1 Purpose, Scope and Objectives

The Agricultural Zone, also known as the A-zone, is established to protect and preserve agriculture in Amalga. It provides areas for the growing of crops and the raising of livestock. It is to provide permanent areas for agricultural use and farming activities. Uses normally and necessarily related to agriculture are permitted and uses incompatible to the continuance of agriculture are not allowed. All efforts to protect this zone should be encouraged.

Uses permitted in the A-zone, in addition to agricultural uses, must be incidental thereto and should not change the basic agricultural character of the zone. The A-zone is intended to protect agricultural uses from encroachment of urban development until such time as residential, commercial, or industrial areas become necessary and desirable by the town. This zone is intended to discourage the division of large contiguous sections of farmland into smaller, less viable plots by haphazard, random, and improperly planned development. Conversion of the Agricultural Zone to zones allowing more urban uses should be accomplished only in an orderly and careful manner following the General Plan. Unless listed in this chapter, a use is not allowed in the A-zone.

7.1.2 Permitted Uses

The following uses of land are permitted in the Agricultural Zone:

- a) Agriculture and the raising of animals normally associated with farming activity.
- b) Agricultural related activities and structures.
- c) Milk production, dairying and dairy-related activities.
- d) Single-family dwellings – detached. Subject to approval of the septic system by the Board of Health.
- e) Residential accessory structures.
- f) Home occupations as regulated by the business license procedures of Amalga and this code.
- g) One accessory apartment per detached single dwelling.
- h) Caretaker boarding (2 per residence).

7.1.3 Conditional Uses(Amended 6/9/2021)

The Planning Commission may authorize the issuance of a Permanent or Temporary Conditional Use Permit, as outlined in this Code, for the following uses of land in the Agricultural Zone.

- a) Milk processing.
- b) Religious activities.
- c) Stables, riding academies, riding schools and accompanying stables.
- d) Exotic animals.
- e) Animal specialties.
- f) Public utilities and functions.
- g) The selling, storing, and distribution of earthen products.

7.1.4 Minimum Lot Size and Open Space

The minimum lot size for dwellings and non-agriculture related buildings constructed within the Agricultural Zone shall be **5 acres**. There is no minimum lot size for normal and customary agricultural structures.

7.1.5 Lot Frontage

All lots developed for residential use in the agricultural zone shall abut along the right-of-way line of a public street for a minimum distance of **350 feet**. [Amended 2010]

7.1.6 Number of dwellings per lot.

Not more than one primary single-family dwelling may be placed upon a lot in the A-zone. Single caretaker facilities or single attached accessory apartment may be allowed.

7.1.7 Yard Requirements – Dwellings and Main Buildings

The following yard setback requirements shall apply on lots in the Agricultural Zone:

- a) **Front Yard** – The minimum front yard for all buildings in the A-zone shall be **40 feet** from the frontage roads.
- b) **Side Yards** – The minimum side yard for all buildings in the A – zone shall be **30 feet**.
- c) **Rear Yards** – The minimum rear yard for all buildings in the A-zone shall be **40 feet**.
- d) **All other main buildings** in the Agricultural Zone shall be located parallel with or behind the foremost point of the dwelling or main building.
- e) **Easements** – No building or structure shall be located within a platted easement of any kind, unless compatible with its use as an easement.

7.1.8 Yard Requirements – Accessory Buildings

Accessory buildings in the Agricultural Zone shall be located not closer than **10 feet** to any property line. Accessory buildings shall be located parallel with or behind the foremost point of the dwelling or main building..

7.1.9 Building Height

No lot or parcel of land in the Agricultural Zone shall have a building which exceeds a height of **35 feet**; except that silos, hay shelters, windmills, and other agricultural related accessory structures not used for human occupancy may exceed 35 feet in height. All structures over 35 feet will require a Conditional Use Permit.

7.1.10 Site Plan Approval

The Land Management and Development Code and Town Code shall be satisfied prior to the issuance of a zoning clearance. A site plan shall be submitted to and approved by the Planning Commission prior to any such permit issuance.

