

**PLANNING COMMISSION WORKSHOP  
COUNCIL CHAMBERS**

**March 8, 2016**

**THE PLANNING COMMISSION'S VISION OF ITS ROLE IN THE COMMUNITY**

The Planning Commission sees its role as the preparation and implementation of the Comprehensive Plan through which the Commission seeks to promote orderly growth, preserve the quality of Coeur d'Alene, protect the environment, promote economic prosperity and foster the safety of its residents.

**12:00 P.M. CALL TO ORDER:**

**ROLL CALL:** Jordan, Fleming, Ingalls, Luttropp, Messina, Rumpler, Ward

**WORKSHOP:**

1. Porta Potty Ordinance

**ADJOURNMENT/CONTINUATION:**

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_,  
to continue meeting to \_\_\_\_\_, \_\_, at \_\_ p.m.; motion carried unanimously.



## MEMORANDUM

Date: March 8, 2016  
To: Planning Commission members  
From: Randy Adams, Chief Civil Deputy City Attorney, and Hilary Anderson, Community Planning Director  
Subject: Workshop regarding proposed Porta Potty Ordinance

### **Background**

The City Council and Planning Commission held a joint workshop on January 14, 2016. One of the agenda items was the USE OF PORTA POTTIES FOR “SEASONAL” BUSINESSES. The request was made by a local business owner who was desiring to use porta potties on a seasonal basis for a beer garden.

City Code restricts the use of privies in the city other than for construction activities ([City Code Section 13.12.010: Privies; Restrictions](#))

After much discussion about the difference between privies and porta potties, how porta potties are used in some city parks and at special events, the possible need for handwashing stations, the definition of seasonal businesses, public land versus business use, the practical application of use at a commercial business, the cost of building porta potty structures and enforcement, the City Council directed staff to develop codes regulating porta potties including provisions for public use, special events, commercial use, seasonal guidelines and a definition of a seasonal business, and enclosures/aesthetics related thereto.

Staff from the legal, planning, municipal services, wastewater, parks and recreation, and building departments met after the workshop to come up with a list of key components to be included in a draft ordinance. An ordinance was then drafted to address those issues in addition to the items requested by the City Council.

Staff is asking for input from the Planning Commission on the key components of the draft ordinance before staff moves forward with finalizing the ordinance and scheduling a public hearing.

### **Ordinance Summary**

The key components of the draft ordinance (hereinafter referred to as the “Porta Potty ordinance”) include:

- The purpose of the ordinance: to preserve and protect the health, safety, and general welfare of persons and property in the City by regulating the location and maintenance of portable toilets, and requiring a permit for their use and placement.
- A statement of allowable use: Portable Toilets may only be used to provide temporary bathroom facilities for special events, seasonal bathroom facilities on public and private parks and open recreational spaces, or as part of construction projects. In no case shall

portable toilets be used as permanent sanitary facilities for residential or nonresidential uses, or as secondary sanitary facilities on existing developed lots.

- The allowance for use of portable toilets with an administrative permit for commercial zones, but only on a temporary or seasonal basis.
- The requirement for an administrative permit, together with the necessary contents of a permit application, and exceptions to the permit requirement (community events up to 7 days, city parks and open spaces, road and utility construction projects (both public and private), and during emergencies.
- Screening requirements and clarification on when DRC review is required.
- Establishment of standards for setbacks, location and orientation of portable toilets, and required maintenance.
- A declaration that portable toilets placed or maintained in violation of the ordinance constitute a public nuisance.
- A provision that the ordinance will be enforced by the building code official or his designee.

***Decision Point***

Staff is asking for direction from the Planning Commission on any changes or additional information should be included in the draft ordinance before scheduling a public hearing.

Attachments:

Meeting Minutes, City Council Cont'd Mtg. January 14, 2016, pages 1-3

Draft Porta Potty Ordinance, dated March 3, 2016

MINUTES OF A CONTINUED MEETING OF THE  
COEUR D'ALENE CITY COUNCIL  
HELD IN THE LIBRARY COMMUNITY ROOM  
ON JANUARY 14, 2016 AT 12:00 NOON

The City Council of the City of Coeur d'Alene met in continued session with the Planning Commission in the Library Community Room held at 12:00 NOON on January 14, 2016, there being present upon roll call a quorum.

