

ORDINANCE NO. 2017-08-38

AN ORDINANCE CREATING A NEW SECTION OF THE AMERICAN FORK CITY CODE PROVIDING RESTRICTIONS AND REGULATIONS OVER THE AMERICAN FORK CITY WATERSHED AREA TO PROTECT THE CITY'S WATER QUALITY.

RECITALS

WHEREAS, American Fork City seeks to promote the health, safety, morals, convenience, order, prosperity, and general welfare of American Fork City; and

WHEREAS, the welfare of the citizens of American Fork City would be served by the adoption of restrictions and regulations over the City's Watershed Area; and

WHEREAS, Utah Code Annotated Section 10-8-15 authorizes the American Fork City Council to enact ordinances preventing Pollution or contamination of the streams or Watercourses from which the City derives its water supply for domestic and culinary purposes; and

WHEREAS, the American Fork City Municipal Code does not presently contain any regulations or protections for the City's Watershed Area; and

WHEREAS, the American Fork City Council finds that the adoption of this ordinance would promote the health, safety and welfare of the City and its residents.

NOW THEREFORE, be it ordained by the American Fork City Council that:

Chapter 8.18. Restrictions and Regulations over the American Fork City Watershed.

The provisions codified in this Chapter will be known and may be referred to as restrictions and regulations over the American Fork City Watershed Area, as that term is defined herein.

8.18.010 Purpose and Intent.

It is the purpose of this Chapter to protect the City's water resources and to improve water quality by restricting and regulating conduct within the Watershed Area. It is the intent of the City to assert jurisdiction over the Watershed Area, including Aquifers and surface waters to the maximum extent allowed by federal, state, and county law and consistent with the Utah Drinking Water Source Protection Rule as adopted and/or amended by the State of Utah Department of Environmental Quality.

8.8.020 Definitions.

For the purposes of this Chapter, the following terms, phrases and words will have the following meanings:

1. “Animal Enclosure” means a corral, sheep pen, pig pen, chicken coop, stable, or any offensive or contaminating yard relating to Animals.
- 2.
3. “Animals” means any cattle, horses, sheep, or pigs.
4. “Aquifer” means an underground formation that contains and transmits ground water.
5. “Chemical Toilet” means a non-flush device wherein the Waste is deposited directly into a receptacle containing a solution of water and chemical housed in a permanent or portable structure.
6. “City” means the city of American Fork, Utah.
7. “Director” means the Director of the Public Works Department for the city of American Fork, Utah.
8. “Drinking Water Source Protection Rule” means the Utah Drinking Water Source Protection Rule as adopted by the State of Utah Department of Environmental Quality, Division of Drinking Water.
9. “Drinking Water Source Protection Zone” and “Water Protection Zone” mean those areas delineated or established by the City in accordance with standards set by the Utah Drinking Water Source Protection Rule.
10. “Owner” means any person who along, jointly or severally with others:
 - a. has legal or equitable title to any real property or premises, including dwellings or dwelling units, with or without accompanying actual possession thereof; or
 - b. has charge, care, or control of any real property, premises, dwellings, or dwelling units, as legal or equitable Owner or agent of the Owner, or an executrix, administrator, administratrix, trustee or guardian of the estate of the Owner, with or without possession.
11. “Permit” means a Permit that the Director issues pursuant to this Chapter.
12. “Pollution” means those contaminants to ground water identified as a “Pollution source” as defined in the Drinking Water Source Protection Rule.
13. “Portable or Temporary Toilet” means an outdoor toilet that can be picked up and moved and is not connected to a hole in the ground or a septic tank and is not plumbed into a municipal system leading to a Sewage treatment plant.

