

ORDINANCE 2017-13

AN ORDINANCE OF NORTH OGDEN CITY AMENDING THE ZONING ORDINANCE OF NORTH OGDEN CITY TITLE 11, CHAPTER 1, SECTION 5, ADMINISTRATION AND ENFORCEMENT, CREATING A NEW SECTION 6 PERMITS REQUIRED AND A NEW SECTION 7 BUILDING PERMITS AND LAND USE PERMITS TO CLARIFY PERMIT STANDARDS AND ESTABLISH A LAND USE PERMIT, AND ADDING CLARIFYING LANGUAGE TO TITLE 12, CHAPTER 1-5 (A) INTERPRETATION

WHEREAS; The City has building permit regulations; and

WHEREAS; The City is committed to providing regulations regarding the processing of building permits and land improvements that do not require a building permit; and

WHEREAS; The City desires to provide a land use permit system.

NOW THEREFORE, BE IT ORDAINED by the North Ogden City Council that the North Ogden City Code 11-1-5 Administration and Enforcement, 11-1-6 Permits Required and Enforcement, 11-1-7 Building Permits and Land Use Permits, 11-1-8 Annexed Territory, and 11-1-9 Penalty be amended.

SECTION 1: Language to be amended

11-1-5. ADMINISTRATION AND ENFORCEMENT

A. Purpose and Intent.

The purpose of this section is to establish regulations and procedures for the processing and consideration of applications allowed by this Land Use Code as identified in Title 11 and designating the land use authority for the interpretation of this Code.

B. Administrative Authority.

1. The planning director is charged with the administration of the provisions of this title. The planning director, or his designee, is designated as the land use authority to deny, approve, or approve with conditions an application for the following administrative applications:

- a. home occupations
- b. land use permits

The planning director may deny an application for an administrative approval if the use fails to comply with specific standards set forth in the city code or if any of the required findings are not supported by evidence in the record as determined by the director. At the discretion of the planning director, the Planning Commission can hear the request for an administrative approval.

Further, the planning director is designated as the land use authority to interpret Title 11 of this Code.

2. The administrative approval process includes public notice and comment from adjacent property owners, as required by state code and city code.

C. Fees for Processing Applications.

1. Fees for processing applications shall be established by the North Ogden City Consolidated Fee Schedule.

2. Applications that have been deemed complete and have not been pursued with reasonable diligence before the appropriate board shall expire after six months. The applicant will have to submit a new application and fees to restart the process.

D. Notice of Decision.

After hearing the evidence and considering the application, the approving authority (Planning Commission, planning director or his designee, hearing officer, and City Council on land use applications) shall make its findings and have them entered in the minutes. Upon a decision by the approving authority, a notice of decision shall be mailed to the applicant at the address or e-mail address given in the application. A notice of decision can be a new written notice, a copy of the administrative approval form signed by the planning director or designee, or a copy of the approved minutes. A decision by the approving authority is final at the time the notice of decision is issued. If a notice of decision is not sent, the decision shall be final on the date the minutes from the meeting are approved by the approving authority. The planning department shall also mail notice of any decisions to any person or agency who, in writing, requested such notification before the decision was rendered. Decisions are subject to requirements and conditions stated in the staff report and listed in the meeting minutes.

E. Hearing and Publication Notice for the Planning Commission and City Council.

At least 10 days' notice of the time and place of which shall be given of any public hearing before the City Council or Planning Commission as per state code.

F. Permits and Licensing.

All departments, officials, and public employees of the city, which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this code and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this code. Any permit or license issued in conflict with the provisions of this chapter shall be null and void.

G. Appeals.

Appeals from administrative decisions shall be submitted to the planning department not more than 15 calendar days after the date of the written notice of decision in

accordance with 11-4 et seq. Appeals from administrative decisions shall be heard and decided as outlined in 11-4 et seq.

11-1-6. PERMITS REQUIRED AND ENFORCEMENT

A. Purpose and Intent.

The purpose of this section is to establish the requirements for land use permits from the planning department and building permits from the building department. This chapter identifies the responsibilities for enforcing the requirements of this Land Use Code.

