



**Planning Commission  
Staff Report  
Ordinance Amendment  
Hearing Date: April 23, 2014**

**ITEM 3\*** City of Provo Public Works Department requests various amendments to Title 15 of the Provo City Code, to clarify certain provisions and to update the consolidated fee schedule of the City. **City Wide Application** 14-0005OA

<p>Applicant: Provo City Public Works Staff Coordinator: Carrie Walls</p> <p>Property Owner: N/A Parcel ID#: N/A Current General Plan Designation: N/A Proposed General Plan Designation: N/A Current Zone: N/A Acreage: N/A Number of Properties: N/A</p> <p>*Council Action Required: Yes</p> <p>Related Application(s): None</p> <p><b><u>ALTERNATIVE ACTIONS</u></b></p> <p>2. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is May 14, 2014, at 5:00 p.m.</i></p> <p>3. <b>Recommend Denial</b> of the proposed ordinance amendment. <i>This would be a <u>change</u> from the Staff recommendation; the Planning Commission should <u>state new findings</u>.</i></p>	<p>Current Legal Use: Not applicable.</p> <p>Relevant History: Title 15 of the Provo City Ordinance has some provisions that require clarification and the Public Works fees in the city's Consolidated Fee Schedule require increasing to meet current costs.</p> <p>Neighborhood Issues: Staff has not received any comments or concerns from the neighborhoods.</p> <p>Summary of Key Issues:</p> <ul style="list-style-type: none"><li>• The proposed text amendment will clarify certain provisions in Title 15 and will update the consolidated fee schedule to reflect more current costs.</li></ul> <p>Staff Recommendation:</p> <p>1. That the Planning Commission <b><u>Recommend Approval</u></b> of the proposed ordinance amendment. <i>This action <u>would be consistent</u> with the recommendation of the Staff Report. Any additional changes should be stated with the motion</i></p>
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## **OVERVIEW**

The Public Works Department is proposing text amendments for Title 15 to clarify certain provisions. The Public Works Department is also requesting to update the consolidated fee schedule to reflect more current costs.

## **FINDINGS OF FACT**

1. There are provisions within Title 15 under the Public Works Department's purview that require clarification and updating.
2. The City's Consolidated Fee Schedule, in regard to Public Works fees, requires updating to bring the costs more in line with current charges.
3. The Public Works Department has submitted a proposed text amendment and updates to the Consolidated Fee Schedule to remedy these situations. (See Attachment 1)

## **STAFF ANALYSIS**

1. Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments: **(Staff's responses are in bold type)**

*Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:*

- (a) *Public purpose for the amendment in question.*

**The public purpose for the amendment is to clarify and update the language in Title 15 and to update the City's fees to reflect current costs as applied to the Public Works Department's area of jurisdiction.**

- (b) *Confirmation that the public purpose is best served by the amendment in question.*

**Clarification and updating to the ordinances and the Consolidated Fee Schedule may only be completed through a text amendment. Updates to the ordinances serve the public purpose by clarifying**

**areas of concern. Increases in fees are necessary to ensure that costs expended by city departments do not exceed the budget.**

- (c) *Compatibility of the proposed amendment with General Plan policies, goals, and objectives.*

**There are no General Plan policies, goals or objectives that relate to the proposed Title 15 amendments or to the updates to the Consolidated Fee Schedule.**

- (d) *Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.*

**There are no "timing and sequencing" provisions related to the proposed text amendment.**

- (e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.*

**The proposed amendment will not hinder or obstruct attainment of the General Plan's articulated policies.**

- (f) *Adverse impacts on adjacent land owners.*

**Increasing the city's fees could be construed as a negative impact on land owners within the city. However, not increasing the city's fees to reflect costs incurred during the course of every day Public Works job responsibilities could lead to department budget shortfalls which would have to be mitigated in some other manner.**

- (g) *Verification of correctness in the original zoning or General Plan for the area in question.*

**This section does not apply to the proposed text amendment.**

- (h) *In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.*

**This section does not apply to the proposed text amendment.**

## **CONCLUSIONS**

The proposed text amendment is to update and clarify Title 15 as it relates to the areas of Public Works Department's purview. The Public Works Department is also requesting to update their fees in the city's Consolidated Fee Schedule to reflect the cost of the various inspections and other services that are handled by that department. The text amendment and the changes to the Consolidated Fee Schedule are necessary for the city to provide accurate, easily understandable information to the public and to meet the costs of doing business.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of the proposed Title 15 text amendment and the increase of fees in the city's Consolidated Fee Schedule.

## **ATTACHMENTS**

1. Proposed Text Amendment and Fee Schedule Changes

**Proposed**  
**Provo City Code Modifications**  
**March 2014**

**15.03.010. Definitions-Words, Terms, Phrases Defined.**

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(1) For purposes of this Title:

- (a) Any gender includes the other gender.
- (b) "Shall" is mandatory; "may" is permissive.
- (c) The singular number includes the plural, and the plural the singular.
- (d) Words used in the present tense include the past and future tense, and vice versa.
- (e) Words and phrases used in this Title and not specifically defined shall be construed according to the context and ordinary usage of the language.
- (f) Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Title as a whole.

(2) In the construction of this Title, the following words and phrases shall be as defined as set forth in this Section unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply. Words and phrases not defined herein, but defined in Title 14, Provo City Code, shall have the meanings set forth in Title 14.

**"Alley"** (see Street definitions).

**"Average Daily Traffic" (ADT)** means the maximum rate, typically measured in terms of vehicles per hour or average daily traffic, at which vehicles can be expected to traverse a point or uniform section of lane or roadway during a given period under prevailing roadway, traffic, and control conditions.

**"Borrow"** means earth material acquired for use in grading on a site.

**"Buildable area"** means that portion of a lot or parcel which is eligible to place a building or structure and complies with the setbacks and other regulations of the zone where the property is located.

**"Building Permit"** means any permit required for new construction and additions pursuant to Section 14.01.060, Provo City Code.

**"Capital facilities plan"** means a plan prepared separately or as part of a general plan which ~~meets the requirements of the Impact Fees Act and which~~ identifies:

(a) demands placed upon existing public facilities **currently and as projected in the future for all transportation modes** ~~by new development activity~~; and

(b) ~~the proposed means by which Provo City will meet those demands~~ **new facilities projected to meet the future transportation needs of the city.**

**"Civil Engineer"** means a Professional Engineer registered in the State of Utah to practice in the field of civil engineering work.

**"Collective driveway"** means a driveway, at least twelve (12) feet in width, serving not more than two (2) lots, or two (2) residential dwelling units, or twenty (20) feet in width serving not more than ~~two (2)~~ **four (4)** lots and four (4) single residential dwelling units and not exceeding one hundred twenty (120) feet in length.

**"Conservation easement"** means an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural, scenic or open condition, or for recreational, agricultural, cultural, wildlife habitat or other use or condition consistent with the protection of open land.

**"Conventional Subdivision"** means a subdivision which has no open space as authorized in this Title.

**"Cut"** means an excavation.

**"Developable land"** means land under thirty percent (30%) slope which is capable of being improved, subject to the Sensitive Lands Ordinance and other requirements within this Title, with landscaping, buildings, or parking. Land designated as sensitive lands or primary conservation areas shall not be considered developable land.

**"Developer"** means the individual, partnership, limited liability company, association, or corporation, or other legal entity developing land or causing it to be developed.

**"Development"** or **"Development activity"** means any of the following:

- (a) Any construction or expansion of a building, structure, or use.
- (b) Any change in the use of a building or structure.
- (c) Any man-made change to improved or unimproved land, including but not limited to, mining, dredging, filling, grading, paving, excavation or drilling operations.
- (d) Any change in the use of land that creates additional demand and need for capital facilities.
- (e) The total area of a lot or parcel of land on which a building permit is to be issued or the total area of property being improved.
- (f) The land being developed and/or subdivided.
- (g) The act, process or result of developing.
- (h) When the context so requires, a project plan as set forth in Section [15.03.300](#), Provo City Code.

**"Development approval"** means any written authorization from Provo City allowing commencement of development activity.

**"Driveway"** means a paved area with a **minimum pavement section of** four (4) inches (in thickness) concrete or two (2) inches of asphalt on top of a four (4) inch compacted base, used for ingress or egress of vehicles, and allowing access from a street to one (1) building, structure, or facility.

