TITLE 1

GENERAL PROVISIONS

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CHAPTER 1-01. GENERAL CITY PROVISIONS

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1-01-010. Incorporation.

Farmington City was incorporated as a municipal corporation on the 21st day of November, 1892. Farmington City is a political subdivision of the State of Utah and may be referred to as "Farmington City, a municipal corporation."

1-01-020. Classification.

Farmington City is classified as a fourth class city under *Utah Code Ann.* § 10-2-301, as amended, as it has a population of more than ten thousand (10,000) and less than thirty thousand (30,000). Any change in classification of the City shall be made pursuant to *Utah Code Ann.* §§ 10-2-301 through -306, as amended.

1-01-030. City Seal.

The corporate seal of Farmington City, established and declared to be the seal of the City, is circular in form with a pair of balances held by a woman's hands pictured in the center and the words "Farmington City Seal" inscribed around the outer edge, "Davis County, Utah" inscribed around the lower edge, and the words "Incorporated November 21, 1892" in a smaller circle.

1-01-040. Annexation.

Farmington City may annex any contiguous, unincorporated area that is contiguous to the existing City corporate boundaries in accordance with the procedures and requirements set forth in *Utah Code Ann.* §§ 10-2-401 through 10-2-428, as amended.

1-01-050. Boundary Adjustment.

Farmington City may adjust its common boundary with an adjacent municipality in accordance with the procedures and requirements set forth in *Utah Code Ann.* §§ 10-2-419 through 10-2-428, as amended.

1-01-060. Disconnection.

Any proposed disconnection of area within the corporate boundaries of the City shall comply with the procedures and requirements set forth in *Utah Code Ann.* §§ 10-2-501 through 10-2-510, as amended.

CHAPTER 1-02. GENERAL CODE PROVISIONS

1-02-010. Title.
1-02-020. Citation.
1-02-030. Amendments.
1-02-040. Updates to Code.
1-02-050. Recodification.
1-02-060. Accrued Rights.
1-02-070. Continuation of Prior Ordinances.
1-02-080. Omission of General Law not Waiver.
1-02-090. Severability Clause.

1-02-010. Title.

The Ordinances set forth herein shall be known and may be cited as the "Farmington City Municipal Code."

1-02-020 Citation.

Any provision of state law adopted herein by reference as a City ordinance shall be cited by adding the number of the Title in this Code in front of the section number assigned in the *Utah Code Annotated*. For example, *Utah Code Ann.* § 76-1-101 adopted by reference in Title 13 of this Code shall be cited as 13/76-1-101. Any reference to the number of any section contained herein shall be understood to refer to its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this Code by title in any legal documents. This Code, as adopted by the City, including any amendments hereto, shall be prima facie evidence of the contents, passage, and legal publication of such ordinances, as of the effective date of adoption, in all courts and administrative proceedings.

1-02-030. Amendments.

Any ordinances adding to, deleting from, or altering any part of this Code shall constitute an amendment thereto and shall be adopted by ordinance of the City Council. Any ordinance amending this Code shall set forth the title, chapter and section number of the section or sections to be amended, and shall contain and be substantially in the form set forth in *Utah Code Ann.* § 10-3-704, as amended.

1-02-040. Updates to Code.

The City Recorder should implement appropriate procedures to provide replacement pages and updates for official copies and electronic versions of the Code. Any person having custody of an official copy of the Code shall make every effort to maintain said Code current as to the most recent ordinances passed and shall follow all instructions for immediate insertion of replacement pages. Copies of official Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned to the office of the City Recorder when directed to do so by the City.

1-02-050. Recodification.

Any amendment, revision, recodification and compilation of this Code shall be a repeal of all ordinances in conflict with the amendment, revision, recodification and compilation, provided, all ordinances then in effect shall continue in force after the amendment, revision, recodification and compilation for the purpose of all rights acquired, fines, penalties and forfeitures and liabilities incurred and actions therefor.

1-02-060. Accrued Rights.

Unless otherwise provided, the repeal, amendment or recodification of any provision, section, chapter or title of this Code shall not affect suits pending or rights existing immediately prior to the effective date of the revision; impair, avoid, or affect any grant or conveyance made or right acquired or cause of action now existing under any revised provision; affect or impair the validity of any bonds or other obligations issued or sold prior to the effective date of the revision; nor shall the repeal, amendment or recodification of any ordinance hereby have the right of reviving any ordinances already repealed or superseded, unless the ordinance containing the amendment or repealer specifically indicates otherwise.

