



**Project #23-007
Administrative Updates
Land Development Code Amendment**

REPORT SUMMARY...

<i>Project Name:</i>	Administrative Updates
<i>Proponent/Owner:</i>	Community Development Department
<i>Project Address:</i>	Citywide
<i>Request:</i>	Code Amendment
<i>Type of Action:</i>	Legislative
<i>Date of Hearing:</i>	January 12, 2023
<i>Submitted By:</i>	Mike DeSimone, Director

RECOMMENDATION

Staff recommends that the Planning Commission recommend **approval** to the Municipal Council of the proposed amendments to Chapters 17.43, 17.52, 17.60 and 17.62 of the Land Development Code.

REQUEST

This is a proposal to remove Murals/Wall Art from Design Review permitting requirements, update the non-conforming standards, update the Administrative Enforcement Chapter, and update the Definitions Chapter.

SUMMARY OF CHANGES

17.43 Design Review Permits – remove Murals/Wall Art from the list of activities required to obtain a Design Review Permit.

17.52 Legally Existing Nonconformities – updated the Chapter to clarify the intent and purpose of how the City regulates nonconformities; clarified that an expansion of a nonconforming structure or use needs to be reviewed and approved by the Planning Commission; updated this Chapter to standardize our approach & processes for all of the different types of nonconformities; and made grammatical edits.

17.60 Administrative Enforcement – updated language to reflect that we collect a filing fee and what it is used for; increased the general civil fee from \$50 to \$100 and the civil fee for an occupancy violation from \$250 to \$500 to help cover our costs associated with these types of infractions; and other minor grammatical edits.

17.62 Definitions – added/changed definitions for Brew Restaurant, Critical Lands, Driveway Approach, Geologically Unstable Area, Lands above 4,850', Mural, Riparian, Useable Outdoor Space, Wetlands, and Wildland Urban Interface.

STAFF RECOMMENDATION AND SUMMARY

The proposed changes to the LDC Chapters identified above are relatively minor amendments and help to clarify the City's regulations.

GENERAL PLAN

The proposed amendments continue to implement the vision of the General and are consistent with the General Plan.

PUBLIC COMMENTS

As of the writing of this report, there has not been any public comment. Public comments received prior to the preparation of this report will be included as an attachment. Any other comments will be forwarded to the Planning Commission.

PUBLIC NOTIFICATION

Legal notices were published in the Herald Journal on 12/31/22, posted on the City's website and the Utah Public Meeting website on 1/02/23, and noticed in a quarter page ad on 12/29/23.

AGENCY AND CITY DEPARTMENT COMMENTS

As of the time the staff report was prepared, no comments have been received.

RECOMMENDED FINDINGS FOR APPROVAL

The Planning Commission bases its decisions on the following findings:

1. Utah State Law authorizes local Planning Commission to recommend ordinance changes to the legislative body (Municipal Council).
2. The Code Amendments are done in conformance with the requirements of Title 17.51 of the Logan Municipal Code.
3. The proposed Code Amendments are consistent with the Logan City General Plan.
4. The proposed Code Amendments to the Design Review Permits, Nonconformities, Administrative Enforcement, and Definitions are relatively minor in nature.
5. No public comment has been received regarding the proposed amendments.

This staff report is an analysis of the application based on adopted city documents, standard city development practices, and available information. The report is to be used to review and consider the merits of the application prior to and during the course of the Planning Commission meeting. Additional information may be revealed by participants at the Planning Commission meeting which may modify the staff report and become the Certificate of Decision. The Director of Community Development reserves the right to supplement the material in the report with additional information at the Planning Commission meeting.