**"Easement"** means the right to use a quantity of land set aside over which a liberty, privilege or advantage in land, existing distinct from the ownership of the land, is granted to the public or to some particular person, **party** or part of the public.

**"Excavation"** means the mechanical removal of earth material.

**"Flood Plain Setback"** means a non-buildable area of one hundred (100) feet measured from the high point of the bank of the Provo River as set forth in Section [14.33](#), Provo City Code.

**"Fill"** means a deposit of earth material by artificial means.

**"Final approval"** means the signing of a final plat by the Mayor.

**"Final plat"** means a map or ~~chart~~ **drawing** of a ~~land division~~ **property boundary adjustment or development** with accompanying supplementary documents, which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots, **easements** and other ~~divisions~~ **features** can be identified.

**"Foot-candle"** means a measure of light falling on a given surface. One (1) foot-candle is equal to the amount of light generated by one (1) candle shining on a square foot surface one (1) foot away.

**"French drain"** means a sump or trench filled with crushed rock or gravel intended to receive storm water discharge.

**"General Plan"** means a document adopted by the City that describes general policies for proposed future development for the land within the municipality, as set forth in the Utah Code.

**"Geotechnical Engineer"** means a Civil Engineer registered in the State of Utah with training and experience in soil engineering.

**"Glare"** means light that causes annoyance, discomfort or loss in visual performance and ability.

**"Grading"** means any excavating, **cutting** or filling or combination thereof.

**"Grading plans"** means a topographic development plan prepared by a registered Civil Engineer showing contours for before and after grading which do not exceed one (1) foot intervals.

**"Hazardous conditions"** means flood plain area, sensitive land, and land with a high water table which if disturbed is likely to be detrimental to life or property.

**"High water table area"** means that portion of Provo City encompassed in the following description: Beginning at a point on the southeast corner of the Billings Annexation, which point is on the west boundary of South State Street northerly to the intersection of 1140 South Street; thence westerly along 1140 South Street to the Southern Pacific Railroad tracks; thence northwesterly along said railroad tracks to the Provo River and 500 North Street; thence east along 500 North Street to the intersection of 970 West Street; thence north along 970 West to 800 North; thence easterly along 800 North to 800 West Street, north along 800 West Street to 900 North Street; thence east along 900 North Street to the eastern boundary of Exchange Park; thence northerly



along the east boundary of Exchange Park to Columbia Lane; thence northeasterly to the intersection of State Street and Moon River Avenue; thence northerly along Moon River Avenue to 300 West Street; thence north along 300 West Street to 1625 North Street; thence east along 1625 North Street to 200 West Street; thence northerly along 200 West Street to 2230 North Street; thence east along 2230 North to University Avenue; northerly along University Avenue to the intersection of 800 North in Orem; thence westerly along 800 North in Orem, Utah, to the base of the hill and the Provo Bench Canal; thence southerly along the Provo Bench Canal and the west corporate limits of Provo City to the intersection of the Orem Center Street extension and Carterville Road; thence southerly along Carterville Road to 1720 North Street; thence southwesterly along the base of the "Grandview Hill" to the intersection of 820 North and 1375 West; thence southerly to the Lake Bottom Canal; thence westerly and northwesterly along the Lake Bottom Canal to the Orem City corporate limits; thence west to Utah Lake; thence southerly and westerly along the Utah Lake shore to Interstate 15; thence southeasterly along I-15 to the northern limits of Springville City; thence east along the Springville City limits to the west boundary of the Billings annexation to Provo City; thence southerly along the west boundary of the Billings Annexation to the south boundary of said annexation; thence east to the point of beginning.

**"Hillside area"** means any lot or parcel with an average slope greater than ten percent (10%).

**"Impact fee"** means a payment of money imposed upon development activity as a condition of development approval. "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hook up fee, a fee for project improvements, or other reasonable permit or application fee.

**"Impact fee facilities plan"** means a plan prepared separately or as part of a general plan which meets the requirements of the Impact Fees Act and which identifies:

(a) demands placed upon existing public facilities by new development activity; and

(b) a proposed means by which Provo City will meet those demands.

**"International Building Code"** means the building code applicable to Provo City as provided in Section 9.52.010, Provo City Code.

**"Irrigation ditch"** means any system of canals or ditches originally constructed for irrigation use and maintained primarily for that use.

**"Large scale development"** means any of the following:

(a) All performance developments.

(b) Subdivisions consisting of three (3) acres or more or ten (10) lots or more.

(c) Project plans with twenty (20) multiple family units, commercial/industrial developments with three (3) acres or more.

**"Lumen"** means a measure of light energy generated by a light source.

**"Metes and Bounds"** means a description of a lot or parcel of land by bearings and distances.

**"Natural features"** means non-man-made land characteristics, including drainage swales, wetlands, rock outcroppings, streams, and concentrated native stands of large shrubs or trees.

**"Natural state"** means that portion of any lot or parcel which cannot be subjected to grading, removal of vegetation or building development.

**"Off-site facilities"** means facilities outside of the boundaries of the development which are designed and located to serve the needs of the subdivision or adjacent properties; usually lying between a development and existing facilities.

**"On-site facilities"** means facilities installed within or on the perimeter of the subdivision or development site.

**"Open space"** means primary and secondary conservation areas and other land conserved or set aside from development such as but not limited to public or private parks, trails, landscaped buffers, wetlands, meadows, forested areas, pastures, farm fields and other lands forming part of the ecologically connected matrix of natural areas significant due to wildlife habitat, water quality protection and other reasons.

**"Open Space Subdivision"** means a subdivision where open space is created pursuant to the requirements of this Title and which results from the reduction of minimum lot sizes otherwise required by Title [14](#) within a subdivision.

**"Over-size facilities"** means facilities with added capacity designed to serve other property, in addition to the land within the boundaries of a development or development site.

**"Parking lot"** means an open area, other than a street or alley, used for the parking of more than four (4) automobiles whether for free, or for compensation.

**"Parking lot aisle"** means the traveled way by which cars enter and depart parking spaces. Aisle width standards are set forth in Section 14.37.100, Provo City Code. Parking aisles shall not be considered streets for purposes of this Title.

**"Parkway"** means a strip of real property between a curb adjacent to the paved portion of a street or road and a sidewalk running more or less parallel to thereto.

**"Phasing"** means to complete a development with multiple stages in a logical order.

**"Preliminary Approval"** means a recommendation for approval from the Planning Commission.

**"Preliminary Plat"** means a map or ~~chart~~ drawing of a proposed ~~land division~~ property boundary adjustment or development with accompanying supplementary documents.

**"Primary Conservation Area"** means wetlands, except wetlands that may be lawfully mitigated, lands with a one hundred (100) year flood plain, slopes exceeding ~~twenty five percent (25%)~~ thirty percent (30%), and soils subject to slumping.

**"Project improvements"** means site improvements and facilities planned and designed to provide service for development resulting from a development activity; and necessary for the use and convenience of the occupants or users of development resulting from a development activity. Project improvements does not mean system improvements.

**"Proportionate share"** means the cost of public facility improvements that are roughly proportional and reasonably related to the service demands and needs of any development activity.

**"Public accessway"** means a minimum ten (10) foot wide paved right-of-way providing safe, convenient and direct access for pedestrians and bicyclists to and from nearby residential areas, transit stops, neighborhood activity areas and other commercial and industrial areas or a twenty (20) foot wide paved right-of-way for the same purpose if usage by vehicular traffic is anticipated.

**"Public facilities"** means any or all of the following capital facilities that have a life expectancy of ten (10) or more years and are owned or operated by or on behalf of Provo City:

- (a) water rights and water supply, treatment and distribution facilities;
- (b) waste water collection and treatment facilities;

- (c) storm water, drainage, and flood control facilities;
- (d) municipal power facilities;
- (e) roadway facilities;
- (f) parks, recreation facilities, open space, and trails; and
- (g) public safety facilities.

**"Public safety facility"** means a building constructed or leased to house police, fire, or other public safety entities. "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

**"Removal"** means killing vegetation by any means, including but not limited to spraying, complete extraction, or cutting.

**"Riprap"** means an assemblage of broken stones or boulders erected on ground for use as a foundation to prevent erosion.