14. "Public Works Department" means the Public Works Department of the city of American Fork, Utah.
15. "Putrescible Material" means any organic material subject to biological decomposition with the production of offensive odors associated with anaerobic or aerobic conditions, including but not limited to dead animals, garbage, manure, and vegetable compost matter.
16. "Reservoir" means any natural or artificial lake or pond except a storm water detention basin.
17. "Septic Drain Field" or "Leach Field" means any subsurface Wastewater absorption system or facility used to remove contaminants, pollutants, and/or impurities from the liquids discharged from a septic tank.
18. "Septic Tank" means a watertight tank or receptacle that collects or receives Sewage and is designed and constructed to retain solids, digest organic matter through a period of detention, and allow liquids to discharge into soil outside of the tank, including but not limited to discharges made through a septic drain field or leach field.
19. "Sewage" means a combination of liquid or water-carried Wastes produced by man, animal, or fowl from residences, business buildings, institutions, industrial establishments, agriculture, recreation, and other locations including septic tanks, privy vaults, and cesspools, together with ground, surface, and storm water.
20. "Sewage Disposal System" means any system for the disposal of Sewage including, but not limited to closets, sewers, septic drain fields or leach fields, septic tanks, vault privies, toilets, and Chemical Toilets.
21. "Sewage Holding Tank" means a watertight receptacle which collects or receives Sewage and retains such Wastes until removal and subsequent disposal by scavenger operation.
22. "UCHD" means the Utah County Health Department.
23. "Vault Privy" means any facility wherein the Waste is deposited without flushing, into a vault or receptacle, which is usually installed below ground.
24. "Waste" means, for the purpose of this ordinance, domestic Waste water or Sewage which is normally deposited in or retained for disposal in sewers, septic tanks, Sewage Holding Tanks, Chemical Toilets, or vault privies.
25. "Watercourse" means all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance, and operation of the City's waterworks, and over all streams or sources from which the water is taken within the Watershed Area.

26. “Watershed Area” means the any area or territory occupied by or tributary to American Fork City’s waterworks and all Watercourses used in and necessary for the construction, maintenance and operation of the same and over the stream or source from which the water is taken for fifteen (15) miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or Watercourse within said 15 miles and said 300 feet.

8.18.030 Jurisdiction, Ordinances and Regulations.

In enacting this Chapter, it is American Fork City’s intent to protect its watershed and to assert jurisdiction over the Watershed Area to the maximum extent allowed by federal, state, and county laws and regulations, including but not limited to Utah Code Annotated Section 10-8-15, the Utah Drinking Water Source Protection Rule as adopted and/or amended by the State of Utah Department of Environmental Quality, and applicable federal laws and regulations governing the administration of federal property within the Watershed Area. Pursuant to Utah Code Annotated Section 10-8-15, the City is hereby authorized to prescribe ordinances and regulations for governing all matters of water quality within the Watershed Area not contrary to law.

8.18.040 Pollution of Water Sources Prohibited.

It will be unlawful for any person to knowingly cause to be done any of the things prohibited in this Chapter anywhere within any Drinking Water Source Protection Zone and the Watershed Area, provided that no person or entity will be liable for the actions of any third party.

8.18.050 Sewage Disposal System Permit Required.

It will be unlawful to construct, use, maintain, or remodel a Sewage Disposal System anywhere within the Watershed Area without first obtaining a Permit from the City in accordance with this Chapter. At the time of adoption of this Chapter on August 9, 2017, existing Sewage Disposal Systems that have been fully constructed will be allowed to continue as long as they are not expanded, become inoperable, or otherwise operated or modified to constitute a threat of contamination to a Drinking Water Source Protection Zone or the Watershed Area.

8.18.060 Permit Applications for Sewage Disposal Systems. All persons or parties seeking to construct, modify, expand, or remodel a Sewage Disposal System within the Watershed Area will submit an application for a Permit to the Director. When submitting applications for a Permit, applicants will provide all relevant information requested by the Director, including but not limited to a description of the proposed location of the Sewage Disposal System, copies of all permits, plans, specifications and drawings required by any other government authority pursuant to applicable laws or ordinances. Permits and plan approvals by other government entities, including county, state, and federal government entities, will not be considered approval by the City but will be considered by the City in evaluating every application; provided that the City

will approve or disapprove any applications within a period of thirty (30) calendar days from the date of submission.