APPLICATION FOR PROJECT REVIEW

For Staff Only				
<input type="checkbox"/> Planning Commission		<input type="checkbox"/> Land Use Appeal Board		<input type="checkbox"/> Administrative Review
Date Received 12/1/22	Received By	Scheduled Meeting Date Jan. 12, 2023	Zone	Application Number PC 12-007
Type of Application (Check all that apply):				
<input type="checkbox"/> Design Review <input type="checkbox"/> Conditional Use <input type="checkbox"/> Subdivision <input type="checkbox"/> Administrative Design Review <input checked="" type="checkbox"/> XX Code Amendment <input type="checkbox"/> Appeal <input type="checkbox"/> Zone Change <input type="checkbox"/> Other				
PROJECT NAME Land Development Code Amendments – 17.52, 17.60, 17.62 (Administrative Updates)				
PROJECT ADDRESS			COUNTY PLAT TAX ID #	
AUTHORIZED PROJECT REPRESENTATIVE FOR OWNER Mike DeSimone			PHONE # 435 716 9022	
MAILING ADDRESS		CITY	STATE	ZIP
LOGAN CITY HALL 290 NORTH 100 WEST LOGAN UTAH 84321				
EMAIL ADDRESS MIKE.DESIMONE@LOGANUTAH.ORG				
PROPERTY OWNER OF RECORD			PHONE #	
MAILING ADDRESS			CITY	STATE ZIP
EMAIL ADDRESS				
DESCRIBE THE PROPOSED PROJECT AS IT SHOULD BE NOTICED AND PRESENTED (Include as much detail as possible - attach a separate sheet if needed)			Total Lot Size (acres)	
AMEND CHAPTER 17.52 “LEGALLY EXISTING NONCONFORMITIES” CLARIFYING HOW THE CITY REGULATES NONCONFORMING USES AND STRUCTURES; AMEND CHAPTER 17.60 “ADMINISTRATIVE ENFORCEMENT” TO UPDATE PROCEDURAL LANGUAGE AND CIVIL FEES; AND AMEND CHAPTER 17.62 “DEFINITIONS” TO REFLECT RECENT AND PENDING LDC CHANGES.				
			Size of Proposed New Building (square feet)	
			Number of Proposed New Units/Lots	
I certify that the information contained in this application and all supporting plans are correct and accurate. I also certify that I am authorized to sign all further legal documents and permit on behalf of the property owner.			Signature of Property Owner's Authorized Project Representative	
I certify that I am the property owner on record of the subject property and that I consent to the submittal of this project. I understand that all further legal documents and permits will be sent to my authorized agent listed above.			Signature of Property Owner	

City Council: Workshop 2/7/23 Hearing 2/21/23

17.43: Design Review Permits

Proposed LDC Changes:

§17.43.040 Design Review Permits

- A. Design Review Permits are required for the following types of development:
1. Attached single family dwellings;
 2. Townhomes and Townhouses;
 3. Multi-family residential buildings;
 4. Subdivisions;
 5. Commercial development;
 6. Industrial development;
 7. Recreation development;
 8. Public development;
 9. Freestanding signs;
 - ~~10. Wall art over 10% of the first story façade area; and~~
 10. Wireless Telecommunication Facilities.
- B. Design Review Permit is required for certain modifications to uses.
1. All remodeling, renovation or additions, including parking and access, that result in an increase in size by more than 25% or 20,000 square feet, whichever is less; or
 2. Exterior remodeling or renovation that is found by the Director to result in an increase in a nonconforming design condition.

Chapter 17.52: Legally Existing Nonconformities

§17.52.010 Purpose

This ~~e~~Chapter governs ~~the~~uses, structures, lots, signs, and other situations that came into being lawfully but that do not conform to one or more standards of the Land Development Code. The regulations are intended to recognize the interests of property owners in continuing to use nonconforming property, manage the expansion of legally existing nonconformities, regulate re-establishment of abandoned uses, and to limit re-establishment of structures that have been substantially destroyed. ~~As legally existing nonconformities obtain permits or reviews pursuant to this chapter, the objective of the Municipal Code is to ultimately replace the legally existing nonconformity with a conforming use or structure.~~

~~§17.52.020~~ ~~Types of Legally Existing Nonconformities~~

~~Types of legally existing nonconformities:~~

- ~~A. Nonconforming Uses;~~
- ~~B. Nonconforming Structures;~~
- ~~C. Nonconforming Lots;~~
- ~~D. Nonconforming Signs; and~~
- ~~E. Other Legally Existing Nonconformities:~~
 - ~~1. Fences and walls with heights, materials, setbacks, or locations that are not in conformance with City requirements;~~
 - ~~2. Parking lots, facilities, structures, or sites that are not in conformance with City requirements; or~~
 - ~~3. Other site development characteristics that are not in conformance with City requirements and standards.~~

