

Topic:	Clustering & Cluster Development
Resource Type:	Regulations
State:	Utah
Jurisdiction Type:	Municipal
Municipality:	City of Mapleton
Year (adopted, written, etc.):	2002
Community Type – applicable to:	Urban; Suburban
Title:	City of Mapleton Critical Environmental Zone Clustering
Document Last Updated in Database:	March 2, 2016

Abstract

The Mapleton City Critical Environmental Zone includes an allowance for cluster zoning when such zoning will improve ridgeline protection, decrease or not increase environmental hazards, and decrease the cost of infrastructure to the city. While the overall allowed density is not increased, dwellings that have been approved for clustering are allowed an increase in density from one dwelling per three acres to one dwelling per acre. Designed open space in approved cluster development may be owned by the city or an approved non-profit.

Resource

Mapleton Critical Environmental Zone (Clustering in Section 080)

18.30.010: LEGISLATIVE INTENT:

The CE-1 zone includes those areas of the city which, as the result of the presence of steep slopes, soil characteristics, flood hazards, erosion, mud flow or earthquake potential, wildfire hazards or similar natural conditions or environmental hazards are considered environmentally sensitive and fragile.

The following is the intent and purpose of the city council in establishing the CE-1 zone:

- A. To reflect the Utah County natural hazards overlay zone, to delineate environmentally sensitive and fragile areas within the city and to establish standards and guidelines for the uses and development activities occurring thereon which recognize and appropriately balance: 1) the need for the preservation of the natural environmental conditions, 2) the need for mitigation of potentially adverse or unsafe conditions arising from development activities, 3) the protection of the interests of subsequent purchasers and occupants, and 4) the rights of current owners to the reasonable use of their property.
- B. To avoid or mitigate the effects of natural hazards from earthquakes, rockfall, debris flow, landslides, floods, fires and similar calamities and to reduce the potential for subsequent public involvement or expenditure in mitigation of such adverse or unsafe conditions occurring as a result of disruption of natural conditions from development activity.
- C. To protect and conserve the watershed for the culinary water supply, sensitive vegetation, soil, wildlife habitat, view sheds and other natural resources within the area.
- D. To facilitate and encourage the location, design, and construction of uses, development projects and building sites in the zone area which provide maximum safety and human enjoyment

consistent with the efficient and economical use of public services and facilities, the natural limitations and the need for protection of the environment.

- E. To preserve the aesthetic appearance of the landscape. Because of the fragile nature of the land in this zone, special conditions and requirements are attached to developments occurring therein to promote the implementation of the purposes stated above and to mitigate the potential adverse aspects of developments in the area. The requirements set forth in this chapter are considered the minimum required in order to accomplish the purpose and intent for which this zone was established.
- F. To protect the health, safety and welfare of the residents of Mapleton.
- G. To place the liability and expense of evaluating the condition of potentially unstable land, and liability and expense for determining restrictions which should be placed on its development, upon geologists or engineers employed by the land owner.
- H. To restrict the development of land to those uses which do not present unreasonable risks to persons or property because of geologic hazards.
- I. To prevent fraud in land sales relating to the geologic conditions of real property.

With the enactment of this chapter, it is the intent of the municipal council to authorize a governmental function of regulation within the meaning of sections 63-30-3 and 63-30-10(1), (3) and (4) of the Utah code, as amended. (Ord. 2002-05, 3-20-2002)

18.30.020: USE REQUIREMENTS:

- A. Permitted Uses: The following uses of land shall be permitted upon compliance with the applicable standards and conditions set forth in this chapter:
 - Keeping of customary household pets.
 - One-family dwellings - conventional construction and modular homes, subject to compliance with the subdivision ordinance, the conditions of the zone and approval of a site plan in accordance with the provisions of section [18.84.320](#) of this title.
 - Production of agricultural crops and fruits in the field.
 - Public parks.
- B. Conditionally Permitted Uses: The following buildings, structures and uses of land may be permitted upon compliance with the standards and conditions set forth in this chapter and after approval has been given by the designated review body:
 - Buildings and other structures for the storage and keeping of agricultural products and machinery.
 - Customary residential accessory structures which are an integral part of and incidental to an approved dwelling.
 - Home occupations, subject to the provisions of section [18.84.380](#) of this title.
 - Motor vehicle roads and rights of way subject to compliance with city standards for design and construction for such uses and upon approval of a site plan in accordance with the provisions of section [18.84.320](#) of this title.
 - Private recreation developments as defined in section [18.08.335](#) of this title and private parks.
 - Residential subdivisions, subject to compliance with the applicable requirements for such developments. PUDs are specifically excluded from the CE-1 zone.
 - The raising, care and keeping of livestock and fowl. Also the barns, corrals, pens and coops and other structures for the care and keeping of domestic livestock and fowl. Provided, however, that no structure for the housing of livestock or fowl or no corral for the close confinement of livestock shall be located closer than one hundred feet (100') to an existing dwelling on an adjacent lot or fifty feet (50') to such a dwelling on the same lot.