B. Land Use Permit Required.

1. In order to verify compliance with applicable regulations, all land uses that require a land use permit or conditional use permit by this Land Use Code are prohibited until a land use permit or conditional use permit has received final written approval from the appropriate land use authority.
2. No structure, including agricultural structures, shall be constructed, changed in use, or altered, as regulated by this Land Use Code, until and unless a land use permit or, if applicable, a conditional use permit, has received final written approval from the appropriate land use authority.
3. No application for permits or approvals governed by this Land Use Code shall be approved for any lot or parcel until all unresolved zoning, subdivision, building, business license, nuisance, or other violations on the lot or parcel, or on any parcel included in any manner as part of the application, are resolved, unless approval of the application will resolve all of the existing violations.

C. Land Use Permit Revocation.

A land use permit or conditional use permit may be revoked for violation of any part of this Land Use Code related to the specific use or permit in accordance with the following:

1. Revocation shall be conducted by the land use authority which is authorized to approve the permit.
2. Prior to permit revocation, the land owner and, if different, permittee shall be given reasonable opportunity to resolve the violation by bringing the property into compliance or by diligently pursuing an amendment or modification to the permit, as may be allowed by this Land Use Code.
3. In the event compliance cannot be attained the land owner and, if different, permittee shall be given a notice of the impending permit revocation 14 days prior to final revocation. The notice of the impending permit revocation shall specify the violation, and inform the land owner and, if different, permittee of the right to request a hearing.

4. The land owner and, if different, permittee shall have a right to a hearing with the land use authority to show cause for why the permit should not be revoked, if a written request for such is submitted prior to a final written revocation decision. If a hearing is requested, final revocation of the permit shall be stayed until after the hearing. The hearing shall be scheduled at a time specified by the land use authority.
5. Revocation of a permit is final upon the issuance of a final written decision. The final written decision may be appealed pursuant to 11-4 et seq.
6. Revocation of a permit shall not prohibit prosecution or any other legal action taken on account of the violation, as provided in this Land Use Code or any other applicable law.

D. Code Enforcement.

1. Building Official: The building official is designated and authorized as the official charged with the enforcement of this Land Use Code.
2. Permit and Certificates; Compliance Required: Building permits, as specified by the city, are required for any construction, alteration, repair, removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance of a written permit by the building official. Land use permits are subject to inspection.

The building official shall not grant a permit for the construction or alteration of any building or structure if such construction or alteration is in violation of any provision of this Land Use Code; nor shall any city official grant any permit or license for the use of any building or land if such use would be in violation of this Land Use Code or any law of the state.

3. Inspections; Abatement: The building official or his / her designee shall enforce all of the provisions of this title. He / she shall inspect or cause to be inspected all buildings in the course of construction, alteration or repair, and any change in the use of land. If, in the course of such inspection, or otherwise, it shall come to his attention that any such construction, alteration or repair, or that any use or contemplated use of land is in violation of the provisions of this title, he /she shall issue his written order to the person responsible therefor; ordering and directing such person to cease and desist such construction, alteration, repair or use. If the order to cease and desist is not complied with within thirty (30) days, then he / she shall report the violation to the city legal department for prosecution and make complaint thereof before the court or courts having jurisdiction of such violation. Upon the recommendation of the City Council, the legal department shall bring a civil action for the abatement of any nuisance existing in violation of this title.
4. Request for Assistance: The building official may call for the assistance of the law enforcement personnel whenever, in his / her opinion, such assistance is necessary or convenient in the investigation of a suspected violation of this title or the enforcement of the provisions of this title.

5. Fees Prescribed: The City Council may, by resolution, prescribe an exact payment of reasonable fees to cover the expense for reviewing plans, issuing building permits, inspecting uses and issuing certificates of occupancy, and may determine the method of collecting such fees.