**"Roadway facilities"** means streets or roads that have been designated on an officially adopted subdivision plat, roadway plan, or general plan of the City, together with all necessary appurtenances. "Roadway facilities" includes associated improvements to federal or state roadways only when the associated improvements are necessitated by the new development and are not funded by the state or federal government. "Roadway facilities" does not mean federal or state roadways.

**"Rough grade"** means the stage at which the elevation of land is within eight (8) inches of the elevation shown on an approved final plat.

**"Second access"** means providing an additional point of access for ingress and egress to a development as determined by the City Engineer.

**"Secondary conservation area"** means lands that are conserved to meet the open space requirements set forth in Section 15.04.050 of this Title.

**"Sensitive Lands"** means any land area whose destruction or disturbance could immediately affect the life of the community by either:

- (a) creating hazardous conditions such as flooding and landslides;

(b) destroying important public resources such as water supplies and the water quality of lakes and rivers; or

(c) wasting important productive lands and renewable resources.

**"Site"** means any lot or parcel of land.

**"Street"** means any street, avenue, boulevard, road, lane, parkway, viaduct, alley, or other way for the movement of vehicular traffic which is an existing state, county or municipal roadway, or a street or way shown upon a plat, heretofore approved, pursuant to law or approved by official action; and includes the land between street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutter, sidewalks, parking areas, and other areas within the right-of-way. For the purpose of this Title, streets shall be classified as defined in subsections (a) through (i):

(a) **"Major Highway"** means a major regional highway including an expressway, freeway or interstate highway designed to carry vehicular traffic:

(i) into, out of, or through the regional area (inter-region) and

(ii) from one political subdivision of the region to another, or from an interregional highway (intra-regional).

(b) **"Major" or "Arterial Street"** means that part of the street system serving as the principal network for through traffic flow via routes that connect areas of principal traffic generation and important highways entering the City as indicated on the Major and Local Street Plan Map in the General Plan.

(c) **"Collector Street"** means the distributor and collector streets servicing traffic between arterial and local streets as indicated on the Major and Local Street Plan Map in the General Plan. These are streets used mainly for traffic movements within residential, commercial, and industrial areas and do not provide direct access to one-family residential unit or lot.

(d) **"Local" or "Minor Street"** means a street used primarily for direct access to residential, commercial, industrial, or other abutting property. Local streets should not include streets carrying through traffic. Long local streets should generally be divided into short sections by collector street systems.

(e) "**Alley**" means a public or private street designed to serve as access to the side or rear of properties whose principal frontage is on some other street.

(f) "**Cul-de-sac**" means a short dead-end street terminating in a vehicular turnaround area.

(g) "**Half Street**" means a street parallel and contiguous to a property line which temporarily has a lesser right-of-way width and lesser improvements than is normally required for minor or major streets.

(h) "**Service**" or "**Frontage Road**" means a street or road paralleling and abutting major streets to provide access to adjacent property so that each adjacent lot will not have direct access to the major street.

(i) "**Stub Street**" means a street or road extending from within a subdivision boundary and terminating with no permanent vehicular turnaround to permit adjacent parcels of land to be developed later with an adjacent connecting street system.

"**Street Right-of-Way**" means that portion of land dedicated to public use for street and utility purposes.

"**Subdivider**" (see "Developer").

"**Subdivision**" means any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(a) "**Subdivision**" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and,

(ii) divisions of land for all residential and nonresidential uses, including all land used or to be used for commercial, agricultural, and industrial purposes; and

(iii) the combining of existing lots or parcels or portions thereof into one (1) or more lots or parcels of land, except as set forth in Subsection (b) below.

(b) "**Subdivision**" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates any provision of Title 14, Provo City Code;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created, and

(B) **does not adjust the boundary of a platted lot or parcel, and**

(C) the adjustment does not result in a violation of Title 14, Provo City Code; or

(iii) a recorded document, executed by the owner of record, revising the legal description of more than one (1) contiguous parcel of property into one (1) legal description encompassing all such parcels of property; and

(iv) the joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" as to the unsubdivided parcel of property or subject the unsubdivided parcel to the subdivision requirements of this Title.

**"Subsurface drainage"** means any system of pipes, canals, ditches, moats, and the like that intercepts ground water and carries it to Provo River or Utah Lake.

**"Surface drainage"** means water run-off caused as a result of precipitation or irrigation.

**"System improvements"** means existing public facilities designed to provide services to service areas within the community at large; and future public facilities identified in a capital facilities plan intended to provide services to service areas within the community at large. "System improvements" does not mean project improvements.

**"Unit of measure"** means that basic gauging unit which can be quantified for measuring impact of development on the public facilities in question, and provides a fair and equitable method of assessing the demands for expanded public facilities, or the inflow/outflow of people, products, or waste, depending on the particular type of public facility; and may include, but shall not be limited to, the following measuring methods:

(a) plumbing fixture units

(b) gallons per day

(c) water meter size, in inches

(d) number of equivalent dwelling units (EDU's)

**"Vicinity Plan"** means a map or chart showing the relationship of streets and lands within a proposed subdivision to the streets and lands in the surrounding area.

**"Wetlands"** means lands that are generally inundated or saturated by surface or ground water at a frequency or duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**"Written analysis"** means documentation of impact fee calculations which identifies the impact on system improvements required by the development activity; demonstrates how those impacts on system improvements are reasonably related to the development activity; and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity. (R&R 1999-34, Am 2000-48, Am 2002-17, Am 2003-26, Am 2005-09, Am 2006-50)

### **15.03.035. Grading**

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(1) For the purposes of this Section, grading shall be defined as any work including filling, **cutting**, excavation or relocation of material which affects the contour, slope, elevation or drainage features of a parcel of property, or which involves more than fifty (50) yards of material. Landscape modifications to an individual property involving less than fifty (50) cubic yards of material and which do not affect the contour or slope of a property shall be exempt from the requirements of this Section. No grading, **cutting**, filling, or excavation as previously defined shall be accomplished without first having obtained a grading permit from the City Engineer pursuant to the provisions of this Section. A grading permit may be obtained at the Office of the Provo City Engineer after completion of an application for permit complying with any and all permit requirements.

(2) No grading, **cutting**, filling, or excavation of any kind shall be accomplished without first having obtained a grading permit from the City Engineer pursuant to the provisions of this Section. A grading permit may be



obtained at the Office of the Provo City Engineer after completion of an application for permit complying with any and all permit requirements.

- (a) Any grading operation exceeding ten (10) months shall require a new grading permit. If a new grading permit is not granted, all of the conditions of the original grading permit shall be completed no later than twelve (12) months from the original date of issue.
- (b) All grading permits which involve over twenty-five thousand (25,000) cubic yards of material or are not associated with an approved project plan will be required to submit a request for an Administrative Review prior to consideration or issuance of a grading permit.
- (c) All approved development projects, which produce excess excavated material that is to be removed from the project site, shall provide a grading plan for the property where the material will be placed, if said property is within the Provo City limits. An acknowledgment letter from the owner of record of the recipient property shall be required with the grading permit.
- (d) All materials processed upon the project site for reuse shall be subject to the provisions of this Section and shall require approval through the development review process.
- (e) All preliminary street and site grading shall be completed prior to the installation of utilities.
- (f) Fills in areas intended as structural foundations, including roadways, shall be compacted to at least ninety-five percent (95%) of AASHTO (American Association of State Highway Transportation Officials) T180 density. All other fills shall be compacted to at least ninety percent (90%) of AASHTO T 180 density. Compaction test reports verifying compliance with this provision shall be submitted to the City Engineer.
- (g) Material processing not associated with an approved development plan or capital project will not be issued a grading permit. An applicant may appeal the decision of the City Engineer through a request for Administrative Review.
- (h) All cut and fill slopes, and other areas as determined by the City Engineer, shall be reseeded and/or planted with vegetation. A guarantee bond for this work shall be submitted and remain in place until all work has been completed and final inspection made.
- (i) No person shall be permitted to grade, cut, excavate, fill, or to erect any structure on slopes or undisturbed areas that exceeds a slope greater than thirty percent (30%) as determined by

the City Engineer. An applicant may appeal the decision of the City Engineer through a request for Administrative Review.