~~§17.52.030~~020 Policies

- ~~A. Legally existing nonconforming uses shall be permitted to continue operating in the same way the use operated at the time the zoning regulations were enacted, revised, or amended which rendered the use nonconforming.~~
- A. Continuing Legally Existing Nonconformities. Legally existing nonconformities may be allowed to continue in accordance with all of the regulations of this Chapter. However, as legally existing nonconformities obtain permits or reviews pursuant to this Chapter, the policy of Logan City is to ultimately replace the legally existing nonconformity with a conforming use or structure.
- B. Relocation of a Nonconformity. A nonconformity shall not be moved or relocated to another site, structure, or area on the same lot unless done in conformance with current City requirements.
- C. Determination of Nonconformity Status. The burden of proof establishing that a nonconformity legally exists is the responsibility of the owner, not the City.
 1. Legally Existing Nonconforming Determination Review Process. The City has established a process called “grandfathering” whereby a property owner can provide evidence of lawful establishment of a legally existing nonconformity for formal review and decision by the City.
 2. The Municipal Council may establish fees to cover the cost of staff providing research services to determine nonconformity status to support the proponent’s burden of proof requirement.
- D. Repairs and Maintenance. Minor repairs and normal maintenance required to keep legally existing nonconformities in a safe or aesthetically attractive condition are permitted, provided that all alterations meet current code requirements. Minor repairs and normal maintenance contemplated in this Chapter generally includes such things as

17.52: Legally Existing Nonconformities

installing new roofing, windows, doors and siding, painting, replacing rotten framing members, repairing cracked foundations, and repairing plumbing, mechanical and electrical systems. Minor repairs and normal maintenance do not include completely rebuilding a nonconformity to an entirely new structure or building.

- E. Change of Tenancy or Ownership. Changes of tenancy, ownership or management of an existing nonconformity are permitted, provided there is no change in the nature, character, extent, density or intensity of the nonconformity.
- B. Owners of land upon which there are legally existing nonconforming land uses may be granted a conditional use permit to substitute a use or expand a use within acceptable limits pursuant to this Chapter.
- C. The Planning Commission may approve, conditionally approve, or deny expansion of a nonconforming use, expansion of the structure, or a legally existing non-conforming substitution of use subject to the following:
1. The conditional use permit procedures outlined in Chapter 17.42 shall be followed.
 2. The Planning Commission may deny the change or expansion of use, a substitution of use, or an expansion of a non-conforming structure or other non-conformity identified in Section 17.52.020 if the Commission finds that the continued use or expansion is incompatible with conforming uses in the area.
 3. The Planning Commission may deny the substitution of use if it cannot substantiate, by evidence in the administrative record, the findings required for conditional use permit approval.
- D. When a legally existing nonconforming land use or legally existing nonconforming structure is abandoned for a period of 12 or more calendar months, the legally existing nonconforming status is no longer considered valid and the use or structure may be established only as a conforming use or structure.
- E. A use or structure which becomes legally existing nonconforming upon the adoption, revision, or amendment of applicable regulations may continue. However, if the structure or use is vacated for 12 or more months following the modifications to the ordinance that rendered it nonconforming, it shall lose its legally existing status and shall be brought into conformance with appropriate codes prior to subsequent use.
- F. Each of the sections in this Chapter addressing the process for obtaining approvals for nonconforming uses, nonconforming structures, nonconforming lots, nonconforming signs, and other legally existing nonconformities are separate components of an approval. There can be a nonconforming use in a conforming structure; a conforming use in a nonconforming structure; a nonconforming use in a nonconforming structure, among other considerations. Each issue of nonconformity requires a separate action. These actions may occur as a part of the same application.