1-02-080. Omission of General Law Not Waiver.

The omission to specify or enumerate in this Code those provisions of the general law applicable to all cities shall not be construed as a waiver of the benefits of any such provision.

1-02-090. Severability Clause.

If any title, chapter, section, subsection, sentence, or provision of this Code or application thereof is held to be unconstitutional, invalid, void or unlawful by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code.

CHAPTER 1-03. DEFINITIONS

1-03-010. Definitions.

1-03-010. Definitions.

In the construction of this Code, all ordinances of the City, and any amendments thereto, the following words and terms shall have the meaning indicated, unless such definition or construction would be inconsistent with or contrary to the context of the Ordinance.

(a) "City" shall mean Farmington City, Davis County, Utah.

(b) "City Council" shall mean the Farmington City Council.

(c) "Code" shall mean Farmington City Municipal Code.

(d) "County" shall mean Davis County, Utah.

(e) "Officers" and "Employees" shall mean officers and employees of Farmington City.

(f) "Ordinances" shall mean the ordinances of Farmington City.

(g) "Person" shall mean any individual, corporation, partnership, limited liability company, organization, association, trust, partnership, governmental entity, or any other legal entity.

(h) "State" shall mean the State of Utah.

CHAPTER 1-04. RULES OF CONSTRUCTION

1-04-010. Rules of Construction.
1-04-020. Common Usage.
1-04-030. Use of Numbers.
1-04-040. Use of Gender.
1-04-050. Verb Tense.
1-04-060. Mandatory Language.
1-04-070. Headings.
1-04-080. Computation of Time.

1-04-010. Rules of Construction.

In the construction or interpretation of this Code, all ordinances of the City and any amendments thereto, the following rules of construction shall be observed when necessary or applicable, unless such construction would be inconsistent with the manifest intent of the City Council or contrary to the context of the Ordinance.

1-04-020. Common Usage.

All words and phrases shall be construed and understood according to the common use and understanding of the language, but technical words and phrases as may have acquired a particular meaning in the law shall be construed and understood according to such particular meaning.

1-04-030. Use of Numbers.

Unless otherwise specifically provided herein, whenever any provision of this Code refers to the plural number in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, and vice versa.

1-04-040. Use of Gender.

Unless otherwise specifically provided herein, whenever any provision of this Code refers to the masculine in describing or referring to any matters, parties or persons, the feminine shall be deemed to be included, and vice versa.

1-04-050. Verb Tense.

Unless otherwise specifically provided herein, the use of any verb in the present tense shall be deemed to include the future and past tense of such verb, when applicable, and vice versa.

1-04-060. Mandatory Language.

The term "shall" as used in this Code is a mandatory and the term and "may" as used herein is merely permissive.

1-04-070. Headings.

Title, chapter or section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this Code.

1-04-080. Computation of Time.

Unless otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or holiday, then the last day shall be the next following business day.

CHAPTER 1-05. VIOLATIONS

1-05-010. Violations.
1-05-015. Criminal Enforcement Action.
1-05-020. Criminal Penalties.
1-05-030. Civil Penalties.
1-05-040. Continuing Violation.
1-05-050. Other Relief.

1-05-010. Violations.

Unless otherwise specifically provided herein or provided by law, any person who violates any provision of this Code may be guilty of a class B misdemeanor, subject to fines, forfeitures, penalties and/or imprisonment as provided herein.

1-05-015. Criminal Enforcement Action.

Any criminal enforcement action regarding the violation of this Code shall comply with applicable provisions of the Utah Code of Criminal procedure, as set forth in Title 77 of the Utah Code, and the Utah Rules of Criminal Procedures, as adopted by the Supreme Court of Utah.

1-05-020. Criminal Penalties.

(a) Class B Misdemeanors. Persons found guilty of a class B misdemeanor shall be subject to fines, forfeitures, penalties and/or imprisonment as provide by law for class B misdemeanors, including, but not limited to, *Utah Code Ann.* §§ 76-3-204 and -301, as amended.