(i) Cleanup of the grading site shall be the responsibility of the party to whom the permit is issued. Measures shall be in place to prevent tracking of material on to adjacent public and private streets or neighboring properties. Any materials which are tracked outside of the project site shall be immediately cleaned up. If the cleanup is not satisfactory completed, the City may have this work done by city crews or private contractor and the cost for the work be billed to the party to whom the permit was issued.

(j) Cut and fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured as necessary to blend with adjacent property to the maximum extent possible. Where a cut or fill slope occurs between two (2) lots, the slope shall normally be made a part of the lot with the lowest elevation.

(k) Sections of the International Building Code regulating excavation and grading shall be complied with, except that decisions described therein to be made by the "building official" may also be made by the City Engineer.

### (3) Engineered Fill.

(a) A permit may be obtained from the City Engineer to use solid waste or other material as "fill" by doing the following:

(i) by submitting to the City Engineer a grading plan showing the area to be filled and a description of the material which will be used as fill; and,

(ii) by using only "engineered fill" as defined herein.

(b) For the purposes of this Section, "engineered fill" means:

(i) soil and rocks and related materials which are substantially free from asphalt, wood, roots, bark, tree limbs, grass clippings or any other material which decomposes or compresses; and,

(ii) material having have such characteristics of composition, size and shape that it will compact readily to a firm, stable base. (Broken concrete in a size of less than twelve (12) inches square may be considered engineered fill); and,

(iii) material which is nontoxic and not hazardous waste.

(c) It shall be unlawful to do any of the following:

(i) To make a false statement to obtain a permit pursuant to this Section.

(ii) To obtain a permit pursuant to the provisions of this Section and thereafter fill (or cause the filling of) any place in a location or manner not described in the grading plan.

(iii) To use (or cause the use of) materials as fill which are not described in the grading plan.

#### (4) Permit Requirements.

(a) All grading permits shall be subject to any and all conditions of the permit required by the City Engineer including the following:

(i) The work shall be completed by a licensed qualified contractor.

(ii) Payment of all required permit fees and bonds prior to the commencement of any work.

(iii) Compliance with other special conditions required by the City Engineer.

(b) Permit fees are included in the Provo City Consolidated Fee Schedule.

(c) Failure to comply with the terms of the permit will constitute a default of the permit and the permit will be considered null and void upon written notification from the City Engineer. (Enacted 2011-09)

#### (5) Administrative Review Procedure.

(a) An administrative review as related to Provo City Ordinance Title 15 shall conform to the following:

- i. The administrative review shall be conducted by the Public Works Director, or his designee.
- ii. The administrative review shall be made by a committee consisting of the following:
  - 1) Public Works Director
  - 2) Chief Administrative Officer
  - 3) City Attorney
  - 4) Community Development Director
  - 5) City Engineer
- iii. Any individual or party may request, in writing, an administrative review of the decision of the City Engineer as outlined in Provo City Ordinance Title 15. Minutes of the hearing shall be kept by a secretary as determined by the Public Works Director. The administrative review committee shall adopt written findings and produce a written order or decision.
- iv. The individual or party requesting the administrative review shall have the responsibility of producing a written request outlining the basis for the request and shall provide all documentation necessary as determined by the committee.
- v. Reasonable notice stating time, place and subject matter shall be given to the parties involved, prior to the administrative review. No administrative review, or the result thereof, shall be invalidated by any defect in giving notice to the parties involved, unless a denial of due process is caused thereby. The administrative review shall be scheduled within thirty (30) days of receiving the written request for administrative review.
- vi. Any decision entered by the administrative review committee may be vacated by the Mayor within fifteen (15) days after the entry thereof. The Mayor shall thereafter conduct such further review, if any, as the Mayor deems necessary, and based upon evidence received at the administrative review meeting on the issues, the Mayor shall adopt written findings and enter a written order or decision.
- vii. A written order or decision of the administrative review committee, if not vacated by the Mayor, shall constitute a final decision from which an appeal (for purposes of review and not a trial de novo) may be taken to a court of law, in the time and manner otherwise provided by law.

### 15.03.200. Street Standards.

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The type and arrangement of roadways peripheral to and abutting any development shall be in compliance with the major and local street plans for the area of the development. Developments which are located on or next to a collector or arterial street shall be designed and developed so the public street continues through the project in a logical, safe design. Developments which are located at the end of stubbed local public streets may be required to extend the street through the development based on the proposed circulation needs of the area. The Planning Commission, upon recommendation of the Planning and Engineering staff, shall determine if the street should be extended as a through street or as a cul-de-sac during the preliminary approval.

(1) Arterial and collector streets shall conform to the major street plan wherever a development falls in an area for which an arterial and collector street plan has been adopted. For territory areas where such street plan has not been completed when the preliminary plan of the subdivision is submitted to the Planning Commission, street dedications shall be provided as follows:

(a) Local street right-of-way shall have a minimum width of fifty-six (56) feet, except where private property owner's association include planting areas and sidewalks as part of their common area.

(b) Collector street right-of-way shall have a width of seventy two (72) feet.

(c) Arterial street right-of-way shall have a minimum width of eighty-four (84) feet or one hundred twenty (120) feet as determined by future projected traffic volumes.

(d) Minimum width of asphalt wherever curb and gutters are installed (lip to lip of curb) shall be as follows:

(i) For local streets (public and private): thirty-eight (38) feet where future projected traffic volume is 500 ADT or greater, or ~~twenty-eight thirty-two (2832)~~ feet where future projected traffic volume is less than 500 ADT; and twenty-four (24) feet when on-street parking is not allowed, as approved by City Engineer.

(ii) For collector streets: fifty-four (54) feet.

(iii) For arterial streets: sixty-six (66) feet or ninety (90) feet as determined by the City Engineer for future projected traffic volumes.

(2) To promote connectivity of the street system for efficient circulation, cul-de-sacs shall be used only where physical conditions or land ownership configurations exist which make other designs undesirable and where local area street plans do not require through circulation. When used, cul-de-sacs streets shall be extended in a manner that reduces the length of public access ways to be constructed between the end of the cul-de-sac and the destination of such access way. Each cul-de-sac shall have a minimum right-of-way of fifty (50) feet and a radius of fifty (50) feet of right of way for the cul-de-sac bulb, except where a private property owner's association includes planting areas and sidewalks as part of its common area. A cul-de-sac street shall ~~have an asphalt~~ meet the pavement width ~~of twenty-eight (28) feet standard as per (1)(d)(i)~~ and a cul-de-sac bulb shall have asphalt pavement of not less than forty-one (41) feet in radius. The maximum length of a cul-de-sac street shall not exceed five hundred (500) feet, unless:

(a) Physical conditions necessitate providing a longer cul-de-sac, due to the inability to provide any other means of access. Such conditions may include, but are not limited to, topography, natural resource areas such as wetlands, ponds, streams, rivers, lakes; or

(b) Buildings or ~~other~~ existing developments block ~~any other~~ access to the site, which would result in landlocked property, or an extremely inefficient development pattern. A cul-de-sac street which exceeds five hundred (500) feet shall include an intermediate turn around near the mid-point of the street as approved by the City Engineer. In no case shall a cul-de-sac street length exceed one thousand (1,000) feet.

(3) Where access is desired to the side or rear of abutting properties, an alley may be provided. Alleys shall have a minimum width of twenty-four (24) feet of asphalt or concrete pavement measured from ~~face-lip~~ of curb to ~~face-lip~~ of curb. The design grade and alignment design of an alley shall conform to local street standards, except that the centerline radius may be reduced where appropriate, as determined by the City Engineer. Curb and gutter or other acceptable drainage design features shall be required to control pavement drainage. Minimum pavement thickness shall conform to the same standards required for local streets. Parking shall not be allowed on alleys. Alleys shall not be made a part of a lot.

(4) On ~~collector and~~ local streets, four (4) way intersections ~~shall may~~ be designed with a roundabout according to Provo City standard drawings ~~and the major and local street plan as approved by the City Engineer~~. Streets ~~will shall~~ intersect each other as near as possible at right angles. Minor streets shall approach arterial or collector streets at an angle of not less than ninety (90) plus/minus ten (10) degrees. Offsets between intersections from ten (10) feet to one hundred twenty (120) feet ~~(measured from street center line to street center line)~~ shall be prohibited.

(5) Minimum street grades shall be four tenths (.4) of one percent (1%). The maximum street grade shall be twelve percent (12%) for local streets and eight percent (8%) for arterial and collector streets.