Steve Widmyer, Mayor

Woody McEvers ) Members of Council Present  
Dan Gookin )  
Dan English )  
Kiki Miller )  
Amy Evans )  
Loren Ron Edinger )

Brad Jordon ) Members of the Planning Commission Present  
Lynn Fleming )  
Michael Ward )  
Peter Luttrupp )  
Lewis Rumpler )  
Jon Ingalls )  
Tom Messina ) arrived at 12:08

STAFF PRESENT: Jim Hammond, City Administrator; Mike Gridley, City Attorney; Randy Adams, Deputy City Attorney; Renata McLeod, City Clerk; Kathy Lewis, Deputy City Clerk; Ed Wagner, Building Services Director; Shawn Youngman, Code Enforcement Officer; Police Chief White; Hilary Anderson, Community Planning Director; Sean Holm, Planner; Tami Stroud, Planner; Mike Behary, Planner; Mike Becker, Wastewater Project Manager; and Bill Greenwood, Parks Superintendent.

**CALL TO ORDER:** Mayor Widmyer called the meeting to order.

**APPROVAL OF MINUTES FROM PLANNING COMMISSION MEETING  
DECEMBER 8, 2015**

**MOTION:** Motion by Luttrupp, seconded by Ward to approve the Minutes of the Planning Commission meeting held on December 8, 2015. **Motion Approved.**

**APPROVAL OF PLANNING COMMISSION FINDINGS AND ORDER: A-3-15 - PUD-2-15, S-4-15, 2810 & 2960 W. PRAIRIE AVENUE**

**MOTION:** Motion by Ingalls, seconded by Fleming to approve the Findings and Order for A-3-15: PUD-2-15 and S-4-15.

**ROLL CALL:** Fleming Aye; Ward Aye; Luttropp Aye; Rumpler Aye; Ingalls Aye. **Motion Carried.**

## **USE OF PORTA POTTIES FOR “SEASONAL” BUSINESSES**

**STAFF REPORT:** Community Planning Director Hilary Anderson explained that staff has received a request from a local business owner to use porta potties on a seasonal basis for a beer garden. The current Municipal Code prohibits the use of privies in the City other than for construction activities. Currently porta potties are used at special events and at several city parks. She noted that the City would need to create a definition of seasonal and amend the code to allow for the park usage and, if desired, to allow for the use of porta potties for seasonal businesses. Parks Superintendent Bill Greenwood provided examples of porta potties used at local parks, all of which are within covered shells. He clarified that the porta potties are removed during the off season in parks that are not used year round.

**DISCUSSION:** Councilmember Gookin asked if the reasoning behind using the porta potties in the parks was due to the cost of built in facilities. Mr. Greenwood said the cap fee and the cost to construct a restroom facility are very expensive, often over \$200,000. However, it is approximately \$20,000 to build a structure for the porta potties. Commissioner Ingalls asked if the seasonality is what is used by the City to determine whether or not to have a plumbed facility versus porta potties. Mr. Greenwood explained that McEuen Park was an opportunity to build heated restroom facilities, unlike other City built restrooms, but mostly it is a cost consideration. Commissioner Jordon recalled a presentation to the Commission by the previous Parks Director Doug Eastwood regarding the use of porta potties, which in his mind gave approval for the use. Councilmember Edinger asked staff if porta potties will be used when improvements are done at Person Field. Mr. Greenwood said that water and sewer connections are already on site so he would like to put in a facility not porta potties; however, it could cost over \$200,000.

City Attorney Mr. Gridley noted that he did not feel that the parks had illegal use of porta potties since they are not really the same as privies. Councilmember Gookin said that he preferred the brick and mortar facilities to be installed at parks. Mayor Widmyer noted that enclosed restrooms have a much higher vandalism rate. Mr. Greenwood concurred and noted that vandalism has been an issue at city restroom facilities in the past versus the porta potties. He also clarified that they have not received negative comments from the public regarding the porta potties, although he gets calls when porta potties need service. Councilmember English felt that a hybrid approach for city parks could be used by having built in facilities and then use porta potties during the winter. Councilmember Gookin believes the code language should be amended to clearly allow porta potties within parks.

Mike Becker, Wastewater Project Manager, explained the way cap fees would be calculated and can be estimated based on water records. He noted that it is important to focus on sanitation, i.e., hand washing, and not focus solely on the use of porta potties.

Mr. John Magnusson explained that he represents Crafted, who made the initial request, and briefly described the intended seasonal use. He clarified that it was not intended to be for more than 90 days of use, and understands it would be subject to the design review commission review

and that hand washing stations would be no problem. Additionally, they don't intend to do any food preparation outside and people would be welcome to use bathroom inside.