(b) Class C Misdemeanor. Persons found guilty of a class C misdemeanor shall be subject to fines, forfeitures, penalties and/or imprisonment as provided by law for class C misdemeanors, including, but not limited to, *Utah Code Ann.* §§ 76-3-204 and -301, as amended.

(c) Infractions. Persons found guilty of an infraction may not be imprisoned but shall be subject to fines, forfeitures and/or penalties as provided by law for infractions, including, but not limited to *Utah Code Ann.* § 76-3-205 and -301, as amended.

(d) Corporate Penalties. Corporations, associations, partnerships or governmental instrumentalities shall be subject to fines and sanctions for violations as set forth in *Utah Code Ann.* §§ 76-3-302 and -303, as amended.

1-05-030. Civil Penalties.

The City may establish and impose a civil penalty for various violations of City Ordinances to the extent permitted by and in accordance with applicable provisions of State law, including, but not limited to, *Utah Code Ann.* § 10-3-703 and -703.7, as amended, and *Utah Code Ann.* § 10-9a-803, as amended. In accordance with such provisions, the City has adopted a civil enforcement program, including civil penalties for Code violations, as more particularly set forth in Title 1, Chapter 6.

1-05-040. Continuing Violation.

In instances where the violation of this Code is a continuing violation, a separate offense shall be deemed committed for each day in which the violation occurs or continues to occur.

1-05-050. Other Relief.

This Chapter shall not limit the authority of the City or any court of competent jurisdiction to impose any other sanction or order any other relief as may be appropriate and lawful under the laws of the State of Utah.

CHAPTER 1-06. CIVIL ENFORCEMENT.

1-06-010. Purpose.
1-06-020. Scope.
1-06-030. Enforcement Action.
1-06-040. Civil Liability.
1-06-050. Definitions.
1-06-060. Notice Requirements.
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1-06-080. Notice of Violation.
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1-06-170. Administrative Order.
1-06-180. Appeal of Administrative Hearing Order.
1-06-190. Failure to Comply.
1-06-200. Collection.

1-06-010. Purpose.

The City Council finds that the enforcement of the Farmington City Municipal Code is an important public service and is vital to the protection of the public's health, safety, welfare and quality of life. Pursuant to *Utah Code Ann.* § 10-3-703, the City Council is authorized to impose a minimum criminal or civil penalty for the violation of any municipal ordinance. The City Council finds that it is in the best interest of the City to establish and provide an enforcement system that allows for a combination of criminal and civil enforcement remedies and penalties.

1-06-020. Scope.

The provisions of this Chapter may be applied to any and all violations of the Farmington City Municipal Code, excluding violations of the provisions of Title 13 (Criminal Code) and Title 14 (Traffic Code). The provisions of this Chapter are intended to provide additional remedies for the City to use to achieve compliance with City Ordinances. The remedies, penalties and procedures set forth herein are not intended to limit or waive any right or remedy provided by law. The provisions of this Chapter shall not invalidate any other chapter, section or provision of the Farmington City Municipal Code, but shall be read in conjunction with and in addition to such chapters, sections and provision, as an additional remedy for enforcement of violations.

1-06-030. Enforcement Action.

The City shall have the sole discretion in deciding whether to pursue a criminal or civil enforcement action for the violation of any ordinances or applicable code requirements. The provisions of this Chapter shall not be construed to limit the City's right to prosecute any violation as a criminal offense. In accordance with *Utah Code Ann.* § 10-3-703.7, as amended, the City may not impose a civil penalty for a civil violation that occurs in conjunction with another criminal episode that will be prosecuted in a criminal proceeding.

1-06-040. Civil Liability.

By establishing performance standards or by establishing obligations to act, it is the intent of the City Council that City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.

1-06-050. Definitions.

For purposes of this Chapter, the following words shall be defined as set forth herein:

(a) Civil Citation. Civil citation means a citation issued to a responsible person which gives notice of a violation and the civil penalty for such violation.

(b) Enforcement Official. Enforcement official means any person authorized by the City to enforce violations of the Farmington City Municipal Code, including, but not limited to code enforcement officers, zoning officers, police officers, and building inspection officials.

(c) Hearing Officer. Hearing officer shall mean a person appointed, contracted or hired by the City to conduct administrative hearings and to issue administrative orders as provided in this Chapter.