(6) Where the street lines within a block deflect from each other, there should be a connecting curve. The radius of the curve for the center shall be not less than ~~four-five~~ hundred ~~fifteen-ten~~ (415510) feet for arterial streets, ~~two-three~~ hundred ~~seventy-thirty~~-five (275335) feet for collector streets, and ~~one-two~~ hundred ~~sixty-five~~ (165200) feet for the local streets. Local streets shall be designed with horizontal and vertical curves. (Refer to AASHTO Geometric Design Standards.)

(7) Curbs at all intersections of collector and arterial streets shall be rounded with curves having a minimum lip of curb radius of thirty-~~five~~ (3530) feet and. ~~Curbs at~~ local street intersections shall be rounded with a curve having a minimum lip of curb radius of fifteen (15) feet. (Refer to Provo City Standard Details any exceptions shall be approved by the City Engineer.)

(8) Specifications for the design of street sub-base, base, hard surfacing, curb and gutters, sidewalks and the treatment of drainage courses shall comply with standard specifications as adopted by the City and administered by the City Engineer. All improvements within a public right-of-way shall conform to the standard drawings and specifications approved by the Engineering ~~Department~~Division.

(9) New street names shall not duplicate those already existing. A street, that is obviously a continuation of another already in existence, shall bear the same name. The numerical system of street designations shall be maintained and extended where possible. Streets that curve, loop, horseshoe or meander should be given an alphabetical name. (See Chapter 15.13 for Street Naming.)

(10) Street signs shall be installed where required by the City Engineer. A ~~Street fee sign~~-Sign Fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council shall be paid to the Engineering ~~Department~~Division prior to final plat approval. The City shall assume the responsibility for installation and maintenance of street signs once the fee has been paid.

(11) All public streets shall be dedicated for public use. The full ~~right-of-way width~~ of all streets (as described in chapter 15.03.200(1)-above) within a development shall be dedicated and the roadway paved. Developments on one (1) side only of the proposed local street shall include dedication of not less than thirty-five (35) feet of the street right-of-way, twenty-~~five~~ four (2524) feet of which shall be paved, as approved by the City Engineer. Full width pavement for local streets shall be required when ADT exceeds two hundred fifty (250) vehicles. Arterial and collector street dedication and pavement width shall be determined on a case-by-case basis depending on projected traffic volumes for the proposed development.

(12) The arrangement of streets in new developments shall make provision for the continuation of the existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided) at the same or greater width (but in no case less than the required minimum width).

(a) Public right-of-way connections shall be made in a manner that will provide safe and convenient access to an existing or planned arterial/collector street, school, park, employment center, commercial area, or similar neighborhood activity center. The connections may be completed over time in phases as part of a required overall street plan.

(b) A public street connection shall be provided to any existing or approved public street right-of-way stub abutting the development, unless it is demonstrated that a connection cannot be made because of the existence of one (1) or more of the following conditions:

(i) Physical conditions that preclude development of a public street. Such conditions may include, but are not limited to, topography, natural resource areas or primary and secondary conservation areas such as wetlands, ponds, streams, channels, rivers or lakes.

(ii) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, that physically preclude a connection now or in the future.

(c) Public right-of-way shall be extended to adjacent undeveloped or partially developed contiguous land (i.e., land that can be further divided by provisions of this Title) in locations which will not prevent the adjoining property from developing consistent with applicable standards, unless it is demonstrated that a connection cannot be made because of one (1) or more of the following conditions:

(i) Physical conditions that preclude development of a public street. Such conditions may include, but are not limited to, topography, natural resource areas or primary and secondary conservation areas such as wetlands, ponds, streams, channels, rivers or lakes.

(ii) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, that physically preclude a connection now or in the future.



(d) Street alignments shall be selected that relate to the natural topography and other natural conditions.

(13) Sidewalks shall be six (6) feet in width except where other widths are deemed appropriate by the City Engineer and comply with the latest American Disabilities Act requirements. Planter strips of a minimum seven (7) feet in width shall be used in all street cross sections except where not required by the City Engineer.

(14) A development with a single point ~~of street~~ access (ingress and egress), shall have a maximum average daily vehicle trip volume not higher than two hundred fifty (250) trips. Average daily traffic shall be determined by trip generation rates obtained from the City Traffic Engineer. A second street access shall be required for projects which exceed the designated trip rate.

(15) Direct driveway access from residential property to collector and arterial streets ~~will shall generally~~ not be permitted unless approved by the City Engineer. Access to new residential development shall be provided by local streets. A limited number of driveways to residential property abutting a collector or arterial may be permitted when allowed by the Transportation Master Plan.

(16) For typical street cross-sections and other street details, Refer to Provo City Standard Details, Figures 15.03.200(a), 15.03.200(b), 15.03.200(c), and 15.03.200(d) at the end of this Chapter. (R&R 1999-34, Am 2000-43, Am 2000-48, Am 2002-17, Am 2003-16, Am 2006-15)

### **15.03.205. Reimbursement for Street Improvements.**

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Any person who expends funds to install street improvements (i.e., curb and gutter, sidewalk, asphalt or concrete pavement, road base, sub\_base, and geotextile fabric) associated with an approved development may receive reimbursement of part of that expense as follows:

(1) The party installing the street improvements shall enter into a written reimbursement agreement with the City prior to street improvements being installed.

(2) The amount of the reimbursement shall be limited to those improvements installed by the developer which:

(a) provide a direct benefit to property adjacent to said improvements, and

(b) are greater than the roughly proportional share of improvements needed to service the development.

(3) If within ten (10) years from the date of the reimbursement agreement, a party develops property adjacent to the street improvements described above, the developer who installed the street improvements shall at the time of completion of the development receive a reimbursement from the City in the amount described in Subsection (4) of this Section. The developer of property adjacent to previously installed street improvements shall pay to the City the amount for said street improvements described in Subsection (4) of this Section. The money paid by the developing party pursuant to this section is separate from and in addition to the payment of any other street related fees. In no event shall the amount of reimbursement exceed the amount actually collected by the City from the developer.

(4) The reimbursement payment for street curb & gutter, sidewalk, and pavement (including road base, sub-base, and geotextile fabric) improvements shall be at the rate per linear foot of street frontage as shown on the Consolidated Fee Schedule adopted by the Municipal Council of twelve fifteen dollars (\$125.00) per linear foot of curb and gutter, fourteen twenty four dollars (\$214.00) per linear foot of sidewalk, and two three dollars (\$32.00) per square foot of pavement (including asphalt pavement, road base, sub-base, and geotextile fabric) per linear foot of adjacent property frontage. If concrete pavement has been used for the street surface, an additional fee of six dollars (\$6.00) per square foot of pavement shall be required. In addition, Provo City shall collect an additional administrative one dollar (\$1.00) fee per linear foot of property frontage for administrative expenses as shown in the Consolidated Fee Schedule.

(5) If Provo City installs street improvements at City expense, the City may receive reimbursement from developing parties pursuant to this Section as though the City were a private party. The agreement described in Subsection (1) of this Section shall not be required for reimbursement to the City.

(6) The reimbursement payment described in Subsection (3) of this section shall be paid to the City in its entirety prior to final plat approval. The rate of reimbursement per frontage foot shall be that rate which is in effect at the time of payment. (Enacted 2000-45, Am 2006-50)

### 15.03.230. Pavement Cuts/Pavement Surface.

(1) No cuts shall be made in street pavement for at least one (1) year after hard surfacing has been installed unless approved by the City Engineer. The use of flowable backfill shall be used in the street cuts for any cuts before the year has expired.