7.1.11 Prior Created Lots of Record

Any lot under separate ownership of record prior to the adoption of the previous Amalga zoning ordinance, which has dimensions which would prevent building because of the area, front yard, rear yard, and side yard set back required by the zone in which the lot is located, and any lot which has been approved by the Town prior to the effective date of this Code which would prevent building because of the area, front yard, rear yard, and side yard set backs required by the zone in which it is located, shall be deemed to comply with the requirements of the zone in which it is located. The standards of the International Building Code for development or construction on or near lot lines must still be met.

This section is not intended to conflict with Subsection 3.9 nor shall it be interpreted as taking precedence over the requirements of Subsection 3.9.

7.1.12 Fences and Walls

Fences constructed for the retention of cattle, horses, or other livestock, or the division of property shall be properly constructed and orderly.

Fences constructed for the landscaping or separation of a dwelling lot may be constructed on the property line at the front and sides of lots, but **not less than 5 feet** from the front property line. Fences may be located between the property line and the building setback line. Walls, hedges, shrubs, berms, and other unroofed landscaping appurtenances surrounding or partially surrounding dwelling lots shall be considered fences.

The maximum height for fences around dwellings in the A-zone shall be **4 feet** along the front of the lot and **6 feet** around the back and sides of the lot. These restrictions are in addition to other fencing regulations contained in this code.

7.1.13 Temporary Mobile Homes

A temporary conditional use permit may be issued for a temporary mobile home which may be located on the rear portion of a lot in the Agricultural Zone during the construction of a permanent dwelling on said lot for not longer than 1 year. The Planning Commission may require that a bond or other guarantee be posted to insure that the temporary mobile home is removed by the expiration of the permit.

7.1.14 Retention of Lot Size and Frontage

Each dwelling shall be maintained on the lot on which its zoning clearance and zoning clearance was approved until and unless the area it is in is rezoned. Any subsequent building after rezoning must comply with the new requirements. No portion of any lot

shall be sold, deeded, divided, or otherwise transferred in such a manner as to make the existing lot non-conforming.

7.1.15 Distance Between Buildings

No building, structure or enclosure housing animals or fowls (except domestic pets) shall be constructed closer than 100 feet to a dwelling on the same or an adjacent lot.

7.2 The Residential - Agricultural Zone [Amended 2010]

7.2.1 Purpose, Scope, and Objectives

The Residential – Agriculture zone, also known as the RA – zone, is created to provide for Amalga Town’s growth and housing needs. It is designed to guide development toward areas of town already consistently populated, thereby preserving farmland and open space. It should encourage building on currently existing roads, thereby reducing infrastructure expenses. Another purpose of the RA – Zone is to conserve lesser tracts of farmland while still permitting roadside development. Unless listed in this chapter, a use is not allowed in the RA-Zone.

The depth of the Residential-Agricultural Zone shall be 290.4 feet measured from the center of the right-of-way. [Adopted January 11, 2012]

7.2.2 Permitted Uses

The following uses of land are permitted in the Residential - Agricultural Zone:

- a) Single family dwellings – detached. Subject to approval of the septic system by the Board of Health.
- b) Residential Accessory structures.
- c) Home occupations as regulated by the business license procedures of Amalga and this Code.
- d) Agriculture (except animal specialties and exotic animals, except household pets.)
- e) Milk production, dairying and dairy-related activities.
- f) Agriculture related activities and structures. Such buildings shall be located to the rear of dwellings.
- g) One accessory apartment per detached single dwelling.
- h) Caretaker boarding (2 per residence)/dependent care boarding (2 per residence).
- i) Pre-schools, day nurseries, and child care activities within a residential dwelling unit involving 6 or fewer children including those residing in the dwelling.
- j) Group homes

7.2.3 Conditional Uses

The Planning Commission may authorize the issuance of a Permanent or Temporary Conditional Use Permit, as outlined in this Code, for the following uses of land in the Residential - Agricultural Zone:

- a) Churches and religious activities.
- b) Livestock, poultry and chicken coops, and structures for the enclosure of domestic farm animals and family food production. Such structures shall be located well to the rear of dwellings on the lot or on adjacent lots. If no dwelling exists on the lot or the surrounding lots, the setback for these buildings shall be 80 feet.
- c) Small public parks and playgrounds.