§17.52.040 — Authority to Continue

- A. Continuing Legally Existing Nonconformities.
— Legally existing nonconformities may be allowed to continue in accordance with all of the regulations of this chapter.
- B. Determination of Nonconformity Status.
— The burden of proof establishing that a nonconformity lawfully exists rests with the owner, not the City. The Municipal Council may establish fees to cover the cost of staff providing research services to determine nonconformity status to support the proponent's burden of proof requirement.
- C. Repairs and Maintenance.
— Minor repairs and normal maintenance required to keep legally existing nonconformities in a safe or aesthetically attractive condition are permitted, provided that all alterations meet current code requirements. Minor repairs and normal

17.52: Legally Existing Nonconformities

~~maintenance contemplated in this Chapter generally includes such things as installing new roofing, windows, doors and siding, painting, replacing rotten framing members, repairing cracked foundations, and repairing plumbing, mechanical and electrical systems. Minor repairs and normal maintenance does not include completely rebuilding a nonconformity to an entirely new structure or building.~~

~~D. Change of Tenancy or Ownership.~~

~~Changes of tenancy, ownership or management of an existing nonconformity are permitted, provided there is no change in the nature, character, extent, density or intensity of the nonconformity.~~

§17.52.0530 Nonconforming Uses

Nonconforming uses are subject to the following standards.

A. Enlargement or Expansion of Use. A nonconforming use may not be enlarged, expanded, or extended to occupy more land or floor area than was occupied at the time the use became nonconforming without first obtaining a conditional use permit subject to Chapter 17.42 and the following provisions: as identified in Section 17.52.030.

1. The Planning Commission finds that the continued nonconforming use and proposed expansion of use is compatible with adjacent properties and other conforming uses in the area; and

2. The Planning Commission finds that the continued nonconforming use and the proposed expansion of use will not have a detrimental impact on existing public infrastructure, services, or facilities.

~~Additional accessory uses or structures may be established on the site of a nonconforming use following review of a conditional use permit. The conditional use permit is a discretionary action and the effect of the nonconformity on the conforming uses and structures shall be considered.~~

~~B. Relocation. Nonconforming uses shall not be transferred or moved to another lot unless the use will be in conformance with the use regulations of the district into which it is moved, and the relocation activities and construction meet current regulations.~~

~~C. Discontinuance and Abandonment of Use.~~ If a nonconforming use ceases to exist for a period of more than 12 consecutive months, all subsequent uses shall conform to all regulations of the district in which such lot is located.

~~D. Damage or Destruction of Use.~~ If any structure devoted in whole or in part to a nonconforming use is damaged or destroyed through actions other than neglect or intentional demolition, the structure and the use may be restored to the intensity or density that existed prior to the damage or destruction. In such cases, the structure and use shall be re-established within 12 months of the damage occurrence.

~~E. Change in Use. Substitution of Use. A nonconforming use may be changed to a new use provided the new use shall be of the same general character or less intensive, and more closely conforming, than the current nonconforming use. The initial determination of whether a proposed use is a conforming use or is less intensive shall be made by the Director and shall be based on the use types, traffic generation, employee counts, noise, emissions, impacts to surrounding properties, and water, electrical, and sewer demands. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, shall not be changed back to the original nonconforming use.~~

~~1. An application for a conditional use permit to substitute a nonconforming use may be submitted provided that the new use is of the same general character as defined in subsection 17.52.050.E.2 as the legally existing nonconforming use being replaced. The determination of whether a proposed use is a continuing use or is of the same general character shall be considered as one of the findings to be substantiated with review of the application.~~