(2) A one (1) inch surface course of all streets shall be provided within three (3) years after a development has been completed ~~or longer if the majority of the buildings within the development have not been constructed or as approved by the City Engineer.~~ The developer shall ~~design and construct all roadways in accordance with Provo City Standards. pave two and one half (2-1/2) inches of asphalt on all local streets and three and one half (3-1/2) inches of asphalt on all collector or arterial streets when a development is constructed. Wherever the street falls within a high water table area or as determined by the City Engineer, the developer shall place geotechnical fabric under the sub-base material (refer to Provo City Standards).~~ The developer shall provide the City with a fee, ~~as shown in the Consolidated Fee Schedule adopted by the Municipal Council, in the appropriate amount~~ to pay for the one (1) inch surface course which will follow for each development. This fee shall be placed into a fund and installation of the surface course shall be coordinated through the Provo City Engineering ~~Department-Division~~ in conjunction with its ~~yearly street overlay maintenance~~ program. Fees for the surface course shall be determined by the Engineering ~~Department-Division~~ based on its estimated cost for such work to be completed ~~within three (3) years following completion of the initial construction of the subdivision at a future date.~~-(R&R 1999-34, Am 2000-48)

Figure 15.03.200(a) Collector Street Standards

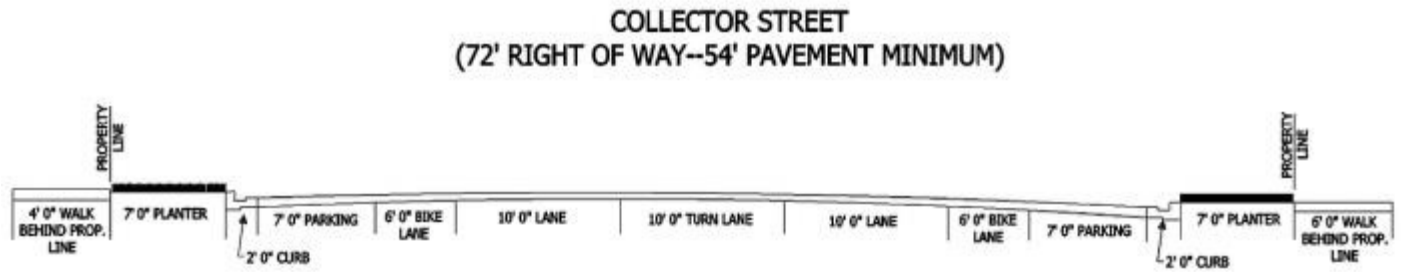


Figure 15.03.200(b) Local Street Standards

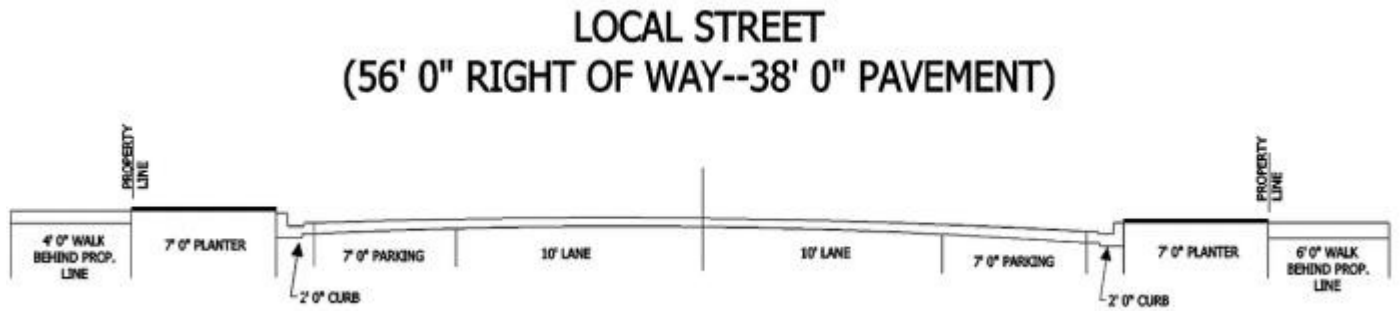
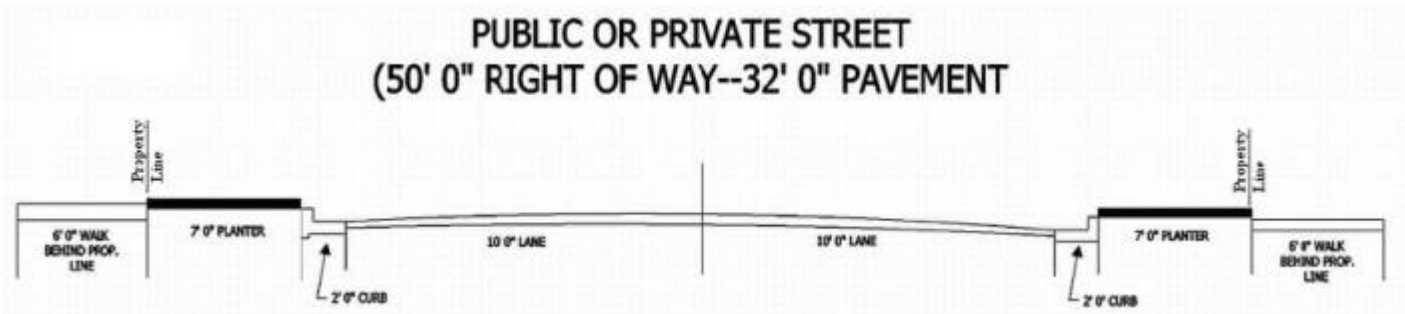


Figure 15.03.200(c) Public or Private Street Standards



**REMOVE ABOVE CROSS-SECTIONS**

### **15.05.050. Procedure to Develop Real Property.**

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(1) It shall be unlawful to grade, **cut**, fill, or excavate any land or to erect any structure without doing the following:

(a) Obtaining the acknowledgment of the City Engineer that any letter report (a letter report is described in Section 15.05.080, Provo City Code) or geologic report (a geologic report is described in Section 15.05.090, Provo City Code) required by the City Engineer pursuant to this Chapter, has been received and meets the requirements of Section 15.05.070, Provo City Code. (The giving of this acknowledgment by the City Engineer shall not be an approval of or acquiescence to the content or conclusions of the letter report or geologic report. A letter report or geologic report shall be considered part of the public record and may be copied by any person.)

(b) Except as provided in Section 15.05.100, Provo City Code, by grading, **cutting**, filling, or excavating land or erecting a structure only as described in the letter report or geologic report which has been acknowledged by the City Engineer. (A proposal for which a letter report or a geologic report is not required may be implemented as described in the proposal.)

(c) By executing and recording the restrictive covenant required by Section 15.05.140, Provo City Code. (This Subsection does not apply if no letter report or geologic report is required.)

(2) Obtaining a grading permit from the City Engineer. Submittal of an acceptable erosion control and revegetation plan shall be required before the grading permit is approved.

(3) In addition to the provisions of this Chapter, all grading, **cutting**, filling, or excavation of land or erection of any structure shall comply with all other applicable provisions of these Ordinances.

(4) Those parts of any proposal to construct improvements such as roads, sewer lines, or water lines, or other improvements which are intended to be placed in public ownership shall be subject to the approval of the City Engineer.

(5) Those parts of any proposal to develop real property which jeopardizes the public's health, safety, or welfare or significantly interferes with established long term development plans of Provo City shall be subject to the approval of the City Engineer after consultation with the appropriate City department.

(6) No building permits shall be issued until the requirements of this Chapter are met. (R&R 1999-34, Am 2006-50)

### **15.05.060. Preliminary Determination by City Engineer.**

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All proposals to grade, **cut**, fill, or excavate land or to erect a structure for human habitation (sometimes referred to herein as the "proposal") shall be referred to the City Engineer who shall make a preliminary determination by reference to the maps and materials maintained in the City's Engineer's office if any of the unsafe physical conditions described in Section 15.05.020, Provo City Code appear to exist in relation to the real property which is included in the proposal. (R&R 1999-34, Am 2006-50)

### **15.05.090. Geologic Report.**

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(1) A geologic report shall include maps and a report containing not less than the following information:

(a) The maps shall include:

(i) The site location and regional setting of the subject property. The 1992 map series entitled: "Utah County Natural Hazards Overlay Zone," prepared by Robert Robison, shall be used to reference the areas where specific hazard studies may need to be conducted.

(ii) A site specific geologic map which illustrates exposure to geological and natural hazards identified in Section 15.05.020(11), Provo City Code, and the geotechnical limitations identified in Section 15.05.020(12), Provo City Code. The map shall illustrate the proposed site modifications relative to geological and natural hazards and/or geotechnical limitations that may impact the site. Any corrective site modification actions necessary to mitigate or avoid hazards or limitations shall be clearly identified on the map.