Adopted by Ord. 2002-05 on 4/9/2002

11-1-6: BUILDING PERMITS AND LAND USE PERMITS:

- A. It is unlawful for any person, whether acting as owner, occupant or contractor, or otherwise, to erect, construct, reconstruct or alter, or change the use or occupancy of any building or other structure within the city contrary to any provisions of this title, or without first obtaining a building permit from the building official. No building permit shall be issued by the building official unless a written land use permit has been issued by the planning director and, if otherwise required by the provisions of this title or by the Planning Commission.
- B. No application for permits or approvals governed by this Zoning Regulation shall be approved for any lot or parcel until all unresolved zoning, subdivision, building, business license, nuisance, or other violations on the lot or parcel, or on any parcel included in any manner as part of the application, are resolved, unless approval of the application will resolve all of the existing violations.
- C. Effective January 1, 2017, it is unlawful for any person, whether acting as owner, occupant or contractor, to fail to obtain a written land use permit from the director for:
 - 1. The installation of any asphalt, concrete, or other hard surface material or structure on any property, other than walkways, ornamental landscaping features, or for the minor repair of existing legal hard surfaced areas; or
 - 2. The use of, or change of use for, any lot or parcel not involving the erection, construction, reconstruction or alteration of a building or structure; or
 - 3. The installation of any fence over three and one-half feet (3 ½ ') in height within a required yard area, or the installation of any fence within a "sight triangle area" of any lot, as defined in section 11-10-11 of this code.
- D. All applications for building permits or land use permits shall be accompanied by a plan drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of existing buildings or structures, buildings or structures to be erected and existing buildings or structures on adjacent property and such other information as may be deemed necessary by the building official, or the planning director, for the enforcement of this title. Such requirement may be met by submission of a site plan approved pursuant to 11-10-27 of this title. A record of such applications and permits shall be kept in the office of the building official.

- E. Building permits or land use permits issued on the basis of plans and specifications approved by the building official, the planning director, or other approving official or agency, authorizes only the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized in said plans and specifications shall be deemed a violation of this title.

11-1-7: CERTIFICATE OF OCCUPANCY:

- A. Issuance: No land shall be used or occupied and no building hereafter structurally altered or erected shall be used or changed in use until a certificate of occupancy and zoning compliance shall have been issued by the building official or the planning director stating that the building or structure or the proposed use thereof, or the use of land, complies with the provisions of this title. A like certificate shall be issued for the purpose of maintaining, renewing, changing or expanding a nonconforming use. A certificate of occupancy and zoning compliance either for the whole or a part of the building or structure shall be applied for coincidentally with the application for a building or land use permit and shall be issued after the erection or structural alteration of such building or structure, or part thereof, shall have been completed in conformity with the provisions of this title or any condition imposed under the authority of this title. In addition, a new certificate shall be required at any time the occupancy of the building changes to a more intensive use.
- B. Information: Any applicant for a certificate of occupancy and zoning compliance shall provide such information as needed to enforce the provisions of this title as determined by the building official.

SECTION 2: Renumbering the following sections

11-1-6 is now renumbered to 11-1-8 ANNEXED TERRITORY

11-1-7 is now renumbered to 11-1-9 PENALTY

SECTION 3: Language to be amended

12-1-5 (A). Interpretation: In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. The planning director is designated as the land use authority to interpret Title 12 of this Code.

SECTION 2: This ordinance shall take effect upon adoption.

PASSED and ADOPTED this 13th day of June 2017.

North Ogden City:

Brent R. Taylor
North Ogden City Mayor

CITY COUNCIL VOTE AS RECORDED:

	Aye	Nay
Council Member Satterthwaite:	<u>X</u>	___
Council Member Stoker:	<u>X</u>	___
Council Member Swanson:	<u>X</u>	___
Council Member Turner:	<u>X</u>	___
Council Member Urry:	<u>X</u>	___
(In event of a tie vote of the Council):		
Mayor Taylor	___	___

ATTEST:

S. Annette Spendlove
S. Annette Spendlove, MMC
City Recorder

