CITY OF LOGAN
ORDINANCE NO. 03-17

AN ORDINANCE ADDING CHAPTER 2.60, ADVISORY GUIDELINES FOR CONSTITUTIONAL TAKING ISSUES, LOGAN MUNICIPAL CODE, 1989

BE IT ORDEAED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN AS FOLLOWS:

SECTION 1: Chapter 2.60, "Advisory Guidelines for Constitutional Taking Issues," is hereby added to read as follows:

Chapter 2.60
Advisory Guidelines for Constitutional Taking Issues

Sections:

2.60.010 Purpose
2.60.020 Definitions
2.60.030 Guidelines
2.60.040 Analysis
2.60.050 Appeals
2.60.060 Limitations

2.60.010 Purpose. The purpose of this Section is to provide advisory guidelines for the City to assist the City in identifying actions that involve physical taking or exaction of private real property that may have constitutional taking issues.

2.60.020 Definitions. As used herein:

A. "Constitutional taking issues" means actions involving the physical or regulatory taking of private real property by the City that might require compensation to a private real property owner under:

1. The Fifth or Fourteenth Amendment of the Constitution of the United States;
2. Article I, Section 22 of the Utah Constitution; or
3. Any recent court rulings governing the physical or regulatory taking of private real property by a governmental entity.

2.60.030 Guidelines. The following guidelines shall be considered by the City when taking any action that might result in the physical or regulatory taking of private real property.

A. Identification. The City should review the following to determine and identify whether a proposed governmental action raises constitutional taking issues.
B. Does the action result in a permanent physical occupation of private property?

C. Does the action require a property owner to dedicate property or grant an easement to the City?

D. Does the action deprive the property owner of all economically viable uses of the property?

E. Does the action have a severe impact on the property owner's economic interest?

F. Does the action deny a fundamental attribute of ownership?

2.60.040 Analysis. If the city determines that a governmental action involves constitutional taking issues, the proposed action should be reviewed by the City to analyze the possible taking and to determine the action to be taken. In reviewing the proposed action, the following factors may be analyzed.

A. The affect the potential taking would have on the use or value of the private property;

B. The likelihood that the action may result in a constitutional taking;

C. Any alternatives to the proposed action that would fulfill the City's lawful objectives and reduce the risk of a constitutional taking;

D. The cost to the City for payment of compensation if a taking is determined;

E. The governmental interest involved and its nexus to the potential taking; and

F. If the action is roughly proportionate or reasonably related to the impact of any proposed development.

2.60.050 Appeals. Any owner of private property whose interest in the property is subject to a physical or regulatory taking by the City pursuant to a final and authoritative decision or action of the City, may appeal the City's decision or action by filing a written notice of appeal and statement of the grounds for the appeal in the City Recorder's Office within thirty (30) days from the date of the City's decision or action. The Mayor or his/her designee shall hear all evidence regarding the appeal and render a decision and findings in writing within fourteen (14) days from the date the appeal was filed. If the City fails to hear and decide the appeal within fourteen (14) days, the City's decision or action is presumed to be approved.

2.60.060 Limitations. The guidelines set forth herein are advisory only and shall not be construed to expand nor limit the scope of the City's liability for a constitutional taking. The City shall have no legal liability to any person, firm or entity of any nature
whateover and a court may not impose liability upon the City for failure to comply with the provisions of this Chapter.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH THIS 5th OF March, 2003 by the following vote:
AYES: [Signatures]
NAYS: [Signatures]
ABSENT: [Signatures]

Karen S. Borg, Chairman
Lois Price, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the 5th day of March, 2003.

Karen S. Borg, Chairman

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 5th day of March, 2003.

Douglas E. Thompson, Mayor
(Civil)

PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss.

On this 21st day of March, ........................................ A.D. 2003,
personally appeared before me ...Rachelle S. Thomas........... who being first duly sworn,
deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal,a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

LEGAL NOTICE LOGAN MUNICIPAL COUNCIL

a copy of which is hereto attached, was published in said
newspaper for ................................................................. One (1) issue
commencing .................................................. March 20, 2003, and
Signed ............................................................. Rachelle S. Thomas

Subscribed and sworn to before me, the day and year
above written. ............................................................. Cynthia K. Fulton,
Notary Public.


LEGAL NOTICE LOGAN MUNICIPAL COUNCIL

SUMMARY OF ORDINANCES amending the Logan Municipal Code, 1989, passed
by the Logan Municipal Council are as follows:

ORD. 03-12. An ordinance amending Title 8, "Health and Public Safety," specifically,
the Fire Code, was adopted and approved March 5, 2003. The ordinance amends
Chapter 8.04, Fire Prevention Code; Chapter 8.34, "Hazardous Materials
Emergency-Recovery of Expense"; and Section 8.08.050, "Temporary
Fireworks Stand."

Various sections of Chapter 8.04 are amended to adopt the International Fire
Code, latest edition, and certain appendices. Section 8.04.020 is amended to permit
storage of flammable or combustible liquids outside in residential areas in above ground
vaulted or double walled tanks when required for emergency backup fuel for public
utility equipment. Section 8.34.020 clarifies recovery of expenses by the city following
cleanup of any hazardous material incident.

ORD. 03-17. An ordinance adding Chapter 2.60, Advisory Guidelines for Constitutional
Takings Issues, was adopted and approved March 5, 2003. The purpose of the chapter
is to provide advisory guidelines for the City to assist in identifying actions that involved
the physical taking or exaction of private real property that may have constitutional
taking issues.

These ordinances are effective immediately upon publication. Full
text of the ordinances may be reviewed at the Office of the Logan City Recorder, City
Hall, 255 North Main, during regular business hours.

Lois Price, Recorder
Publication Date: March 20, 2003