(iii) Maps shall use a scale of one (1) inch equaling one hundred (100) feet, with contour lines at five (5) foot intervals. Existing contours shall be shown by dashed lines and proposed contours shall be shown as solid lines. Boring logs, cross-sections, test trench logs, soil sample descriptions, and test results shall be included.

(iv) The City Engineer may require additional maps or additional detail on existing maps as reasonably necessary to evaluate actual or potential geologic hazards.

(b) The report shall be prepared in accordance with the guidelines established in the 1987 Utah Geological and Mineral Survey Circular 79, authored by G.E. Christensen, entitled: "Suggested Approaches to Geological Hazard Ordinances in Utah." The report shall include:

(i) a description of the proposed grading, **cutting**, filling, excavation, or structure;

(ii) an analysis of the effects of the proposed grading, **cutting**, filling, excavation, or erection of a structure in relation to the geologic conditions shown in the geologic maps;

(iii) with regard to a structure, an analysis of the manner in which the same, as constructed, will be made reasonably safe for human habitation;

(iv) any corrective or remedial action necessary to avoid a violation of Section 15.05.020 shall be described and analyzed in detail;

(v) a list, including title, author and date, of all prior studies or reports which are relied upon to make this report; and

(vi) The City Engineer may require additional information or analysis which are reasonably necessary to evaluate actual or potential geologic hazards. This includes submittal of geologic reports to the State Geologist for review and comment.

(2) If the geologic report (maps and report) relates to land having a slope that exceeds ten percent (10%), the development proposal described in the geologic report shall conform to the provisions of Section 15.05.160, Provo City Code.

(3) In the case of a proposal to grade, fill, or excavate, which is not directly or indirectly related to a proposal to erect a structure for human habitation, the City Engineer may waive compliance with any requirement of this Section not relevant to the proposed grading, filling, or excavating. (R&R 1999-34, Am 2006-50)

#### **15.05.120. Appeal from Decision of City Engineer.**

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Any person dissatisfied with a decision of the City Engineer made under this Chapter, may appeal the same within thirty (30) days thereof **through a request for administrative review as outlined in Section 15.03.035(5)**. ~~to the Board of Appeals created by the International Building Code, which Board is by this Chapter authorized to hear appeals from decisions of the City Engineer, which Board shall affirm or reverse, either in whole or in part. Any person dissatisfied with a decision of the Board of Appeals may appeal that decision within thirty (30) days thereof to any court of competent jurisdiction for an administrative and not a de novo review.~~ (R&R 1999-34, Am 2006-50)

#### **15.05.130. Scope of Application.**

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No subdivision or other development plat or plan shall be approved without compliance with the provisions of this Chapter. Every proposal to grade, **cut**, fill, or excavate land, and every proposal to erect a structure for

human habitation shall be subject to this Chapter, including proposals related to land in subdivisions or any other development plans which may have been approved prior to the adoption of this Ordinance. (R&R 1999-34)

#### **15.05.140. Restrictive Covenant Required.**

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(1) If a letter report or a geologic report has been submitted to the City Engineer, no subdivision or other development plat or plan shall be approved and no building permit shall be issued for construction of a structure until the owner(s) of the subject real property have signed and delivered to Provo City a restrictive covenant in a form suitable for recording containing not less than the following:

(a) a complete description of the geologic condition of the subject real property, including references to relevant reports and studies;

(b) a description of the grading, **cutting**, filling, or excavating or erection of a structure for human habitation approved in the letter report or geologic report which has been acknowledged by the City Engineer, together with the requirements and restrictions imposed thereon; and

(c) a covenant and agreement enforceable by Provo City, adjoining landowners, and any subsequent owner of the subject real property that only the grading, **cutting**, filling, or excavating or erection of a structure in the acknowledged letter report or geologic report will be constructed or maintained without further compliance with this Chapter, as it may be amended from time to time. (R&R 1999-34)

#### **15.05.160. Hillside Development Standards.**

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(1) Grading.

(a) The provisions of this Section shall be in addition to the grading standards set forth in Section 15.030.035.

(b) Any land or parcel having a slope of greater than ten percent (10%) shall be deemed to be land having a "steep slope" within the meaning of this Chapter. No person shall be permitted to grade, **cut**, excavate, fill, or to erect any structure on undisturbed hillside areas that exceeds a slope greater than thirty percent (30%). Any person proposing to grade, **cut**, excavate, fill or to erect any structure on any slope or hillside with a slope between ten per cent (10%) and thirty per cent (30%) shall be required to submit a geologic report which meets the standards and requirements of this Chapter. A geologic report may not be required if a geologic report relating



to the subject property has, at an earlier date, been accepted and approved by the City Engineer. An applicant may appeal the decision of the City Engineer through a request for Administrative Review.

(c) Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from an area outside the hillside area of Provo City.

(d) Cut and fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured as necessary to blend with existing topography to the maximum extent possible. The City will not accept the dedication and maintenance of cut and fill slopes except those within the required street right-of-way. Where a cut or fill slope occurs between two (2) lots, the slope shall normally be made a part of the downhill lot. Cut and fill slopes shall not be allowed to disrupt existing drainage channels.

(e) Sections of the International Building Code regulating excavation and grading shall be complied with.

(f) Exceptions for grading hillside slopes which exceed thirty percent (30%) may be granted for the following:

- (i) Construction of public streets and utilities required to provide city infrastructure where necessary as determined by the City Engineer.
- (ii) Maintenance and construction of public and private utilities where necessary as determined by the City Engineer.
- (iii) Grading authorized through an Administrative Review as outlined in Provo City Ordinance Section 15.03.035(5) of this chapter.

### **15.11.010. Definitions.**

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For purposes of this Chapter the following terms, phrases, words and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense may include the future tense, words in the single number may include the plural number, words in the plural number may include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

"Applicant" means any person who makes application for a permit.

"Business" means any place in Provo City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

"City" means Provo City, Utah, a municipal corporation of the State of Utah.

"City Engineer" means the City Engineer or the City Engineer's designee.

"Emergency" means any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.

"Engineering Regulations," "Regulations," "Specifications," and/or "Design Standards" mean the latest version of the Engineering Regulations, specifications, design standards or criteria published or adopted by the City Engineer.

"Failure" means a work site restoration which fails to meet City Engineer specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in the engineering regulations.

"Infrastructure Provider" means a person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the right-of-way.

"Operator" means any person who provides service over a telecommunications or broadband Internet access system and directly or through one (1) or more affiliates owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

"Permittee" means any person which has been issued a permit and thereby has agreed to fulfill the requirements of this Chapter.

"Person" means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind.

"Pipe Driveway" means a driveway approach which uses a pipe or other means to bridge the gutter.

"Property Owner" means person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

"Provider" means an operator, infrastructure provider, reseller, system lessee, or public utility company.

"Public Utility Company" means any company subject to the jurisdiction of the Utah State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.

"Public Way" means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. ~~It does not, however, include utility easements not within public ways of the City.~~

"Private Drain Line" means a pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring, or storm water, or condensate into the public drainage system.

"Reseller" refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights-of-way.

"Resident" means the person or persons currently making their home at a particular dwelling.

"Storm Drain" means a dedicated pipe, conduit, water way, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include private drain lines.

"System Lessee" refers to any person that leases a system or a specific portion of a system to provide services.

"Telecommunications System" or "System" means all conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a

provider located in the construction, ownership, operation, use or maintenance of a telecommunications or broadband Internet access system.

"Work Site Restoration" means and includes the restoring of the original ground or paved hard surface area to comply with engineering regulations, and includes but is not limited to repair, cleanup, backfilling, compaction, and stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit. (R&R 1999-34, R&R 2000-12, Am 2006-50, Am [2013-14](#))

#### **15.11.050. Permit Fees.**

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(1) The City shall charge and a permittee shall pay upon issuance of a permit, fees for costs associated with the work performed under the permit as provided in the Consolidated Fee Schedule adopted by the Municipal Council. ~~for utility street cut fees. Such costs.~~ Permit fees may include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the public way or diminution of the useful life of the public way, and other costs to the City associated with the work to be done under the permit. All costs shall be assessed in a non-discriminatory manner.

(2) The City Engineer may waive permit fees or penalties or portion thereof provided for in this Chapter, when the City Engineer determines that such permit fee or penalty:

(a) pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the City; or

(b) pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the City's strategic plan, master plans, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

(c) will be paid by a City department, agency, or affiliated entity.