Water, sewer and utility transmission lines and facilities required as an incidental part of development within the zone, and subject to the approval of a site plan in accordance with the provisions of section [18.84.320](#) of this title. (Ord. 2002-05, 3-20-2002)

18.30.030: ACTIONS PROHIBITED:

Notwithstanding any other provision of this code it shall be unlawful to grade, fill, or excavate any land in any manner which presents an unreasonable risk, as shown on the Utah County natural hazards map such as erosion, flooding, landslide, or any other unsafe condition, and it shall be unlawful to erect any structure which will not be reasonably safe for use as a human habitation because of:

- A. A high water table (water close to the surface);
- B. Surface water;
- C. Expansive soils;
- D. Collapsible soils;
- E. Proximity to a potential landslide area;
- F. Proximity to a secondary fault;
- G. Proximity to an alluvial fan;
- H. Proximity to a landslide;
- I. Proximity to a primary Wasatch fault zone;
- J. Steep slopes; or
- K. Any other unsafe conditions. (Ord. 2002-05, 3-20-2002)

18.30.040: LOT REQUIREMENTS:

- A. Density, Area And Width Requirements: The maximum project density, and minimum lot area and width requirements of a zoning lot shall be set forth as follows:
 - 1. When the lot is contained within an approved subdivision project:
 - a. Use: One-family dwellings.
 - b. Maximum Project Density: One lot for every three (3) acres of buildable area in project plus one lot for every twenty (20) acres of nonbuildable area in the project.
 - c. Minimum Lot Area: Three (3) acres.
 - d. Minimum Lot Width: Two hundred fifty feet (250'), except as noted in subsection [18.30.080G4](#) of this chapter.
 - 2. When the lot is not included as part of an approved subdivision project and is legally exempt therefrom:
 - a. Use: One-family dwellings.
 - b. Minimum Lot Area: Three (3) acres.
 - c. Minimum Lot Width: Two hundred fifty feet (250').
- B. Access Requirements: Each lot shall abut upon and have direct access to a rural local city maintained street as described in [title 17](#) of this code. Each street shall be formally accepted by action of the city council. The distance of said abutting side shall not be less than the minimum lot width requirement of the zone except that the length of said abutting side may be reduced to not less than eighty feet (80') when the lot fronts upon a cul-de-sac or sharp curve in a designated city street and the side lot lines radiate in such a manner that the width of the lot, measured between the side lot lines at points one hundred sixty feet (160') from the front lot line, will meet or exceed the minimum width requirements of the zone.
- C. Location Requirements:
 - 1. Main Buildings: All dwellings and other main buildings and structures shall be set back in accordance with the following:

a. Front Setback: All dwellings and other structures shall be set back not less than fifty feet (50') from the front lot line, provided that on lots qualifying under the provisions of subsection B of this section, the front setback shall be the distance from the front lot line at which the minimum width requirements are met, but not less than fifty feet (50').

b. Side And Rear Setback: All dwellings and other structures shall be set back not less than fifty feet (50') from the side or rear lot line.

c. Bonneville Bench: All new buildings that are situated along a Bonneville bench ridge line shall be set back two hundred fifty feet (250') from the crest of the Bonneville bench. The Bonneville bench line is at the approximate elevation of five thousand one hundred thirty five feet (5,135') above sea level as quoted by the United States geologic survey (USGS).

D. Utility Requirements:

1. Culinary Water: All structures to be used for human occupancy shall be served by the city's water system and shall be capable of providing water to the structure in volumes and under pressure sufficient for both culinary and firefighting purposes as determined by the city engineer.

2. Domestic Sewage Disposal: All structures intended for human occupancy shall be served by a sewage disposal system which has been approved by the city.

E. Buildable Area Required; All Buildings To Be Located On A Buildable Area: Each lot shall contain at least one area of not less than fourteen thousand five hundred (14,500) square feet which qualifies as a "buildable area" as defined in this title and which is accessible over a driveway having a width of not less than twelve feet (12') and which conforms to the minimum standards of subdivision streets with respect to slope, grading, drainage and design features ⁵⁶. The site plan required pursuant to subsection [18.84.320B](#) of this title shall delineate the location of the territory qualifying as buildable area and also the alignment of the proposed driveway access. All dwellings and other habitable structures and accessory buildings shall be located within the designated buildable area. All other areas within the designated buildable area shall be protected and preserved as open space in accordance with the provisions of subsection [18.30.080E](#) of this chapter. For purposes of determining compliance herewith, the toe of any slope greater than thirty percent (30%) shall not be cut to provide building site and any territory which has been graded to produce a slope of less than thirty percent (30%) shall be excluded.