Councilmember Gookin expressed concern with use in the park as setting a precedent. Mayor Widmyer noted that the customers have embraced the use with no negative feedback. He reiterated that cost is important for the City to consider when developing parks. Councilmember Miller said she approves of the use of porta potties in the parks, as they can be used year round and are a value to tax payers. Additionally, she would support the continued use of porta potties for the Centennial Trail and large events. Councilmember Miller said that the use by commercial business should be reviewed; with the Health District concerns and zoning under consideration. Additionally, she would support a code amendment for porta potty use in parks. Councilmember Gookin suggested creating a park zone where the use of porta potties is allowed, temporary usage for city sponsored events, and special use permits for other uses so the public can provide input. Councilmember McEvers would like staff to work on the commercial aspect, taking under consideration examples from other cities, as well as update the current code to allow for park use. He would support hand washing stations. Councilmember Edinger believes that any code amendment should include a requirement for servicing the porta potties. Councilmember English would like to have a staff summary outlining the ramifications of each option. Commissioner Fleming felt that the City should apply the letter of the law from building codes and liquor laws to ensure the correct number of seats per bathroom facility so there isn't an increase in public urination.

Discussion ensued regarding handwashing stations; the definition of seasonal business; public land versus business use; special event use; practical application of use at a commercial business; and costs to build porta pottie structures and enforcement.

**MOTION:** Motion by McEvers, seconded by English to direct staff to develop codes regulating porta potties including provisions for public use, special events, commercial use, seasonal guidelines/definition, and enclosures/aesthetics related thereto. **Motion carried.**

## **VACATION RENTALS**

**STAFF REPORT:** Planner Sean Holm noted that the number and popularity of the vacation rental use in Coeur d'Alene has increased over the years. The current city code does not allow for vacation rentals within a residential zone; however, it has not been strictly enforced. A 1995 legal interpretation set forth the standard that rentals of less than one month are not allowed as they are deemed transient rather than a semi-permanent use. He also noted that the only city code that most closely relates to vacation rentals is the bed and breakfast code; however, there are some clear differences. Mr. Holm explained some of the positives and negatives of the possible use of vacation rentals including travelers having choice, revenue to owners, more money spent locally with some of the negatives being possible disturbances to the neighborhood; vacant property during slow times, excess parking, trash and safety issues. He reviewed items for possible consideration that included a registration process; inspection of site for safety and parking; and noted enforcement as the key to the program.

**DISCUSSION:** Councilmember Edinger asked how many complaints the City has received. Mr. Holm said that he has received complaints regarding signage that has been posted in front of rental properties by vacation rental companies. Councilmember Edinger asked how the vacation rental signs differ from for sale signs. Mr. Holm explained that business signage is different than the temporary use for home sale signs. Code Enforcement Officer Sean Youngman stated that he received one official complaint last summer regarding signage. Chief White noted that police patrol receives calls regarding noise complaints associated with vacation rentals. Municipal Services Director Renata McLeod said that the business licensing division receives calls from vacation rental business's inquiring if the City has regulation or a registration process, as that is the norm in the industry. She noted that her staff has received approximately 10 inquiries in the last couple of weeks.

Mayor Widmyer clarified that staff needs direction as to what should be allowed or not and that the city will need to demonstrate the ability to enforce proposed regulations. He said that he would not like a code as restrictive as Sandpoint. Councilmember Miller requested that staff seek input from vacation rental business operators, the Idaho Lodging Association, Chamber and other stakeholders before drafting the ordinance. Councilmember Gookin suggested staff look at two regulations; one for owner occupied; the other for non-owner occupied investment properties. Commissioner Messina believes that enforcement will be important to include and for staff to research how other cities do their enforcement.

Discussion ensued regarding reasonableness of occupancy; what length of time is reasonable to regulate; neighborhood preservation; parking; and investment properties.

Motion by Edinger to table the issue until next winter. Motion Failed due to the lack of a second.

**MOTION:** Motion by Gookin, seconded by McEvers to direct staff to develop codes regulating vacation rentals including registration; inspection; enforcement; a two week per year exemption; and to gather public input during code development.

**DISCUSSION CONTINUED:** Councilmember Edinger expressed concern with enforcement of another code with current staff resources. Chairman Jordon expressed concern with differing opinions, but assured the Council that the Commission will take input during the drafting of these regulations.