(3) Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the City to each permittee, in addition to the permit fee.

(4) The fees paid pursuant to this Chapter shall be set aside and dedicated to repaving, rehabilitating and otherwise improving City streets, easements, roads, rights-of-way, and telecommunications facilities, including providing funding to retain or otherwise employ a rights-of-way manager.

(5) The City Engineer shall charge ~~utility-Construction cut-Permit fees-Fees~~ as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(a) ~~When a street is scheduled for rehabilitation during the next year, no fee shall be required.~~

~~(b) If work is done without a permit, a stop order may be given and a fee will be assessed, which is four (4) times the total permit fee as per the Consolidated Fee Schedule. double fee shall be assessed.~~

~~(c) A Provo City approved Flowable fill shall be required on all street cuts with trench widths of thirty (30) inches or less, unless the street is scheduled for rehabilitation.~~ (R&R 1999-34, R&R 2000-12, Am 2006-15, Am 2006-50)

### 15.11.080. Compliance with Specifications, Standards and Traffic-Control Regulations - Site Permittee Identification.

(1) The work performed in a public way shall conform to the requirements of engineering regulations, design standards, construction specifications and traffic control regulations of the City, copies of which shall be available from the City Engineer, kept on file in the office of the City Recorder and be open to public inspection during office hours.

(a) ~~A Provo City approved Flowable fill shall be required on all street crossings unless other measures are accepted and approved by the City Engineer. cuts unless the street is scheduled for rehabilitation within the next year.~~

(2) When a job site is left unattended before completion of the work, ~~traffic control signs and devices which comply with the Manual on Uniform Traffic Control Devices (MUTCD) shall be left in place. In addition, a sign~~

~~with contact information, signage with minimum two (2) inch high letters shall be attached to a barricade or otherwise posted at the site~~, indicating the permittee's name, or company name, telephone number, and after hours telephone number, ~~shall be posted at the site.~~

(3) All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on a public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures ~~shall will be available and~~ used where necessary to prevent accidents involving property or persons. Barricades shall be in place until all of the permittee's equipment ~~and materials are is~~ removed from the site ~~and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the City; in which case the barricades, together with any necessary lights, flares or torches, must remain in place until the backfill work is actually commenced by the City and proper resurfacing is in place.~~ From sunset to sunrise, all barricades and excavations must be clearly outlined ~~with approved traffic control devices by adequate signal lights, torches, etc.~~ The ~~City's~~ Police Department and Fire Department shall be notified at least twenty-four (24) hours in advance of any planned excavation requiring street closure or traffic detour. (R&R 1999-34, R&R 2000-12)

#### **15.11.140. Bond - When Required, Conditions, Warranty.**

(1) Except as noted in this Chapter, each applicant, before being issued a permit, shall provide the City with an acceptable security (this may include a corporate surety bond, cash bond or letter of credit, as determined by the City) in the amount of ten thousand dollars (\$10,000.00) to guarantee faithful performance of the work authorized by a permit granted pursuant to this Chapter. The amount of the security required may be increased or decreased at the discretion of the City Engineer whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of security otherwise required under this Chapter. The form of the security and the entity issuing the security shall be subject to the approval of the City Attorney.

(2) Public utilities franchised by the City shall not be required to file any security if such requirement is expressly waived in the franchise documents.

(3) The security required by this Section shall be conditioned as follows:

(a) That the permittee shall fully comply with the requirements of the City ordinances and regulations, specifications and standards promulgated by the City relative to work in any public way, and respond to the City in damages for failure to conform therewith;

(b) That after work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way to construction specifications so as not to obstruct the public place or travel thereon more than is reasonably necessary;

(c) That the permittee shall guarantee the materials and workmanship for a period of two (2) years from completion of such work, with reasonable wear and tear excepted; and

(d) That unless authorized by the City Engineer on the permit, all paving, resurfacing or replacement of street facilities on ~~major arterial and or~~ collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days, and for local streets within seven (7) calendar days from the time the excavation commences ~~on all other streets~~, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations. In winter, a temporary patch shall be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible. (R&R 1999-34, R&R 2000-12)

### 15.11.160. Work Without Permit - Penalty.

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(1) A stop order may be issued by the City Engineer directed to any person or persons doing or causing any work to be done in the public way without a permit. The abutting property owner shall be responsible for causing work to be done.

(2) Any person found to be doing work in a public way without having obtained a permit, as provided in this Chapter, shall be required to pay a ~~permit penalty~~ fee equal to ~~twofour~~ (24) times the ~~normal total~~ permit fee.

For work where a fee is not typically required, if a permit is not been obtained, a penalty fee will be assessed as determined by the City Engineer. ~~replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.~~ (R&R 1999-34, R&R 2000-12)



# Provo City Code Utility Street Cut & Road Closure Modification Proposal January 15, 2014

## Consolidated Fee Schedule

### ENGINEERING

#### Asphalt Overlay Fee

	Asphalt pavement	<del>\$0.60</del> <u>1.10</u> per square foot
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	Manhole to be raised with-a concrete ring	<del>\$300</del> <u>500.00</u> each
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	Water valve to be raised with a concrete ring	<del>\$300</del> <u>400.00</u> each
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	<b><u>Construction Permit Fee</u></b>	\$150.00
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#### Permit Type

	Asphalt <u>Paving</u>	plus \$0.25 per sq. ft.
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	Curb and Gutter	plus \$0.50 per ln. ft.
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	Sidewalk	plus \$0.25 per sq. ft.
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	Fire Hydrant	plus \$40.00 each
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	Grading	plus \$40.00 per inspection
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	Sewer Lateral	plus \$40.00 per lateral
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	Sewer Main	plus \$0.50 per ln. ft.
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	Water Service	plus \$40.00 per service
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	Water Main	plus \$0.50 per ln. ft.
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	Storm Drain	plus \$0.50 per ln. ft.
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	Other Utilities	plus \$0.25 per ln. ft.
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	Directional Boring	plus \$0.25 per ln. ft.
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	<u>Pothole</u>	<u>plus \$25.00 per pothole</u>
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**Miscellaneous Fees**

After hours inspection	\$60.00 per hour, (1 hour min.)
Development inspection	\$250.00 min. or <del>2%</del> <u>1%</u> of bond
Hourly inspection fee for permits requiring multiple inspections	\$40.00 per hour (1 hour min.)
Permit extensions	\$150.00
Re-inspection	\$95.00 per inspection
Qualified contractor fee	\$250.00 per year
Traffic control plan review fee (for permits requiring multiple traffic control plans).	\$75.00 per inspection
Working without permit (stop work)	4 times permit fee

**Reimbursement for Street Improvements**

<u>Curb and Gutter</u>	<u>\$15.00 per ln. ft.</u>
<u>Sidewalk</u>	<u>\$24.00 per ln. ft.</u>
<u>Asphalt Paving</u>	<u>\$2.75 per sq. ft.</u>
<u>Concrete Paving</u>	<u>\$8.75 per sq. ft.</u>
<u>Administrative Fee</u>	<u>\$500.00</u>

**Right-of-Way Closure Permit Fees**

Lane Closure (per lane/per block)*	plus \$125.00 per <del>week</del> <u>day</u>
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Local Street Closure (per lane/per block)*	plus \$150.00 per <del>week</del> <u>day</u>
Arterial Street Closure (per lane/per block)*	plus \$250.00 per <del>week</del> <u>day</u>
Sidewalk, <u>Parking, Bicycle Lane</u> Closures (per block face)*	plus \$50.00 per <del>week</del> <u>day</u>

\*These permit fees would be required on projects where closures exceed ~~48-24~~ hours or requires multiple daily closures.

**Utility-Street Cut Fee**

Summer Base Rate (Apr. - Oct.)	\$50.00
Winter Base Rate (Nov. - March)	<del>\$75.00</del> <u>\$200.00</u>
Additional Fee Per Square Footage	<u>Minimum \$25.00</u> <u>or \$1.10 per sq. ft.</u>
<del>0-1 years since resurfaced</del>	<del>\$0.60 per sq. ft.</del>
<del>1-5 years since resurfaced</del>	<del>\$0.30 per sq. ft.</del>
<del>5+ years since resurfaced</del>	<del>\$0.20 per sq. ft.</del>

**Street Sign Fee** \$300.00 per sign