F. Structural Requirements:

1. Location On Fault Traces Prohibited; Minimum Setbacks To Be Determined: No portion of any structure intended for human occupancy shall be located over any fault trace or zone of deformation identified in the geotechnical and geology report submitted as provided in this chapter. The minimum setback distance from any fault trace or zone of deformation, or from the base or crest or any potentially unstable slope shall be as established by the city engineer following the receipt of a recommendation on the subject from the geotechnical engineer as part of the technical reports.

2. Site Specific Geotechnical Study And Structural Calculations Required Before Building Permit Issuance: Prior to the issuance of a building permit, the city must receive a site specific geotechnical study conducted by an engineer licensed by the state of Utah, along with blueprints, which blueprints must be prepared by a registered structural engineer. The blueprints must take into consideration concerns stated in the geotechnical study.

3. Construction Standards: All structures intended for human occupancy shall be designed and constructed to the recommendation of the structural engineer, after his review of the site specific geotechnical study.

4. Architectural Design Standards:

a. Exterior Building Colors: The exterior of any building or structure shall blend with the natural materials and predominant colors and hues of the surrounding foothills. Colors permitted include grays, browns, greens, tans and other earth tones. White or bright colors shall be limited to window casings, doors, eaves and other trim areas.

b. Exterior Building Glass: Windows and other glass surfaces shall have an outdoor visible light reflective value no more than eighteen percent (18%) as defined and measured by ASTM E308-90 or its successor.

c. Roof Materials And Colors: Roof colors shall be earth tones. White, bright and reflective materials are prohibited from roofs. Tile, slate, architectural asphalt shingles and fire retardant wood are permitted as roofing materials.

d. Mechanical Equipment: Mechanical equipment including, without limitation, swamp coolers, air conditioning equipment, heat pumps, vents, blowers and fans shall be screened from view or painted to match the building color adjacent to the equipment. Roof mounted mechanical equipment shall not extend above the highest roof ridge line. Roof mounted solar collection panels need not be screened or painted so long as they are mounted parallel to and flush with the roof slope and do not project above the ridge line of the roof segment upon which they are mounted. Except as provided in the foregoing sentence, solar collection panels shall not be mounted upon any roof. Satellite antennas shall be painted nonreflective black or other dark earth tone colors.

5. Exterior Lighting: Floodlighting of buildings and structures is prohibited. Exterior lighting shall be architecturally integrated decorative lighting. Yard areas may be lit only with "directional" lighting and no direct light beam may impact any other property, except for security lights intended to be activated only at limited times as necessary for immediate security.

6. Fence Restrictions: Fences and walls shall only be constructed after first obtaining a building permit subject to the standards of this section.

a. Site Plan Submittal: As part of the site plan review process, a fencing plan shall be submitted which shall show:

(1) Any specific subdivision approval conditions regarding fencing.

(2) Material specifications and illustrations necessary to determine compliance with specific approval limitations and the standards of this section.

b. Field Fencing Of Designated Undevelopable Areas: Fencing on areas identified as undevelopable areas or transitional areas on any subdivision granted preliminary approval by the planning commission after December 6, 1994, or any lot previously platted which identifies undevelopable areas or transitional areas shall be limited to the following standards:

(1) Low visibility see through fencing shall consist of flat black colored steel "T" posts and not more than four (4) strands of nonbarbed steel wire, strung at even vertical spacing between such "T" post, and erected to a height of not more than forty two inches (42") above the natural ground surface.

(2) When fencing lot boundary lines, vegetation or native brush shall not be cleared so as to create a visible demarcation from off site.

(3) The existing surface of the ground shall not be changed by grading activities when erecting boundary fences.

(4) Fence materials and designs must not create a hazard for big game wildlife species.

(5) No field fencing shall be erected in conflict with pedestrian easements dedicated to Mapleton City.

c. Buildable Area Fencing: Fencing on any portion of a lot identified as buildable area or required side yard on any subdivision granted preliminary approval by the planning commission after December 6, 1994, or any lot previously platted which identifies undevelopable area or transitional areas shall be limited to the following standards:

(1) Open, see through fencing constructed of tubular steel, wrought iron or similar materials, finished with a flat black, nonreflective finish constructed to a height of six feet (6') or less; or

(2) Sight obscuring or privacy type fencing shall be of earth tone colors, or similar materials to the primary dwelling, and located in a way which screens private outdoor living spaces from off site view.

d. Front Yard Fencing: Walls and fences located within the front yards and along roadways shall not exceed a maximum of forty two inches (42") in height. (Ord. 2002-05, 3-20-2002)

18.30.050: PRELIMINARY DETERMINATION BY CITY ENGINEER:

All proposals to grade, fill, or excavate land or to erect a structure for human habitation shall be referred to the city engineer who shall make a preliminary determination by reference to the maps and materials maintained in his office, in order to coordinate data with the geotechnical engineering, if any of the unsafe physical conditions described in section [18.30.030](#) of this chapter, appear to exist in relation to the real property which is included in the proposal. (Ord. 2002-05, 3-20-2002)

18.30.060: PRESUMPTION:

Conditions described on Utah County geologic hazard maps and aerial topographical maps maintained by the city engineer, together with explanatory material appurtenant thereto, shall be presumed to exist. (Ord. 2002-05, 3-20-2002)

18.30.070: APPROVAL PROCEDURE AND REQUIREMENTS:

A. Site Plan: Wherever the terms of this zone require submission and approval of a site plan, said plan shall conform with and be approved in accordance with the provisions of this chapter and section [18.84.320](#) of this title.

B. Technical Reports: In addition to other materials required for submission, the site plan shall be accompanied by copies of the following technical reports and plans. The following technical reports and plans shall be completed by an engineer licensed by the state of Utah:

1. Geotechnical And Geology Report: The report shall include, but is not necessarily limited to, identification and mapping of the location of major geographic and geologic features such as fault traces, surface ruptures, zones of deformation, potential slide and other high hazard areas such as mine shafts and avalanche paths, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, recommendations covering the adequacy of sites proposed for development, and any potential adverse impact to the natural environment.

2. Soils Report: The report shall include, but is not necessarily limited to, information with respect to slope analysis, general soils classification, suitability for development, erosion potential, any recommendations for proposed methods of mitigating any constraints

determined to be present as part of the development plan, and any adverse impact to the natural environment.

3. Grading And Drainage Plan: The plan shall include, but is not necessarily limited to, information on ground water levels, identification and mapping of drainage channels and systems, floodplains, existing details and contours where modification of terrain is proposed, the direction of proposed drainage flow, proposed plans and the location of all surface and subsurface drainage devices to be constructed as part of the proposed development, erosion control measures during the course of construction, identification of any grading and drainage problems such as the alteration of natural drainage patterns and any other problems of the proposed development, and a plan to mitigate or eliminate such problems, and any adverse impact to the natural environment.

4. Natural Conditions And Vegetation Analysis And Preservation Plan: This report and plan shall include a survey of existing trees, large shrubs and ground covers, a plan for the proposed revegetation of the site, detailing existing vegetation to be preserved, new vegetation to be planted and any modifications to existing vegetation, and the identification of any vegetation problems and recommendations as how to mitigate or eliminate such problems and avoid potential adverse impact to the natural environment.

5. Fire Protection Report: The report shall include, but not be limited to, identification of potential fire hazards, mitigation measures, access for fire protection equipment and proposed fire flow capability.

The scope and content of these required technical reports and plans shall be in accordance with city standards. The planning commission, subject to the prior recommendation of the city engineer, may waive the necessity for submitting one or more of the technical reports or any elements of a report where, in its opinion, conditions associated with the proposed development do not require consideration of the subject matter covered. Also, where the lot is contained within an approved subdivision and the technical reports previously submitted as part of the subdivision approval process are sufficient in scope and detail to adequately address the issues required under this chapter, this requirement may be waived.

- C. City Engineer To Review Technical Reports: The plans and technical reports required herein shall be reviewed by the city engineer for the purpose of making a determination as to the adequacy of the reports and recommendations relating to the proposed project. Prior to the time of action by the planning commission, the city engineer shall provide to the planning commission a written or oral report of the results and conclusions of the review together with any recommendation or amendment of the technical reports.
- D. City Engineer Requires Further Review By Qualified Professionals: If the city engineer concludes that the determinations required by this chapter require further review by professionals having qualifications not possessed by the city staff, he may designate a qualified person to make the required determination. Any person dissatisfied with a determination made by the city engineer may appeal the same within thirty (30) days to the city council.
- E. Project Evaluation Guidelines: The planning commission shall review the site plan, technical reports and recommendations of the city engineer and shall approve the application upon a finding that:
 - 1. All the plan submissions and technical reports required for review and consideration have been submitted and in a form suitable for evaluation by the city, and the evaluation of conditions and the recommendations for mitigation provided by the technical reports are reasonably adequate to accomplish the purpose and intent of the CE-1 zone.