- d) Public utilities and substations.
- e) Town operated recreational areas and activities.
- f) Civic buildings and structures.
- g) Churches.
- h) Cemeteries.
- i) Protective functions.
- j) Public assembly.
- k) Schools and education.
- l) Miscellaneous service organizations.
- m) Cultural activities and nature exhibitions.
- n) Milk processing.
- o) Planned Residential Unit Developments (PRUDs). See section VI of the Subdivision Ordinance of the Town of Amalga.
- p) Building heights—structures exceeding 30' in height.

7.2.4 Minimum Lot Size and Open Space

The minimum lot size for dwellings and other buildings constructed within the Residential - Agricultural Zone shall be 1 acre.

7.2.5 Lot Frontage

All lots developed for residential use in the RA – Zone shall abut along the right-of-way line of a public street for a minimum distance of **150 feet**.

7.2.6 Number of Dwellings Per Lot

Not more than one single-family dwelling may be placed on a lot in the RA – zone. A single attached accessory apartment may be allowed.

7.2.7 Yard Requirements – Dwellings and Main Buildings

The following yard setback requirements shall apply on lots in the Residential – Agricultural Zone:

- a) **Front Yard** - The minimum front yard depth for all buildings in the RA – Zone shall be 30 feet.
- b) **Side yards** – The minimum side yard for all buildings in the RA – Zone shall be 12 feet.
- c) **Rear Yards** – The minimum rear yard for all buildings in the RA-Zone shall be 30 feet.
- d) **All other main buildings in the RA – zone** shall be located parallel with or behind the foremost point of the dwelling or main building.
- e) **Easements** – No dwelling or main building shall be located within a platted easement of any kind unless compatible with its use as an easement.

7.2.8 Yard Requirements – Accessory Buildings

Accessory buildings in the RA – Zone shall be located not closer than **6 feet** from the property line, except on corner lots, where accessory buildings shall not be constructed closer than **30 feet** to the side of the lot abutting the side street. Accessory buildings shall be located parallel with or behind the foremost point of the dwelling or main building.

7.2.9 Building Height

No lot or parcel of land in the RA – Zone shall have a building which exceeds a height of **30 feet**: Except that silos, hay shelters, windmills, and other agriculture related accessory structures not used for human occupancy may exceed 30 feet in height. All structures exceeding 30 feet in height shall be set back at least 80 feet from the front property line. All structures exceeding 30 feet in height will require a Conditional Use Permit.

7.2.10 Site Plan Approval

The Amalga Town Land Management and Development Code shall be satisfied prior to the issuance of a zoning clearance. A site plan shall be submitted to and approved by the Planning Commission prior to any permit issuance.

7.2.11 Prior Created Lots of Record

Any lot under separate ownership of record prior to the adoption of the Amalga zoning ordinance adopted 8 September 1999, which has dimensions which would prevent building because of the area, front yard, rear yard, and side yard set back required by the zone in which the lot is located, and any lot which has been approved by the Town prior to the effective date of this Code which would prevent building because of the area, front yard, rear yard, and side yard set backs required by the zone in which it is located, shall be deemed to comply with the requirements of the zone in which it is located. The standards of the International Building Code for development or construction on or near lot lines must still be met.

This section is not intended to conflict with Subsection 3.9 nor shall it be interpreted as taking precedence over the requirements of Subsection 3.9.

7.2.12 Fences and Walls

Fences constructed for the retention of cattle, horses, or other livestock, or the division of property shall be properly constructed and orderly.

Fences constructed for the landscaping or separation of a dwelling lot may be constructed on the property line at the front and sides of lots, but not less than 5 feet from the front property line. Fences may be located between the property line and the building setback line. Walls, hedges, shrubs, berms, and other unroofed landscaping appurtenances surrounding or partially surrounding dwelling lots shall be considered fences.

The maximum height for fences around dwellings in the Residential - Agricultural Zone shall be **4 feet** along the front of the lot and **6 feet** around the back and sides of the lot. These restrictions are in addition to other fencing regulations contained in this code.

7.2.13 Retention of Lot Size and Frontage

Each dwelling shall be maintained on the lot on which its zoning clearance was approved until and unless the area it is in is rezoned. Any subsequent building after rezoning must

comply with the new requirements. No portion of any lot shall be sold, deeded, divided or otherwise transferred in such a manner as to make the existing lot non-conforming.