17.52: Legally Existing Nonconformities

2. ~~“Same general character” means a substituted land use for which compatibility is determined utilizing a combination of the following resources:~~
- a. ~~North American Industrial Classification (NAIC): the substituted land use shall be within the same secondary business classification as the use being replaced;~~
 - b. ~~Traffic generation: the number of vehicles per measurable unit for the substituted use shall be within 15% of the number of vehicles per measurable unit as identified in the current Institute of Transportation Engineers (ITE) Trip General Manual as the use being replaced;~~
 - c. ~~The substituted use shall be permitted for not more than 10% more employees or fewer number than the number of employees utilized in the use being replaced;~~
 - d. ~~The substituted use shall not generate or cause any measurable impacts on the neighborhood that are greater than the use being replaced. Impacts the Commission shall consider include but are not limited to:~~
 - 1. ~~Customer traffic as compared to the use being replaced;~~
 - 2. ~~Audible noise in excess of levels generated by the use being replaced;~~
 - 3. ~~Particulate emissions or odors generated in any amount; or~~
 - 4. ~~Atmospheric emissions, storm water discharge or sewer discharge.~~
 - e. ~~The Commission shall address each of the following issues on the substitution of a use:~~
 - 1. ~~The Commission may combine compliance with these standards with other facts in the administrative record and other findings as required by ordinance or statute in determining the compatibility of the substituted use with conforming uses in the neighborhood;~~
 - 2. ~~The Commission has the discretion to deny a substitution of use when facts in the administrative record substantiate that there is a fair argument that the substituted use will adversely affect the character of a neighborhood, or the public health, safety, and general welfare; and~~
 - 3. ~~The Commission has the discretion to deny a substitution of use, even if the use is of the same general character as the use being replaced, when it finds that the substituted use will adversely affect the neighborhood or impact the public health, safety, and welfare.~~
3. ~~Following substitution of use:~~
- a. ~~If changed to a conforming use, a nonconforming use shall not be permitted nor conditionally permitted to be established; or~~
 - b. ~~If a substituted use has been approved for the location, the standard of review for “same general character” shall be based on the most recent substituted use, not the original or any previous legally existing nonconforming land use.~~
- ~~FE. Accessory Uses. A use that is accessory to a primary nonconforming use~~~~No accessory use to a primary nonconforming use may not continue if after the principal primary nonconforming use ceases or terminates, unless it is conforming.~~
- ~~GF. Illegally Established Uses. No use may be considered a legally existing nonconforming use under the provisions of this Title if the use was never lawfully established through, including and not limited to, any combination of appropriate licenses, permits, or fees. (see definition for Nonconforming Use §17.62).~~

§17.52.0640 Nonconforming Structures

Nonconforming structures are subject to the following standards.

- ~~A. Enlargement. Enlargement or expansion of a nonconforming structure that increases the degree of nonconformity shall be prohibited. The initial determination of whether a~~

~~proposed expansion increases the degree of nonconformity shall be made by the Director.~~

- A. Enlargement or Expansion of Nonconforming Structure. A nonconforming structure may not be enlarged, expanded, or extended to occupy more land or floor area than was occupied at the time the structure became nonconforming without first obtaining a conditional use permit subject to Chapter 17.42 and the following provisions:
1. The Planning Commission finds that the continued nonconforming structure and proposed expansion is compatible with adjacent properties and other conforming uses or structures in the area;
 2. The Planning Commission finds that the proposed expansion is not increasing the degree of nonconformity in that the structural modifications conform to current setbacks, height limitations, open space, etc.; and
 3. The Planning Commission finds that the proposed expansion will not have a detrimental impact on existing public infrastructure, services, or facilities.
- B. Extension of a Legally Existing Single Family Structure. An existing structure used as a single family dwelling that does not conform to side yard requirements, but having a minimum side setback of not less than three feet, may be extended in depth along the nonconforming building line to the extent of ½ of the length of the existing structure. This extension of a nonconforming side setback may be permitted at the discretion of the Director if the extension is for the purpose of enlarging or maintaining the existing dwelling and is subject to the following findings:
1. The extension will not increase the number of dwelling units;
 2. The extension will not result in a change of the use as a single family dwelling;
 3. The extension complies with all other regulations in the zoning district in which the dwelling is located; and
 4. The extension will comply with applicable building code regulations.
- C. Abandonment. ~~When a legally existing nonconforming structure is abandoned for a period of 12 or more calendar months the legally existing nonconforming status is no longer considered valid and the structure may be established only as a conforming structure.~~
- D. Physical Alteration. ~~When a legally existing nonconforming structure is physically altered in a manner that alters the original “built as” structure for a period of 12 or more calendar months, the status of “legally existing nonconforming structure” is no longer considered valid, and any subsequent use or alterations to the structure shall only be done in a manner that brings the structure into compliance with current regulations.~~
- E. Deterioration. ~~When a legally existing nonconforming structure is allowed to deteriorate to a condition that it is uninhabitable and is not repaired or restored within six (6) months after receiving written notice from the City that the structure is uninhabitable, the legally existing nonconforming status is no longer considered valid and the structure may be established only as a conforming structure.~~
- F. Damage or Destruction. A nonconforming structure that is damaged or destroyed through actions other than neglect or intentional demolition may be restored provided a building permit is obtained within 12 months of the date of damage. ~~Failure to obtain building permits within 12 months of the date of damage will result in a loss of the legally existing nonconforming status.~~ Restoration shall be started immediately

following the issuance of a building permit and diligently pursued in accordance with the terms of the building permit.