2. That the plan conforms, in all respects, to applicable city requirements, standards and criteria.
 3. The location and arrangement of the buildings, roadways, open areas and other elements of the development duly recognize and accommodate the natural conditions present, and construction of such elements will not result in the creation of an adverse or unsafe condition.
 4. The applicant provides sufficient information to establish that adequate public services and facilities in the area affected by the proposed development will have sufficient capacity available at the adopted level of service standards to accommodate the proposed development within a reasonable period of time following the issuance of final approval of a site plan and/or subdivision plat for the proposed development.
 5. The development will accomplish and preserve the intent of the zone.
- F. City May Require Changes To Plans: The city may require changes in the plan in order to more fully accomplish the intent of the zone. Such changes may include, but are not limited to, adjustments in the boundaries of the buildable area and changes in the location of roadways, structures, drain field and similar elements.
- G. Full Disclosure Required: No subdivision in the CE-1 zone shall be approved without a note on the final plat, which shall read, "This subdivision lies within a critical environment zone with some potential hazards, any building lot in this zone, must comply with Chapter [18.30](#) of the Mapleton City Code." disclosing that the subdivision is in a geologically sensitive area with potential hazards present. (Ord. 2002-05, 3-20-2002)

18.30.080: SPECIAL PROVISIONS:

- A. Grading: No grading, filling or excavation of any kind shall be commenced on land within the zone without first having obtained a grading permit from the city planning and zoning director, signed by the superintendent of public works, who shall not issue such permit until a grading plan, endorsed by a licensed civil engineer, following review and approval by the city engineer, shall have been approved in accordance with the provisions of section [18.30.070](#) of this chapter.
1. Slope Protection: All land surface having a slope of thirty percent (30%) or greater shall remain in its natural state and shall not be graded or otherwise disturbed except for the planting of additional vegetation, the addition of sprinkler irrigation systems, the establishment of required fire breaks or required access easements, or when such disturbance is specifically provided for under an approved site plan. No disturbance shall be permitted on any slide area as depicted in the Utah County natural hazards overlay landslide zones map until recommended by the city engineer based on adequate documentation to show that sliding is not a potential hazard and then only after approval is gained through the city council.
 2. Roads, Streets And Driveways: All roads, streets and driveways in this zone shall be set back at least fifty feet (50') from the edge of the Bonneville bench, consistent with the purpose of this zone that such streets, roads and driveways will not have significant adverse visual, environmental or safety impacts.
 3. Cuts And Fills: Cutting and filling shall be held to a minimum and retaining walls employed to help provide planting areas conducive to revegetation. Revegetation plans will be required for all areas disturbed during road, street or driveway construction. All cuts and fills shall be approved by the city council, which approval shall be based on the recommendations of the city engineer, consistent with the purpose of this zone that such cuts and fills not have significant adverse visual, environmental or safety impacts.

4. Driveways: The design, construction and alignment of driveways shall not exceed twelve percent (12%) grade. Driveways shall include all private single-family dwelling accesses from a public right of way.
- B. Vegetation, Preservation And Landscaping: Site plans and reports shall preserve existing vegetation to the extent possible and shall provide for prompt revegetation and erosion control measures where appropriate. Natural vegetative material shall not be removed except for those portions of the site to be committed to the dwelling and attendant yard area, required roadways, driveways and for firebreaks. All areas proposed for removal of vegetative materials shall be shown on the site plan. Every effort shall be made to conserve topsoil which is removed during construction for later use on areas requiring revegetation or landscaping (i.e., cut and fill slopes). Vegetation sufficient to stabilize the soil shall be established on all disturbed areas and shall be equivalent to or exceed the amount and erosion control characteristics of the original vegetation cover. The types and sizes of vegetation suitable for revegetation and soil stabilization shall be approved by the planning commission at the time of final plan approval.
- C. Fire Protection: In order to minimize the potential for destruction due to fire, the following fire prevention and protection measures are required for all dwellings in this zone:
1. The installation of NFPA 13-D residential fire sprinkler systems in all new single-family structures;
 2. The addition of exterior fire sprinklers in all new structures where eaves, siding and projections are constructed of combustible materials. This requirement may be waived should noncombustible building materials be used;
 3. All new structures shall be constructed with nonreflective, noncombustible roofing materials as approved by the Mapleton City fire marshal.
 4. There shall be at least a thirty foot (30') clear area around all structures located in the CE-1 zone. This area shall be sprinkled and planted with fire resistant vegetation. This clear area shall be measured from each exterior wall.
- D. Ridgeline Protection: All ridgeline areas, as seen along the entire length of Main Street from 2000 North to the southern city limit, in this zone shall be retained in a natural state, and development shall be sited in such a manner so that all structures are located away from areas that are visible against the sky or mountains along a ridgeline. No building, roof or other appurtenant device shall encroach or visually intrude upon a ridgeline area.
- E. Open Space Preservation: All developments in this zone shall be sited so as to maximize the protection and preservation of open space. Such open space, including, but not limited to, nonbuildable areas as defined in this title, shall be identified in the site plan and maintained as open space and may not be separately sold, subdivided or developed and shall not include roads, streets, rights of way, lots or buildings for dwelling purposes. Such open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained as approved as part of the site plan.
- F. Wildlife Habitat Preservation: Any development shall take all reasonable efforts to maintain and preserve critical wildlife areas and floodplain corridor and shall take all reasonable steps to minimize impact upon these areas.
- G. Clustering Of Single-Family Detached Dwellings: Based upon the receipt of a recommendation from the planning commission and approval by the city council, a developer may be allowed to reduce the dimension requirements as set forth in subsection [18.30.040A1](#) of this chapter in accordance with the provisions of this title, provided the following conditions are met:

1. In no case shall the resulting maximum project density of the area to be subdivided be greater than the maximum project density otherwise allowed in the CE-1 zone.
 2. The city council, based upon the recommendation of the planning commission makes the following findings:
 - a. That clustering enables structures to be placed on the land in such a manner that ridgeline protection is enhanced.
 - b. That the city's costs for operation and maintenance of the subdivision infrastructure improvements will not increase or will be reduced because of the clustering of the dwellings.
 - c. That the potential exposure of any proposed dwellings to hazards as identified in reports required in subsection [18.30.070B](#) of this chapter will not be increased or will be reduced.
 3. In accordance with subsection E of this section, the city council may require that all areas designated as open space on an approved site plan be owned, preserved and maintained by the city, another appropriate public or nonprofit entity approved by the city or a homeowners' association which assumes full responsibility for its maintenance.
 4. The minimum frontage requirements may be reduced to a width of not less than one hundred forty feet (140') at the front setback line.
 5. The side yard setbacks shall be no less than fifteen feet (15') from the lot line.
 6. The minimum lot size, under the clustering provisions, shall be one acre with the remaining two (2) acres as dedicated open space.
- H. Grading, Filling, Or Excavation Compliance With Entire Code: In addition to the provisions of this chapter, all grading, filling, or excavation of land or erection of any structure shall comply with all other applicable provisions of this code.
- I. Improvements Intended For Public Ownership Subject To City Council Approval: 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 council after recommendation by the city engineer. (Ord. 2002-05, 3-20-2002)

18.30.110: ENGINEER GEOLOGIST QUALIFICATIONS AND CERTIFICATE:

- A. A geologic report shall be approved and signed by one of the following:
1. An engineer who shall be a registered professional engineer in the state of Utah, qualified by training and experience in the application of the principles of soil mechanics to foundation investigation, slope stability, and site development; or
 2. A licensed geologist who shall be a graduate in geology or engineering geology from an accredited university with at least five (5) years of professional geologic experience of which at least three (3) full years shall be in the field of engineering geology.
- B. A geologic report shall contain the following certificate:
- CERTIFICATE*
- I hereby certify that I am a registered engineer or a geologist. I have examined the geologic report to which this certificate is attached and the information and conclusions contained therein are, without any reasonable reservation not stated therein, accurate and complete. All procedures and tests used in said geologic report meet minimum applicable professional standards.*
- Signature*
- C. In addition to any applicable private civil remedies, it shall be unlawful to knowingly make a false, untrue, or incomplete statement in a geologic report or to sign the certificate described above knowing the same to be materially false or not true. (Ord. 2002-05, 3-20-2002)

18.30.120: POST CONSTRUCTION INSPECTION AND CERTIFICATION:

For any real property with respect to which development has proceeded on the basis of a geologic report which has been acknowledged by the city engineer, no final inspection shall be completed or certificate of occupancy issued or performance bond released until the engineer or geologist who signed and approved that geologic report shall further certify that the completed improvements and structures conform to the descriptions requirements contained in said report. Provided, however, that improvements and structures may, with the consent of the city engineer, deviate from the descriptions and requirements contained in the geologic report because of conditions which are discovered after acknowledgment by the city engineer of the geologic report. (Ord. 2002-05, 3-20-2002)

18.30.130: APPEAL FROM DECISION OF CITY ENGINEER:

Any person dissatisfied with a decision of the city engineer may appeal the same within thirty (30) days thereof to the board of adjustment, which board shall affirm or reverse, either in whole or in part. Any person dissatisfied with a decision of the board of adjustment may appeal that decision within thirty (30) days thereof to any court of competent jurisdiction for administrative and not a de novo review. (Ord. 2002-05, 3-20-2002)

18.30.140: SCOPE OF APPLICATION:

No subdivision or other development plat or plan shall be approved without compliance with the provisions of this chapter. Every proposal to grade, 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 chapter. (Ord. 2002-05, 3-20-2002)

18.30.150: RESTRICTIVE COVENANT REQUIRED:

Once 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 Mapleton 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, filling, or excavating or erection of a structure for human habitation approved in the geologic report which has been acknowledged by the city engineer, together with the requirements and restrictions imposed thereon. (Ord. 2002-05, 3-20-2002)