7.2.14 Distance Between Buildings

No building, structure, or enclosure housing animals or fowls (except domestic pets) shall be constructed closer than 100 feet to a dwelling on an adjacent lot, or 50 feet from a dwelling on the same lot. [Adopted January 11, 2012]

7.3 The Residential - Mixed Use Zone (RM)

7.3.1 Purpose, Scope, and Objectives

The Residential - Mixed Use Zone (RM) is created to permit the development of enterprise within Amalga and permit the development of enterprise within Amalga that is compatible with its residential nature. It is intended to avoid the crowding out or discomfiture of existing residences while allowing light and moderate commercial activity within the same area. The Residential - Mixed Use Zone should define clearly where commercial growth should occur within the town. Such commercial growth should develop in the areas of town where it would be rational, safe, and desirable. RM – Zones should be located in places best accessible to traffic and least disruptive to residential and agricultural activities. RM – Zones would logically be located on crossroads and other main roads near other business activities. Unless listed in this chapter, a use is not allowed in the RM-Zone.

Amalga is not to be an area of heavy commercial development; such uses are more compatible with other local communities.

7.3.2 Permitted Uses

The following uses of land are permitted in the Residential - Mixed Use Zone:

- a) Single family dwellings – detached; subject to approval of the septic system by the Board of Health.
- b) Residential accessory structures.
- c) Home occupations as regulated by the business procedures of Amalga and this Code.
- d) Household pets.
- e) Agriculture (not including animal specialties and exotic animals, except household pets).
- f) Agriculture related activities and structures. Such buildings shall be located to the rear of dwellings.
- g) One accessory apartment per detached single dwelling.
- h) Dependent care boarding (2 per residence).
- i) Pre-schools, day nurseries, and child care activities within a residential dwelling unit involving 6 or fewer children including those residing in the dwelling.

7.3.3 Conditional Uses(Amended (6/9/2021))

The Planning Commission may authorize the issuance of a Permanent or Temporary Conditional Use Permit, as outlined in this Code, for the following uses of land in the Residential - Mixed Use Zone:

- a) Churches and religious activities.
- b) Small parks or playgrounds.
- c) Public utilities and substations.
- d) Light manufacturing or assembly, consistent with a residential or small retail area, such as desktop publishing or handicraft assembly. This shall not be construed to recommend industrial or heavier assembly type operations in the RM – Zone.
- e) Commercial day-care centers and pre-schools, subject to all local and state regulations.
- f) Retail outlets such as grocery and drug stores, bakeries, ice cream stores, convenience and variety stores, and other like businesses.
- g) Smaller wholesale outlets, compatible with retail outlets.
- h) Local services facilities, such as dry cleaning and laundry services, beauty and barbershops, and automotive service outlets.
- i) Professional offices, including medical and dental offices.
- j) Accessory buildings normally associated with the above uses.
- k) Other uses approved by the Planning Commission as being in harmony with the intent of the Residential - Mixed Use Zone and similar in nature to the above listed uses.
- l) Parks.
- m) Town operated recreational areas and activities.
- n) Civic buildings and structures.
- o) Churches.
- p) Cemeteries.
- q) Protective functions.
- r) Public assembly.
- s) Schools and education.
- t) Miscellaneous service organizations.
- u) Cultural activities and nature exhibitions.
- v) The selling, storing, and distribution of earthen products.

7.3.4 Non-Conforming Uses

Agricultural uses in practice in the RM – Zone at the time of the adoption of this Chapter of the Code will be considered non-conforming uses and will be allowed to continue according to the provisions of this code.

7.3.5 Residential Building and Lot Requirements.

The requirements for residential structures and lots in the RM – Zone are identical to those in the Residential-Agriculture Zone, as found in sections 7.2.4 through 7.2.14 of this Code, with the exception that agricultural accessory structures with a height greater than 30 feet are not permitted as a conditional use, as they are in section 7.2.9.

7.3.6 Commercial Structure and Lot Requirements

No minimum lot or frontage requirements are specified for structures in the RM – Zone. Lot size and frontage and design requirements shall be determined by the Planning Commission and shall be based on:

- a) Adequate and safe parking, including provision for a specified number of parking spaces.
- b) Safe and efficient traffic access, including specifications of entrances and egresses.
- c) Attractive landscaping and appearance.
- d) Safety of employees, customers, and others.
- e) Opportunities for making the business as profitable as possible for the owner (without compromising the other requirements listed above).
- f) Any other requirements the Planning Commission feels necessary and prudent.