(d) Notice of Violation. Notice of violation means a written notice that informs the responsible person of Code violations and orders certain steps to correct or remedy the violations.

(e) Person. Person means any natural person, firm, joint venture, partnership, association, club, company, corporation, limited liability company, business trust, firm, organization, or any other entity that is recognized by law.

(f) Property Owner. Property owner means the record owner of real property as shown on the records of the Davis County Assessor or Recorder's Office.

(g) Responsible Person. Responsible person means any person(s) who is responsible for causing or maintaining a violation of the Farmington City Municipal Code. The property owner, tenant, person with a legal interest in the property, or person in possession of the real property may be liable for any violation maintained on the property.

1-06-060. Notice Requirements.

Whenever notice is required to be given under this Chapter, the notice shall be served by one of the following methods, unless different provisions are otherwise specifically stated to apply:

(a) Personal service;

(b) Certified mail, return receipt requested, postage prepaid, to the last known address(es) of the responsible person(s);

(c) Posting the notice conspicuously on or in front of the property, if inhabited; if the property is uninhabited, the notice must be personally served, mailed or published as provided herein; or

(d) Published in a newspaper of general circulation when the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, where service is impracticable under the circumstances, or where there exists good cause to believe the person to be served is avoiding service.

Failure of a responsible person to receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above. Service by certified mail shall be deemed served on the date signed for on the return receipt.

1-06-070. Investigation and Inspection.

An enforcement official may investigate any purported violation of City Ordinances and take such action as is warranted under the circumstances in accordance with the provisions and procedures set forth in this Chapter. An enforcement official is authorized to enter upon any property or premises to ascertain whether the provisions of City Ordinances are being obeyed and to make any reasonable examination or survey necessary to determine compliance. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner and with prior notice and approval from the property owner. If a property owner or responsible person refuses to allow an enforcement official to enter property, the enforcement official shall obtain a search warrant before entering the property.

1-06-080. Notice of Violation.

If an enforcement official determines that any provision of the Farmington City Municipal Code is being violated or continues to exist and immediate enforcement action is not necessary under the circumstances, the enforcement official shall provide a written notice of violation to the property owner or other responsible person. Such written notice of violation shall indicate the nature of the violation, the action necessary to correct the violation, the warning period established before further enforcement action or penalties, and the potential enforcement action and/or penalties to be imposed for failure to cure the violation within the established warning period. Such notice of violation shall be served in accordance with Section 1-06-060. Such notice of violation shall serve to start the warning period.

1-06-090. Warning Period.

Unless otherwise determined by an enforcement official, in his or her sole discretion in accordance with the provisions of Section 1-06-100, the warning period for correction of violations set forth in the notice of violation shall be ten (10) days from the date of receipt of the notice of violation. If the violation remains uncured after expiration of the warning period, the enforcement official shall pursue further enforcement action as deemed appropriate in accordance with the provisions provided herein. The enforcement official is authorized, in his or her discretion, to extend the warning period if the enforcement official determines that good cause exists for such extended warning period and the extension will not create or perpetuate a situation imminently dangerous to life or property. Any such extension shall require written agreement by the property owner or person responsible for the violation to remedy the violations within a set time frame and to comply with any and all conditions of extension as required by the enforcement official. A request for extension shall be filed in writing by the property owner or person responsible for the violation prior to the expiration of the ten (10) day response period.

1-06-100. Immediate Enforcement.

In the case of a violation involving public safety, continuing construction or development, storm drainage, an emergency situation, multiple or repeated violations, or for any other reason as reasonably determined by the enforcement official, the enforcement official may use the enforcement powers and remedies available to it under this Chapter, including issuance of a civil citation, without prior notice or notice of violation.

1-06-110. Civil Citation.

If any violation remains uncured after issuance of a notice of violation and expiration of the warning period set forth therein, a civil citation may be issued to the property owner or other responsible person for the violation and civil penalties imposed for such violation. The civil citation shall be served in the manner set forth in Section 1-06-060. Each civil citation shall include the date and location of all violations, the Code sections violated, the amount of the civil penalty imposed for each violation, an explanation of how the civil penalty shall be paid, the consequences for failure to pay, an explanation of the right to and the procedures for requesting an administrative hearing, and the signature of the enforcement official issuing the citation.