~~DG.~~ Relocation. Nonconforming structures shall not be moved or relocated to another location unless the movement or relocation will bring the structure into compliance with all applicable zoning district regulations and building code requirements.

~~EH.~~ Illegal Structures. No structure may be considered a legally existing nonconforming structure under the provisions of this ~~Title chapter~~ if the structure was never lawfully established: through any combination of appropriate licenses, permits, or fees.

§17.52.070050 Nonconforming Lots

A legal lot created in conformance with State and City regulations in effect at the first date of recordation may be occupied and used although it may not conform in every respect with the dimensional requirements of this Code, subject to the provisions of this section.

A. Undeveloped Lots.

If a legally existing nonconforming lot is undeveloped, the owner may use the property as permitted in the applicable zoning district, provided that any structure complies with all applicable site development standards.

B. Developed Lots.

If a legally existing nonconforming lot is developed, the owner may use the property as permitted in the applicable zoning district, provided that any additional structures or development complies with all applicable site development standards.

C. Illegal Lots.

No lot shall be considered a legally existing nonconforming lot under the provisions of this chapter if the lot was never lawfully established.

§17.52.080060 Nonconforming Signs

A. Change of Copy.

Change of copy, or substitution of panels or faces of the same or less square feet on nonconforming signs, shall be permitted in accordance with section ~~17.40.070~~ Chapter 17.33. Minor repairs and normal maintenance of nonconforming signs such as repainting and electrical repairs shall be permitted. Change of copy shall not be made by replacement with an electronic message center without obtaining a Design Review Permit in conformance with Chapter 17.33.

B. Enlargement or Expansion.

A legally existing nonconforming sign may at the discretion of the decision-making body be remodeled or redesigned for aesthetic or safety purposes. This discretionary action may be approved with a Design Review Permit if it is found that the design and appearance of the sign is an aesthetic improvement over the nonconforming sign.

C. Moving.

It shall be unlawful to move or relocate any existing sign, except in accordance with the provisions of Chapter 17.33.

D. Abandoned Signs.

Any nonconforming sign that ceases being used for a continuous period of 90 days, shall not be reused until it is brought into full compliance with the standards of the sign regulations in effect at the time a permit for a new sign is proposed.

E. Abandoned Businesses.

Any nonconforming sign that pertains to a business or institution ~~that with a business license that has lapsed for ceases operation for~~ a period of 90 days or more shall not be reused for sign purposes until it is brought into full compliance with the standards of sign regulations in effect at the time a permit for a new sign is proposed.

F. **Illegal Signs.**

No sign may be considered a legally existing nonconforming sign under the provisions of this ~~chapter~~ Chapter if the sign was never lawfully established.

§17.52.070 Other Nonconformities.

- A. Applicability. Included in this category of Other Nonconformities are fences, walls, parking lots, or other site development characteristics that are nonconforming due to sizes, heights, materials, setbacks, or locations that are not in conformance with City requirements.
- B. Enlargement or Expansion. Expansion or enlargement of a nonconformity that increases the degree of nonconformity shall be prohibited. The initial determination of whether a proposed expansion increases the degree of nonconformity shall be made by the Director.
- C. Discontinuance and Abandonment. If a nonconformity ceases to exist for a period of more than 12 consecutive months, all subsequent improvement and/or activities shall conform to all regulations of the district in which such lot is located.
- D. Damage or Destruction. If any nonconformity is damaged or destroyed through actions other than neglect or intentional demolition, the nonconformity may be restored to the condition or intensity that existed prior to the damage or destruction. In such cases, this must be completed within 12 months of the damage occurrence.
- E. Abandoned Business License. A business or institution operating with a business license that has lapsed or expired for a period of 90 days or more shall be required to bring that business or institution into full compliance with the current set of regulations. (Not sure this is possible or whether it is consistent with LMC 5.02)