7.3.7 Retention of Lot Size and Frontage

Each dwelling shall be maintained on the lot on which its zoning clearance and zoning clearance was approved until and unless the area it is in is rezoned. No portion of any lot shall be sold, deeded, divided or otherwise transferred in such a manner as to make the existing lot non-conforming, nor shall any commercial lot be reduced or adjusted without the permission of the Planning Commission.

7.3.8 Business License Requirements

All building applications for construction in the RM – Zone must be for businesses that qualify for business licenses under provisions of this Code and other Town codes.

7.4 The Light Industrial Zone (LI – Zone)

7.4.1 Purpose, Scope and Objectives

The Light Industrial Zone, also known as the LI – Zone, is created to allow for light industrial production within the town of Amalga. It shall provide areas in town where light manufacturing or industrial firms can engage in processing, assembling, manufacturing, warehousing, and storage; and for incidental service facilities and public facilities to serve the manufacturing area. The LI – Zone should facilitate and assist industries within Amalga to be productive and competitive. It should be located in areas advantageous to industrial production, but not obtrusive to the rural, residential lifestyle of the community.

The zone is intended to encourage sound development while protecting the rural and agricultural nature of the Town. It is designed to ameliorate, as much as possible, problems of noise, odors, pollution, traffic, and other disruptions, caused by industrial production, to the residential, agricultural, and civic areas of Amalga. It should guide the location of industry in areas conducive to public safety and to smooth and efficient traffic flow.

Uses, which generate excessive noise, vibration, smoke, odor, dust, fumes, or danger of explosion, will not be allowed within this zone. This zone is designed to accommodate small and clean manufacturing or industrial types of uses. Agricultural use is the

preferred method of buffering this zone from residential and civic areas. The basic objectives of the LI – Zone are:

- a) To provide space for light manufacturing and processing uses within the Town in appropriate locations and to discourage uses from locating within this zone which will tend to deteriorate the light manufacturing environment, and thwart the use of land for light manufacturing purposes.
- b) To broaden the tax bases and improve the job potential and the economic base of the community.
- c) To promote new small industry to the end that the economic and social well being of the Town and its inhabitants shall be enhanced.
- d) To discourage the undesirable mixture of incompatible commercial, industrial, and residential uses.
- e) Unless listed in this chapter, a use is not allowed in the LI-Zone.

7.4.2 Conditional Uses

Light industrial and manufacturing uses as described by the Town General Plan and section 7.6.1 of this Code are allowed by conditional use permit. Because of the wide specter of manufacturing and industrial uses possible, it is required that the Amalga Planning Commission review each application on a case-by-case basis for compliance to the spirit and intent of the General Plan and the Land Use Code for this zone. A temporary or permanent conditional use permit will be issued to businesses complying with these requirements.

7.4.3 Conditional Accessory Uses

Accessory uses and structures are allowed in the LI – Zone by the issuance of a conditional use permit; provided they are incidental to and do not substantially alter the character of the principal use or structure. Such conditional accessory uses and structures include, but are not limited to, the following:

Accessory buildings such as garages, carports, equipment storage buildings, and supply storage buildings, which are customarily used in conjunction with and incidental to a principal use or structure permitted in the LI – Zone.

Storage of materials used for construction of buildings, including the contractor's temporary office, provided that such use shall be permitted only during the construction period and thirty (30) days thereafter.

7.4.4 Lot Area

The minimum area of any lot or parcel of land in the LI – Zone shall be two (2) acres. If it can be established that a lesser parcel of land can sufficiently meet the safety, parking, landscaping and traffic access needs of the proposed operation, the Amalga Planning

Commission may, at their option, permit a smaller lot requirement. Such allowance shall take into account adequate buffering of the production facility from other land uses.

7.4.5 Lot Width and Frontage

Each lot in the LI – Zone shall have an average depth of at least 100 feet and at least 150 feet of frontage abutting a public street.