18.30.160: ECONOMIC HARDSHIP RELIEF PROVISIONS:

- A. Hardship Relief Petition: Any applicant for development in this zone, after a final decision on its development application is made, may file a hardship relief petition with the city recorder seeking relief from all or part of the regulations of this chapter on the basis that the denial of the application has created a substantial economic hardship to the extent of depriving the applicant of all reasonable use of their property.
- B. Affected Property Interest: The hardship relief petition must provide information sufficient for the planning commission and the city council to determine that the petitioner possesses a protectable interest in property under article I, section 22 of the constitution of Utah and/or the fifth amendment to the United States constitution.
- C. Economic Hardship Standard: For purposes of this section, a "substantial economic hardship" shall be defined as a denial of all reasonable use of the property. Upon a finding that the denial of the application has resulted in a denial of all reasonable use of the property, the Mapleton

City council may provide the petitioner with relief from part of the CE-1 critical environment zone regulations.

- D. Time For Filing Notice Of Petition: No later than fifteen (15) calendar days from final action by the city council on any development application, the applicant shall file a notice of petition in writing with the city recorder. Within thirty (30) calendar days of filing of a notice of petition, the applicant shall file a hardship relief petition with the city recorder. Upon planning commission approval, the time in which the hardship relief petition must be submitted may be extended up to an additional thirty (30) days.
- E. Information To Be Submitted With Hardship Relief Petition:
1. The hardship relief petition must be submitted on a form acceptable to the city, shall be signed by the applicant and verified, and must be accompanied at a minimum by the following information:
 - a. Name of the petitioner;
 - b. Name and business address of the current owner of the property, form of ownership, whether sole proprietorship, for profit or not for profit corporation, partnership, joint venture, limited liability company, or other, and if owned by a corporation, partnership, joint venture, or limited liability company, the name and address of all principal shareholders, members, or partners;
 - c. Price paid and other terms of purchase of the property, the date of purchase, and the name of the party from whom purchased, including the relationship, if any, between the petitioner and the party from whom the property was acquired;
 - d. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;
 - e. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the five (5) years prior to the date of application;
 - f. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the five (5) years prior to the date of application;
 - g. The assessed value of and ad valorem taxes on the property for the previous five (5) years;
 - h. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including, but not limited to, right of purchaser to assume the loan;
 - i. All listings of the property for sale or rent, price asked and offers received, if any, within the previous five (5) years;
 - j. All studies commissioned by the petitioner or agents of the petitioner within the previous five (5) years concerning feasibility of development or utilization of the property;
 - k. For income producing property, itemized income and expense statements from the property for the previous five (5) years;
 - l. Information from a title report or other source showing all recorded liens or encumbrances affecting the property as of the date of the petition;
 - m. A specific description of the exact CE-1 critical environment zone regulations the application of which petitioner asserts to create a substantial economic hardship to the extent of depriving the petitioner of all reasonable uses of its property, together with the factual basis for said assertion; and
 - n. A specific description of the modifications from the CE-1 critical environment zone regulations which petitioner asserts are necessary, to the minimal extent necessary, to

prevent the petitioner from sustaining a substantial economic hardship to the extent of depriving the petitioner of all reasonable use of its property, together with the factual basis for said assertion.

2. The planning commission or the city council may request additional information reasonably necessary, in their opinion, to arrive at a conclusion concerning whether there has been a denial of all reasonable use constituting a substantial economic hardship.
- F. Failure To Submit Information: In the event that any of the information required to be submitted by the petitioner is not reasonably available, the petitioner shall file with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.
- G. Hearing By The Planning Commission: Within thirty (30) calendar days of the filing of a completed hardship relief petition, together with all required and requested supporting information and documentation required by the city council or the planning commission, the planning commission shall schedule a public hearing with adequate notice consistent with the provisions of this code. The public hearing shall be held on or before thirty (30) days from the date of notice, unless a reasonable extension of time is agreed to by both the planning commission and the petitioner. At the public hearing, the petitioner shall be entitled to testify and to call witnesses and present facts and evidence.
- H. Application Of The Economic Hardship Standard: In applying the economic hardship standard, the planning commission shall consider among other items the following information:
1. Any estimates from contractors, architects, real estate analysts, qualified developers, or other competent and qualified real estate professionals concerning the feasibility, or lack of feasibility, of construction or development on the property as of the date of the petition, and in the reasonably near future;
 2. Any evidence or testimony of the market value of the property both considering and disregarding all or portions of the CE-1 critical environment zone requirements; and
 3. Any evidence or testimony deemed relevant by the planning commission.
- I. Burden Of Proof: The petitioner shall have the burden of proving that the denial of the application creates a "substantial economic hardship" as defined herein.
- J. Findings Of The Planning Commission: The planning commission shall, on the basis of the evidence and testimony presented, make specific findings as part of its report and recommendations to the city council, which may include the following:
1. Whether the petitioner has complied with the requirements for presenting the information to be submitted with a hardship relief petition;
 2. Whether the petitioner has a protectable interest in the property;
 3. The market value of the property considering the CE-1 critical environment zone requirements;
 4. The market value of the property disregarding all or specific provisions of the CE-1 critical environment zone requirements;
 5. Whether it is feasible to undertake construction on or development of the property as of the date of the application, or in the reasonably near future thereafter;
 6. Whether, in the opinion of the planning commission, the denial of the application would create a "substantial economic hardship" as defined herein.
- K. Report And Recommendation Of The Planning Commission:
1. The planning commission, based upon the evidence and findings, shall make a report and recommendation to the city council concerning the hardship relief petition.