8.18.070 Minimum Terms and Conditions for Sewage Disposal System Permits. In approving a Permit application for a Sewage Disposal System, the Director will impose the following minimum terms and conditions on all Sewage Disposal Systems to prevent or mitigate Pollution to a Drinking Water Source Protection Zone or to the Watershed Area:

1. All Permit applicants will comply with Utah Admin. Code R. 317-4 regarding onsite wastewater systems and any other applicable or successor federal, state, county Waste disposal system laws, regulations, and permits in addition to any conditions or requirements that the City may impose pursuant to this Chapter.
2. All approved Sewage Disposal Systems must be emptied completely at least once each year, where applicable, or at a more frequent interval as the Director may reasonably require. If reasonably determined to be a health hazard by the City, Owners of such facilities will keep the level of Sewage below sixty (60) percent of capacity, where applicable, to allow sufficient reserve for emergencies. The contents removed from any Sewage Holding Tank, vault, or similar storage facility must be removed by a licensed scavenger operation at the cost of the Owner.
3. The Owner of the property on which the Sewage Disposal System is located must grant the Public Works Department and its authorized agents the right to enter upon the Owner's property to inspect for violations of the terms and conditions of the Permit.
 - a. The City will provide reasonable prior written notice for such inspections unless in the reasonable opinion of the Director an emergency exists which might jeopardize a Drinking Water Source Protection Zone or the Watershed Area.

8.18.080 Permit Exceptions. City Council may only grant an exception for the permit requirements contained in this Chapter if it reasonably determines that compliance with this Chapter is not technically or physically feasible and that the requested exception will not:

- a. Pose a health hazard;
- b. Contaminate or threaten to contaminate any Watercourse within the Watershed Area; and
- c. Violate Federal, State or County law.

8.18.090 Portable Toilet Permit.

In addition to the requirements of Section 8.18.070, permit applications seeking permission to locate a Portable Toilet(s) within the Watershed Area must include the following information:

1. The type and nature of the event requiring the Portable Toilet;
2. The number of Portable Toilets requested; and
3. The beginning and ending dates for when the Portable toilets are needed.

The Director will issue a permit if the Director reasonably determines that the Portable Toilet(s) complies with the minimum requirements of Section 8.18.070 and that the Portable Toilet(s):

1. Will comply with all applicable federal, state, and local laws, regulations, and applicable permits, including but not limited to Utah Admin. Code R. 317-4 and R. 392-400, or any applicable successor statute or regulation;
2. Will be removed within five (5) days after the event ends;
2. Toilet paper with a holder should be provided and maintained at all times; and
3. Can be maintained in a sanitary manner pursuant to reasonable terms and conditions that the Director may reasonably require, including but not limited to the frequency of inspections and service.

8.18.100 Vault Privy Permits.

In addition to the requirements of Section 8.18.070, permit applications to install a Vault Privy must provide a copy of the permit the UCHD has issued for the Vault Privy pursuant to UCHD Health Regulation 17-02, or any applicable successor statute or regulation. The Director will issue a permit for the Vault Privy if the Director reasonably determines that the Vault Privy satisfies the requirements of Section 8.18.070 and will:

1. Comply with the terms of the permit issued by the UCHD;
2. Not contaminate or threaten to contaminate any Watercourse; and
3. Comply with all the requirements outlined in Utah Admin R317-560 or any applicable successor statute or regulation.

As a condition for approving a permit for a Vault Privy, the Director will require the applicant to provide toilet paper in the Vault Privy at all times.

8.18.110 Septic Tank and Septic Drain Field Permits

In addition to the requirements of Section 8.18.070, permit applications to install a Septic Tank or Septic Drain Field must include a copy of the permit the UCHD has issued for the Septic

Tank or Septic Drain Field pursuant to Utah Admin. Code R. 317-4, or any applicable successor statute or regulation.