7.4.6 Yard Requirements

The following minimum yard requirements shall apply in the LI – Zone:

- a) Front Yard – Each lot or parcel in the LI – Zone shall have a front yard of not less than thirty feet. A portion of this yard requirement may, at the discretion of the Planning Commission, be used for parking. The commission may require landscaping in the front yard.
- b) Side Yard – The side yard requirement in the LI – Zone shall be 12 feet. On corner lots the side yard contiguous to the street shall be not less than 30 feet. The side yard abutting the street on a corner lot may contain parking, subject to the approval of the Planning Commission. The Planning Commission may require landscaping on this side yard.
- c) Side Yard – Driveway – When used for access to any garage, carport, or parking area having five or less parking spaces, a side yard shall be wide enough to accommodate, and shall provide, an unobstructed twelve (12) foot wide paved driveway. When used for access to a loading dock or a parking area having six (6) or more parking spaces, a side yard shall be wide enough to, and shall provide, an unobstructed fifteen (15) foot paved driveway for one-way traffic, or a twenty (20) foot paved driveway for two-way traffic.
- d) Side and Rear Yard – Accessory Buildings – Accessory buildings must be located not closer than six (6) feet to the property line. Accessory buildings must have facilities for the discharge of all roof drainage onto the lot or parcel on which it is erected.

7.4.7 Building Height

Building height within the LI – Zone shall be in compliance with all pertinent local, county and state building codes. Any building design of over thirty (30) feet shall be a conditional use and require the issuance of a conditional use permit.

7.4.8 Distance Between Buildings

No absolute minimum distance between buildings will be required in the LI – Zone. These requirements will be made by the Planning Commission in consultation with the applicant and will be based on safety, aesthetics, practicality, and other factors considered germane by the Commission.

7.4.9 Parking and Access

Each lot or parcel of land in the Light Industrial Zone shall have sufficient parking as determined by the Planning Commission. All parking spaces shall be paved with asphaltic cement or concrete and shall be provided with paved access from a public street. Such access shall be designed to be safe and orderly. Parking spaces shall be provided with adequate drainage, which shall not run across public streets or sidewalks.

7.4.10 Project Plan Approval

Prior to the construction of any structure in the LI – Zone, a project plan shall be submitted and approved by the Planning Commission. Said project plan shall be drawn to scale and shall contain all required information designated on the application and/or checklist, and any other information deemed necessary by the Planning Commission.

7.4.11 Signs

All signs erected in the LI – Zone shall be in conformance with the sign provisions found elsewhere in this code, and shall be attractive and compatible with building design and function.

7.4.12 Uses Within Buildings

All uses established within the Light Industrial Zone shall be conducted entirely within fully-enclosed buildings, except those uses deemed by the Planning Commission to be customarily and appropriately allowed outdoors in the zone by a conditional use permit and with appropriate screening.

7.4.13 Landscaping

Front and side yard areas adjacent to public streets in the LI – Zone, except those portions devoted to driveways, shall be maintained with suitable landscaping of plants, shrubs, trees, grass and similar landscaping materials.

7.4.14 Trash and Waste Storage

No trash, used vehicles, or wrecked or non-operating or abandoned vehicles or equipment shall be stored in an open area. All such materials must be screened from public streets and adjacent property located within the LI – Zone within opaque fence or wall, or must be stored within an enclosed building. All trash storage areas shall be screened and/or hidden from the public or adjoining residential area view by appropriate fencing and/or landscaping methods and placed in a rear area of the main building if possible. No hazardous materials or chemicals or oils/solvents shall be stored in areas that do not meet health department regulations or are accessible to the public.

Trash storage plans must be presented to the Planning Commission for approval prior to the issuance of a zoning clearance.

7.4.15 Walls and Fences

No wall, fence, or opaque hedge or screening material shall be placed or erected within an area, which would restrict the sight distance for vehicular traffic in the public right-of-way. A decorative wall or barrier may be required along property lines, which lie immediately adjacent to any residential zone. The Planning Commission shall determine dimensions, type, and height of such walls.

7.5 The Wetlands Zone

7.5.1 Purpose, Scope, and Objectives

The purpose of the Wetlands Zone, also known as the W – Zone, is to recognize, define, and map areas within the Town of Amalga that are either covered with water or have a high enough water table so as to render building thereon impossible or highly impractical. It should also identify areas, which regularly flood.