Chapter 17.60: Administrative Enforcement

Proposed LDC Changes:

§17.60.190. Request for Administrative Enforcement Hearing

- A. A responsible person served with one of the following documents or notices shall have the right to request an administrative enforcement hearing, if the request is filed within ten (10) calendar days from the date of service of one of the following notices:
 1. Notice of violation;
 2. Notice of itemized bill for costs;
 3. Administrative citation; or
 4. Notice of emergency abatement.
- B. The request for an administrative enforcement hearing shall be made in writing, accompanied by a filing fee of \$150 and submitted to the Director.
- C. As soon as practicable after receiving the written notice of the request for an administrative enforcement hearing and payment of associated filing fee, the appointed hearing examiner shall schedule a date, time and place for the administrative enforcement hearing.
- D. Failure to request an administrative enforcement hearing within ten (10) calendar days from the date of service of any of the notices in subsection (A) above shall constitute a waiver of the right to an administrative enforcement hearing and the right to an appeal.
- E. ~~A \$150 filing fee will be charged to the responsible person upon submitting a request for an Administrative Enforcement Hearing. The filing fee shall be used to cover associated costs incurred by the City for the Administrative Enforcement Hearing. If the responsible person is found by the Hearing Examiner to not be responsible for all of the violations identified in the notice, the filing fee will be refunded to the responsible person. The filing fee shall be used to cover associated costs incurred by the City for the Administrative Enforcement Hearing.~~

§17.60.200. Notification of Administrative Enforcement Hearing

- A. Written notice of the date, time, and place of the administrative enforcement hearing shall be served to the responsible person within ten (10) days of setting the hearing date as soon as practicable prior to its date.
- B. The notice shall be served by any of the methods of service set forth in §17.60.120 of this Title.

§17.60.230. Procedures at Administrative Enforcement Hearing

- A. Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be required. Any such request shall be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the administrative enforcement hearing shall follow duly adopted policies and procedures.
- B. The City shall bear the burden of proof to establish the existence of a violation of the Logan Municipal Code or applicable state codes.
- C. Such proof shall be established by a preponderance of the evidence.
- D. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his case. A written declaration signed under penalty of perjury may be

accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.

- E. All administrative enforcement hearings shall be open to the public and shall be recorded by audiotape. In the discretion of the hearing examiner, administrative enforcement hearings may be held at the location of the violation.
- F. The responsible person shall have the right to be represented by an attorney. If an attorney will be representing a responsible person at a hearing, notice of the attorney's name, address, and telephone number shall be given to the City at least ~~five (5) days~~ ~~one (1) day~~ prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person.
- G. The burden to prove any raised defenses shall be upon the party raising any such defense.

§17.60.300. Requesting Hearings

A responsible person shall have the right to an administrative enforcement hearing. A request for such hearing shall be in writing, ~~accompanied by a filing fee of \$150~~, and shall be filed within ten (10) days from the date of service of the notice of violation. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal.

§17.60.320. Inspections

It shall be the duty of the responsible person to request an inspection when a violation has been corrected. If no inspection is requested, it shall be deemed prima facie evidence that the violation remains uncorrected. If more than one inspection is necessary, an inspection fee of ~~fifty (\$50) thirty~~ dollars (~~\$30~~) shall be assessed for each subsequent inspection.

§17.60.370. Prohibition Against Issuance of Municipal Permits

The City shall withhold business licenses, ~~permits for kennels, or~~ permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure, where a violation is located. The City shall withhold such permits until a notice of compliance has been issued by the Director. The City shall not withhold permits necessary to obtain a notice of compliance or to correct serious health and safety violations.