The Director will issue a permit for the Septic Tank or Septic Drain Field if the Director reasonably determines that the Septic Tank or Drain Field satisfies the requirements of Section 8.18.070 and will:

1. Comply with the terms of the permit the UCHD has issued for the septic tank;
2. Service a lot of at least 2,500 square feet; and
3. Not discharge to any natural stream.

8.18.120 Sewage Disposal System Violations. When the Director reasonably determines that a Sewage Disposal System violates the terms of its Permit or otherwise constitutes a threat of contamination to a Drinking Water Source Protection Zone or the Watershed Area, the Director will provide the Owners of the Sewage Disposal System with written notice of the violation or threat of contamination and will give the Owner at least thirty (30) days to correct the violation or hazard, except for violations or threats involving a failure to keep Sewage levels at the appropriate level, in which case a seven (7) day written notice will be provided. If, in the reasonable opinion of the Director, the violation or threat of contamination constitutes an emergency that might jeopardize a Drinking Water Source Protection Zone or a Watershed Area, the Director may impose a shorter period to correct the violation or hazard. In its discretion, the Director may also extend the deadline for compliance if the Owner of the Sewage Disposal System is able to provide a reasonable justification for an extension. If the Owner is unable or unwilling to correct the violation or hazard, the Director may take the following actions, or a combination thereof:

1. Impose civil penalties and remedies pursuant to Section 8.18.200 of this Chapter.
2. Order that a Sewage Disposal System be sealed immediately and prevent its use until the Sewage Disposal Facility conforms to the requirements of the Permit.
3. Order the destruction and removal of the Sewage Disposal System, with the property Owner to bear all costs associated with the destruction and removal of the Sewage Disposal System.

8.18.130 Animal Permits. It will be unlawful to keep or maintain any Animals within the Watershed Area overnight for a period in excess of thirty (30) consecutive days during a calendar year without first obtaining a written Permit from the Public Works Department. Applicants will inform the City of the number and type of animals and their proposed method of controlling and maintaining the animals. The Director will provide notice of any violations of this Section in writing and will give violators at least thirty (30) days to correct the violation, unless the Director reasonably determines that an emergency exists which might jeopardize a Drinking Water Source Protection Zone or the Watershed Area. Violations of this Section will be subject to civil penalties and remedies pursuant to Section 8.18.200 of this Chapter as well as the

removal of the animals from the Watershed Area. The Division will provide all notices of violation.

Nothing in this Chapter will impact existing and valid grazing permits in existence at the time of the adoption of this Chapter on August 9, 2017, as long as such permits are not modified, expanded, or otherwise constitute a threat of contamination to a Drinking Water Source Protection Zone or the Watershed Area.

8.18.140 Animal Enclosure Permits. It will be unlawful for any person to construct or maintain an Animal Enclosure that will be installed within the Watershed Area for longer than seven (7) days without first obtaining a Permit from the Public Works Department. Applications must provide a description of the proposed Animal Enclosure and its location, as well as the number of Animals that will be kept within the enclosure.

The Director will issue a permit for Animal Enclosure if the Director determines that the Animal Enclosure will not violate established standards or rules for applicable Drinking Water Source Protection Zones and will not constitute a threat of contamination to the Watershed Area.

As a minimum condition for approval, Permits issued pursuant to this Section will require that Animal Enclosures be kept and maintained in a reasonably clean and sanitary condition at all times and will subject to inspection by the City. Permits issued pursuant to this Section will set forth the approved disposal manner for fecal Waste generated in the Animal Enclosure.

The Director will provide notice of any violations of this Section in writing and will give violators at least thirty (30) days to correct the violation, unless the Director reasonably determines that an emergency exists which might jeopardize a Drinking Water Source Protection Zone or the Watershed Area. Violations of this Section will be subject to civil penalties and remedies pursuant to Section 8.18.200 of this Chapter, as well as the destruction and removal of the Animal enclosure, with the property Owner to bear all costs associated with the destruction and removal of the Animal Enclosure. At the time of adoption of this Chapter on August 9, 2017, existing Animal Enclosures will be allowed to continue as long as they are not modified, expanded, or otherwise constitute a threat of contamination to a Drinking Water Source Protection Zone or the Watershed Area.