While the zone itself may not be defined in exactly the manner as Federal or State definitions of wetland, one of its purposes is to help the Town to comply with Federal and State prohibitions and regulations regarding development within wetlands

7.5.2 Requirements

No residential, commercial, agricultural, or industrial building will be permitted in the Wetlands Zone.

7.5.3 Application

All areas in Amalga covered by or rendered unusable for development by water shall be placed in the Wetlands Zone.

7.6 Sensitive Lands Overlay Zone

7.6.1 Purpose, Scope and Objectives

The Sensitive Lands Overlay Zone is a special zone that is or may be placed over any other existing zone that is in an area designated or believed to possess lands that are sensitive due to inadequate drainage from septic or storm water, excessive slope, unsuitable or sensitive soils for building, wetlands, stream protection areas, critical wildlife habitats or migration areas, fire hazards, flooding hazards, fault lines or any other geologic type hazards. The city engineer may be required to provide relevant supporting data to determine the potential for hazard. The designation of this overlay to a particular zone shall be accomplished by prefixing the zone with the (S-) designation. For example: S-RA-Zone would mean that that section of the Residential-Agricultural Zone would lie either partially or completely within the Sensitive Lands Overlay Zone. When used elsewhere as an abbreviation, the sensitive lands overlay zone will be referred to as (SLO-Zone).

Planning Commission and Town Council considerations of development proposals in this overlay zone are treated very carefully in order to avoid excessive legal liabilities and untenable service provision requirements on the part of the Town. SLO-Zone designation is also intended to protect not only the residents of the development, but the developer, project owner(s) and Town residents from hazards, potential liability and/or property damage.

If a property or lot is covered only partially by the Sensitive Lands Overlay Zone, all the conditions and regulations of this section will still apply to that portion, or all of the lot or parcel if the Overlay Zone covers over fifty (50) percent of the parcel. All types of development, including any necessary infrastructure needed to service the development are subject to the environmental impact review and remedies or treatments of impacts derived therefrom, including clustering, building(s) or facilities relocation. If SLO-Zone considerations can not be corrected to the satisfaction of the Planning Commission, development on that parcel shall be prohibited.

All subdivision proposals within the Sensitive Lands Overlay Zone must be submitted and applied for as a Planned Residential Unit Development and as such all uses associated with the subdivision become a conditional use and are reviewed as outlined in Section VI of the Town of Amalga Subdivision Ordinance.

Chapter

8 Mobile and Manufactured Homes

The regulations set forth in this chapter detail each of the zone districts and describe the various uses, both permitted and conditional, as well as uses prohibited in each zone.

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8.1 Mobile Home Use

Mobile Home Use: A mobile home may be approved as a conditional use in zones Residential-Agricultural, Residential, and Residential-Mixed-use, but strictly and only under the following conditions:

1. To provide a temporary residence for an individual and that individual's family on the construction site during the course of construction of an approved permanent dwelling by or for that individual provided that the mobile home be removed within 90 days of the occupancy of the permanent dwelling. Such period of time shall not extend beyond one year after the approval of the temporary placement of the mobile home, but may be renewed upon the request of the individual if construction of the home is underway and the Planning Commission determines that circumstances warrant a renewal.
2. To provide a temporary residence for a bonafide farm worker provided that:
 - (a) The mobile home is placed upon the property where the farm worker is engaged in a permitted agricultural activity, for the owner of the agricultural activity on a full-time basis (average 40 hours per week per calendar year).
 - (b) A zoning clearance is obtained before the mobile home is connected to any utilities or otherwise rendered habitable and/or occupied.
 - (c) No additions other than temporary porches or entrance ways are built on to the mobile home without obtaining an additional zoning clearance.
 - (d) The premises on which the mobile home is located shall be maintained in a safe, clean, orderly and sanitary condition with no accumulation of junk or other unsightly material.
 - (e) All applicable requirements of the State Board of Health and County ordinances are met.
 - (f) Only one mobile home will be approved on any one lot.
 - (g) On lots where a mobile home is allowed as a secondary dwelling it shall be set back at a distance equal to or greater than the primary dwelling unless the Planning Commission finds topographic conditions warrant an exception to this requirement.
 - (h) All applicable zoning requirements are met.
 - (i) The conditional use permit is granted for no more than 4 years, subject to renewal upon the approval of the Town's Planning Commission.
 - (j) Each mobile home be installed over reinforced concrete pad of four inches minimum thickness.
 - (k) Skirting plans must be presented and approved at the time of application.
 - (l) In the event the permitted agricultural activity ceases for any reason, the mobile home shall be removed within 90 days thereafter. (Revised 05/2001)
3. To provide temporary housing for members of the immediate family of the property owners (immediate family meaning parents, children, brothers, or sisters) where an emergency situation exists which requires special attention as determined by the Planning Commission.