2. If the planning commission recommends that the city council approve the hardship relief petition, then the report of the planning commission shall discuss the type and extent of incentives necessary, in the opinion of the planning commission, to provide an appropriate increase in market value or other benefit or return to the petitioner sufficient to offset the substantial economic hardship. The types of incentives that the planning commission may consider include, but are not limited to, the following:

- a. Modification or waiver of specific requirements of the CE-1 critical environment zone requirements to the minimal extent necessary to offset the substantial economic hardship;
- b. A waiver of permit fees;
- c. Approval of development on some portion of the property within the CE-1 critical environment zone; and
- d. Acquisition of all or a portion of the property at market value.

3. The report and recommendation shall be submitted to the city council and mailed to the petitioner within thirty (30) calendar days following conclusion of the public hearing.

- L. City Council Review And Consideration: Within sixty (60) calendar days following receipt of the planning commission's report, the city council shall hold a public hearing and provide adequate notice as provided by this code to review the report and recommendation of the planning commission. At the public hearing, the petitioner shall be entitled to testify and to call witnesses and present facts and evidence. At the public hearing, the city council may limit the testimony and evidence to new testimony and evidence not presented to the planning commission. The city council shall approve, in whole or in part, or disapprove, the hardship relief petition. The city council may modify or waive the requirements of the CE-1 critical environment zone, or may adopt any incentive, to the extent reasonably necessary to offset any "substantial economic hardship" as defined herein and may condition such incentives upon approval of specific development plans. The city council may take such action without the necessity of resubmission of the petition to the planning commission.
- M. Findings Of The City Council: The city council shall, on the basis of the report and recommendation of the planning commission and the evidence and testimony presented, make specific findings as part of its decision. The findings may adopt, change, or modify the findings of the planning commission.
- N. Decision Of The City Council: The decision of the city council shall be mailed to the petitioner within thirty (30) calendar days following conclusion of the public hearing.
- O. Time Limits/Transfer Of Incentives: Any modifications, waivers, or incentives adopted by the city council pursuant to this section may be transferred and utilized by successive owners of the property or parties in interest, but in no case shall the incentives be valid after one calendar year of the development approval.
- P. Decision Final: The decision of the city council shall be final. (Ord. 2002-05, 3-20-2002)

18.30.170: COSTS AND CHARGES:

All costs for processing the application and for conducting all regular and special reviews including, but not limited to, review of all plans and technical reports by the city engineer as required herein, shall be borne by the applicant. The city council may, by resolution, establish fees for the administration of this chapter and provide for the assessment and collection thereof. (Ord. 2002-05, 3-20-2002)

18.30.180: CIVIL AND CRIMINAL FRAUD:

It shall be unlawful for any person, including the seller or his representative, directly or indirectly in connection with the sale or offering for sale of real property located in Mapleton City, to make

any untrue statement or withhold a material fact related to the geologic condition of the subject property. This section shall be construed to create private and public civil causes of action in addition to creating criminal liability. (Ord. 2002-05, 3-20-2002)

18.30.190: VIOLATION OF CHAPTER:

It shall be unlawful for any person to violate any of the terms and requirements of this chapter. Any violation of the requirements of this chapter shall constitute a class B misdemeanor. In the event a person changes the natural state of any land surface having a slope of thirty percent (30%) or greater or, on any portion of land situated in the CE-1 zone grades, cuts slopes, begins development, or constructs in violation of the terms of this chapter, the person violating the terms, and the person at whose direction the actions were taken are required to immediately restore and revegetate the area disturbed consistent with a plan approved by the city engineer and shall bear all costs of restoration, including the costs of the city engineer's review of the plan, and the restoration process. No subdivision application shall be processed or approved, and no building or grading permits shall be issued to the person violating these terms, the person at whose direction the actions were taken, nor the owner, or subsequent owners of the property, until the disturbed land is restored and revegetated. A grading permit shall issue after proper application, for work to be performed to restore and revegetate the area disturbed. (Ord. 2002-05, 3-20-2002)