1-06-120. Civil Penalties.

Civil penalties to be imposed for a civil citation shall be imposed in accordance with the civil penalties fee schedule adopted by the City. Pursuant to *Utah Code Ann.* § 10-3-703, the City Council may prescribe a minimum civil penalty for Code violations by a fine not to exceed the maximum class B misdemeanor fine which is $1,000; provided, that civil penalties for a violation of the land use ordinances of the City shall not exceed the maximum fine for a class C misdemeanor. Civil penalties shall be due and owing to the City within ten (10) days from the date of service. The civil penalty shall be double if paid after ten (10) days but within twenty (20) days of service. The civil penalty shall triple if paid after twenty (20) days but within thirty days of service. After thirty (30) days, unpaid civil penalties shall accrue interest at the rate set forth by the State of Utah for unpaid judgments. Payment of any civil penalty shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the City. A civil citation and civil penalties may be imposed for each and every day a violation occurs or continues to exist. Additional civil penalties may be imposed for reoccurring offenses on the same property within one year from the imposition of a civil penalty. Civil penalties may not be imposed for a civil violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding. Civil penalties shall be paid to the City Finance Department.

1-06-130. Request for Administrative Hearing.

Any responsible person served with a civil citation shall have the right to request an administrative hearing before a hearing officer by filing a written request for hearing. Such written request for hearing shall be filed with the City Recorder within ten (10) days from the date of service of the civil citation or other specified date set forth therein. Failure to request an administrative hearing as provided herein within ten (10) days from the date of service of the civil citation or other specified time frame shall constitute a waiver of the right to an administrative hearing and the right to an appeal.

1-06-140. Scheduling Administrative Hearing.

Upon receipt of a request for an administrative hearing, the City Manager shall appoint, contract with or hire a hearing officer to hear the matter. As soon as practicable after being appointed, the hearing officer shall schedule a date, time and place for the administrative hearing and shall send written notice of same to the responsible person(s). Notice of the hearing shall be served on the responsible person(s) in accordance with the provisions of Section 1-06-060.

1-06-150. Administrative Hearing Procedures.

Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; provided, all persons shall be afforded due process of law, including adequate notice, an opportunity to be heard, and adequate explanation of the reasons justifying any action. The City shall bear the burden of proof to establish the existence of a violation of the Code. Such proof shall be established by a preponderance of the evidence. All administrative hearings shall be open to the public and shall be recorded. The responsible person shall have the right to be represented by an attorney. If an attorney will be representing a responsible person at a hearing, notice of the attorney's

name, address and telephone number shall be given to the City at least one (1) day prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person. The burden to prove any raised defenses shall be upon the party raising any such defense.

1-06-160. Failure to Attend Administrative Hearing.

A responsible person who fails to appear at an administrative hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, provided that proper notice of the hearing has been given as provided in Section 1-06-060.

1-06-170. Administrative Order.

After holding the administrative hearing, the hearing officer shall issue a written administrative order affirming, rejecting or modifying the civil citation and/or civil penalties. The administrative order shall become final on the date of signing by the hearing officer. The administrative order shall be served on all parties in accordance with the provisions of Section 1-06-060.

1-06-180. Appeal of Administrative Hearing Order.

Any responsible person adversely affected by a final administrative order may file a petition for review in the district court. Any such appeal shall be filed within thirty (30) days after the administrative order is final. In the petition, the plaintiff may only allege that the administrative order was arbitrary, capricious or illegal. The court shall presume the administrative order is valid, review the record to determine whether the order was arbitrary, capricious or illegal, and affirm the order if it is supported by substantial evidence in the record. The record of the proceedings shall be transmitted to the reviewing court. The filing of the petition does not stay execution of an administrative order, unless so ordered by the hearing officer.

1-06-190. Failure to Comply.

It shall be unlawful for a responsible person to fail to comply with any notice of violation, civil citation, or administrative order, or to pay the required civil penalties as imposed hereunder. A violation of this Section shall be a class B misdemeanor.

1-06-200. Collection.

The City may use any lawful means available to collect any unpaid civil penalties imposed under this Chapter, including costs and reasonable attorney's fees.