§17.60.440. Civil Fees Assessed

- A. Civil fees shall be due and payable immediately upon service of an administrative citation.
- B. The civil fee for each violation listed on the administrative citation shall be ~~fifty dollars (\$50)~~ one hundred (\$100) dollars if paid within ten (10) days of service, excepting that the civil fee for a violation of over-occupancy of a residential dwelling unit shall be five hundred (\$500) dollars ~~two hundred fifty dollars (\$250)~~ if paid within ten (10) days of service.
- C. Civil fees shall be doubled if paid after ten (10) days.
- D. Payment of any civil fee shall not excuse a failure to correct a violation or any reoccurrence of the violation, nor shall it bar further enforcement action by the City.
- E. Civil fees shall be paid to the City of Logan.

Chapter 17.62: Definitions

Proposed LDC Changes:

“Brew Restaurant” ~~means a business licensed to sell beer for on-premises consumption in connection with a bona fide restaurant where the revenue from the sale of beer is less than 50 percent of the gross dollar volume. A Brew Restaurant is also licensed to brew beer in batch sizes that provide enough beer for the sale and consumption on site in connection with the restaurant and has any licenses subject to the applicable provisions of DABC. See Logan Municipal Code Chapter 5.10.~~

“Critical Lands” ~~means an area shown on the Official Critical Lands Map and classified under 17.24.040.~~ means any land that is recognized by the City, to have physical, environmental, or aesthetic characteristics that provide a public benefit or health or safety hazard that overrides the right to develop that portion of property.

“Driveway Approach” means the portion of a right of way located between the outside edge of a street and an adjacent property and which is used or designated for vehicular passage. Also referred to as a curb cut.

“Geologically Unstable Areas” means areas that are geologically unstable due to potential erosion hazards, unstable slopes, steep slopes (slopes in excess of 30 percent), in proximity to Quaternary Faults, susceptible to debris flows, containing soils unsuitable for development, and susceptible to a high water table.

“Land, Critical” ~~means any land that is mapped and recognized, by the City, to have physical, environmental, or aesthetic characteristics that provide a public benefit or health or safety hazard that overrides the right to develop that portion of property.~~

“Lands above 4,850” means residential building lots located on the eastern bench of Logan City at an elevation at or above 4,850’ mean sea level.

“Mural” means a painting applied to and made integral with the surface of a wall or ceiling. A mural is different than a wall sign in that a mural doesn’t not have any advertising, promotional content, signage, logos, or other commercial content or graphics.

“Riparian” means an area associated with a natural water course including its wildlife and vegetation. As used in Chapter 17.24, “Riparian Area” means lands within 150 feet as measured from the Annual High Water Line (AHWL) of a stream or river draining a basin size greater than one square mile, and the land within 25 feet of centerline of a stream draining an area less than one square mile.

“Useable Outdoor Space” ~~means outdoor areas and areas within a lot, or parcel, or project site that are designed and used in conjunction with a primary use designed and intended for the benefit use or and enjoyment of the residents and their guests of the development, and where appropriate, the public. Useable outdoor space may and shall include improvements, including accessory structures, as necessary and appropriate that complement or enhance for use as the useable outdoor space. Open space may include accessory structures that enhance its use and enjoyment. Useable outdoor space generally includes patios, decks, shade structures, play equipment, play courts, walkways, landscaped plazas, active recreational areas, public gathering areas, and natural open space areas. shall be generally landscaped and may include patios, decks, shade structures, play equipment, play courts, walkways, and landscaped plazas. Useable outdoor space shall not include required parking areas and/or driveways. Stormwater~~

~~facilities qualify as useable outdoor space if the physical characteristics are functional as useable areas for the intended purpose of useable outdoor space. Within a Mixed Use Project, useable outdoor space also includes public gathering areas, i.e., plazas, parks, public squares, sidewalks with seating in front of small businesses, courtyards, or any other areas that are shared public spaces where people can comfortable congregate and socialize, are visually prominent, and easily accessible.~~

~~“Wall Art” means a graphic representation that has no advertising or promotional content, no signage, no logos, or other commercial content or graphics.~~

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions as delineated during a formal wetland delineation and approved by the U.S. Army Corps of Engineers.

“Wildland Urban Interface” means the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetation fuels, and there exists a potential for wildfire as determined by the Logan City Fire Chief.