8.2 *Manufactured Home Use*

Manufactured Home Use: A manufactured home may be approved as a permanent dwelling provided it shall comply with the following requirements:

1. The manufactured home was manufactured after June, 1976, and is stamped by H.U.D. (S-5402-6) and contains the State Insignia of Approval.
2. The necessary zoning clearances are obtained to assure that site preparation, foundations, installations, roof loads, etc., meet the appropriate codes.
3. The manufactured home is recorded with the County Recorder as being "Permanently Affixed" to real estate.
4. The manufactured home meets the following development standards:
 - (a) It has exterior siding which extends to a permanent continuous foundation. The siding shall consist of a conventional exterior material and shall be finished before occupancy;
 - (b) It has a shingled, pitched roof with eaves;
 - (c) It has improved permanent entrances and exits which are installed according to the adopted building codes.
 - (d) It does not violate any deed restriction in the area where the unit is to be located.
5. The manufactured home meets the requirements of the State Board of Health.
6. The manufactured home meets the appropriate zoning requirements.
7. Any additions, enlargements, or remodels must receive buildings permits to assure that all minimum adopted standards are met.

Appendix

A

Official Zone Map(s)

This appendix contains the Official Zoning Map(s) of Amalga Town., adopted on September 8, 1999 as part of the Land Management and Development Code, and are attached as appendix A of that Code. The adoption date of this edition of zoning maps is September 8, 1999, edition 99-1. The Land Management and Development Code is designed to enable the interpretation and proper administration and enforcement of these Official Zoning Maps.

Any interpretation of these maps is the responsibility of the Amalga Town Board of Adjustment with the assistance of the Planning Commission, Town Board and Town Staff. The interpretation guidelines are contained in this code as well. These maps, and any part of them, may be amended, modified, added to, portions deleted therefrom or repealed by the Planning Commission and Town Council as per the procedures and noticing requirements of Chapter 1 of this Code. Upon any modification thereto, this appendix and shall be updated and the remainder of this code (not modified at the same time) shall remain in full force and effect.

The Town of Amalga may use any other form of maps, including larger compilations of these maps for display, distribution or other convenient, necessary and/or reference purposes, as long as they state on the map(s), "Official Zoning Map of Amalga Town", showing the adoption date and the edition number. These dates and edition numbers must correspond to the date and edition number of this appendix A. The map(s) must also clearly show the signature of the Mayor of the Town of Amalga.

These maps are placed at the end of this code in order to facilitate and simplify the replacement tasks as they are modified.

Appendix

B ***Copy of 1998, Utah Code, 10-9 et. seq.
(unannotated) - Municipal Land Use
Development and Management Act***

This appendix B contains a copy of the 1998 unannotated version of Utah Code, Title 10, chapter 9, referred to as the “Municipal Land Use Development and Management Act”. This copy of the Utah Code is only inserted for reference purposes only, because of the many references to it in the Land Management and Development Code.

This appendix B is not an official part of this Land Management and Development Code and may be updated at any time as the State of Utah modifies or amends this portion of the Utah Code.

This chapter of the Utah Code is important because it is the enabling legislation that allows for municipalities to develop and adopt these development, General Plans, Zoning Maps and the like and adopt them as code(s) and/or ordinances of the Town of Amalga.

Care must be taken however in the interpretation of this portion of the Utah Code. It is not annotated or cross-referenced with other applicable case laws and judicial decisions and interpretations, both local and federal, and as such may have interpretations differing from those presented in the text. Use it as a tool in the understanding and interpretation of this Town Code, using legal opinions from an attorney as needed.

As this Utah Code changes in the future, it is anticipated that the Town Planning Commission and Town Council will update the portions of this Code affected thereby to bring it into compliance with the enabling laws of the State of Utah.
bring it into compliance with the enabling laws of the State of Utah.

Appendix

C

Master Street Plan