8.18.150 Permit Review Generally. The following provisions will apply to all Permits required by this Chapter:

1. Approval or denial of any Permit application required by this Chapter will be under the direct supervision and control of the Director.
2. The City will provide application forms for the Permits required by this Chapter.
3. The Director will only issue a Permit pursuant to this Chapter if the applicant can demonstrate that the proposed action will not:

- a. Constitute a threat of contamination to the Watershed Area; and
 - b. Will not violate established standards or rules for applicable Drinking Water Source Protection Zones, Utah Admin. Code. R. 317-4, the terms of any applicable permits issued by UCHD, and any other applicable federal, state, or local law.
4. The Director will have authority to include reasonable conditions in approved Permits to ensure compliance with applicable standards or rules for Drinking Water Source Protection Zones, Utah Admin. Code. R. 317-4, and the requirements of this Chapter.
 5. In the event that the Director denies a Permit application, the Director will provide the applicant with a written explanation of the reason for the denial, and such explanation will be considered a final, appealable order of the City.

8.18.160 General Sewage and Garbage Disposal Requirements.

1. It will be unlawful to:
 - a. Throw or break bottles or glass, or deposit garbage, debris, or other deleterious matter of any kind anywhere within the Watershed Area, except into a designated garbage container.
 - b. Damage, vandalize, alter, or destroy any authorized Sewage Disposal System in the Watershed Area, except as provided in this Chapter.
 - c. Deposit any dead animal or any putrescible matter within the Watershed Area.
 - d. Pump Sewage storage vaults or conduct a scavenger operation except in accordance with all applicable Permit conditions, laws, rules, and regulations.
 - e. For any person to use or maintain any Sewage Disposal System that the City sealed for violating the provisions of this Chapter.

8.18.170 Vehicles.

It will be unlawful for the purposes of this Chapter for any person to: (1) operate any motor vehicle; (2) upon any public property within the Watershed Area; and (3) in any manner not authorized or otherwise allowed by the appropriate federal, state, county, or other appropriate governmental authority. This provision will not apply to the use of vehicles on real property primarily devoted to agricultural purposes. In no event will a person or entity who owns or leases property within the Watershed Area be responsible or otherwise liable under this Chapter for the actions of third parties who operate motor vehicles on said property.

8.18.180 Posting of Permits. The recipient of any Permits issued pursuant to this Chapter must post a copy of said Permit at the site that is subject to the Permit at all times.

8.18.190 Penalties.

Any person violating any provision of this Ordinance will be guilty of a Class B misdemeanor. Each day the violation continues will constitute a separate offense.

8.18.200 Remedies.

Any person, subdivision, development, and/or land use found to be in violation of this Ordinance will, in addition to other penalties and remedies available in law or equity, be subject to a civil penalty, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of any applicable building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. Civil penalties will be in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within five (5) years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day will apply. Each day the violation continues will constitute a separate offense.

8.18.210 Appeal.

A Permit required by this Chapter shall be granted as designated by this Chapter. The appeal authority shall be the City Council.

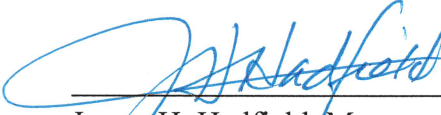
8.18.220 Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration will not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid and unconstitutional.

8.18.230 Effective Date.

This Ordinance will take effect and be in force on and after August 9, 2017.

PASSED AND ADOPTED BY THE CITY COUNCIL OF AMERICAN FORK CITY, STATE OF UTAH, ON THIS THE 8 DAY OF AUGUST, 2017.


James H. Hadfield, Mayor

ATTEST:


Terilyn Lurker, City Recorder