**Motion carried with Edinger voting no.**

## **NEIGHBORHOOD COMPATIBILITY ORDINANCE REQUEST**

**STAFF REPORT:** Ms. Anderson explained that the Fort Ground Homeowner's Association (Fort Grounds) has requested an amendment to the zoning code to allow for an overlay district regulating future development within the neighborhood. She reviewed the specific elements requested by the Fort Grounds and clarified that several residents/property owners who attended a Planning Commission meeting in August voiced concerns about the proposal and its potential to limit property rights. She also noted that staff believes that most of the components of the

Fort Grounds proposal would be supported by staff including additional tools to clarify compatibility of new development and that the Zoning Code could be improved to provide more guidance for infill development in established neighborhoods, such as Fort Grounds. However, staff expressed concern regarding the 3-D “virtual tent” mechanism proposed, as it would be time consuming to staff and difficult to include on building permits. However, there is an option for a 2-D “virtual tent” that would be easier to manage or some other design standards could be used to result in the same overall effect desired by the homeowners association. She shared that Sandpoint has successfully incorporated many of these design and performance standards into their Zoning Code. Ms. Anderson said that the Fort Grounds could be used as a pilot project for such regulations or that the ordinance could be drafted to apply to all established neighborhoods. She also presented the recommendation from the Economic Development Clinic at the University Of Idaho College Of Law for an updated survey of properties in the Fort Grounds neighborhood.

**DISCUSSION:** Councilmember McEvers expressed concern with all neighborhoods thinking they have special issues and drawing circles around themselves to not allow mcmansions. Additional discussion ensued regarding measurement of natural grade; front set back requirements; storm water management; impervious surface; homeowner association regulations outside of city ordinances; and how such regulations would be implemented.

Commissioner Ingalls asked if the survey would be needed if the ordinance was citywide or could the survey be more global than Fort Grounds. Ms. Anderson explained that the proposed survey was specific to Fort Grounds because the base line survey was completed within the Fort Grounds neighborhood, so it would not be applicable city-wide. Ms. Anderson also clarified that the proposed survey would actually be more of an existing conditions report to compare the current conditions of lots in the Fort Grounds neighborhood to the conditions of the lots as documented in the 1992 survey, which included photos and descriptions of the residences, architectural style, and year of construction. There was also a question from Commissioner Messina about having the neighborhood implement CC&Rs instead of having the additional restrictions in the zoning code. A Fort Grounds representative, Denny Davis, stated that the neighborhood has a very old plat as original homeowner documents, which did not include any CC&R’s. A modern day development would have that type of guiding document, so it would be very difficult to create them now and would require 100% agreement of the property owners. Commissioner Luttrupp expressed support for the Fort Grounds to be used as a pilot project to determine good and bad points before making city-wide regulations. Councilmember Gookin said that he is a member of the Fort Grounds and expressed concern about various developments throughout the City that changed the character of the neighborhood. Councilmember McEvers believes that a new property owner should have the right to develop a parcel under the current laws and would not support a change limiting one’s property rights. Councilmember Gookin noted that the code would allow for the preservation of an established neighborhood.

Commissioner Fleming said that it is not difficult to determine elevation by comparing a proposed structure to the two abutting lots and ensuring that it would not be out of place or shadow the other properties. She noted that there are other special neighborhoods within the City, but agreed that the Fort Grounds could be a pilot project before a code is implemented city-wide. Councilmember English expressed concern regarding the minimum gross floor area of

2,300 square feet, as that would eliminate the ability to construct affordable housing. Commissioner Messina felt that the Fort Grounds was asking the City to solve a neighborhood issue and taking property rights. He felt that it should not go citywide unless a neighborhood requests it. Councilmember Evans asked Deputy City Attorney Adams if he was in agreement with the opinion of Director Stephen Miller of the University of Idaho about conducting an updated survey to ensure that if the requested code amendment only applied to the Fort Grounds neighborhood, that it would not have the potential to implicate constitutional protections or be subject to equal protection challenges. Mr. Adams said that the City would have to regulate on a rational basis and concurs with Miller at this time regarding a survey of the Fort Grounds neighborhood if a code amendment were to apply only to a small area of the City. Otherwise, the code amendment would need to be applied equally throughout the City. Councilmember McEvers supported the implementation of Commissioner Fleming's concept regarding elevation.

**MOTION:** Motion by Gookin, seconded by Edinger to request staff to modify the code to clarify that if a house is destroyed, it can be rebuilt on the existing foundation/footprint.

**DISCUSSION CONTINUED:** Ms. Anderson clarified that if a house were destroyed, it would still need to meet current building code.

**Motion Carried.**

**MOTION:** Motion by McEvers seconded by Gookin to have staff research the implementation of an adjacency code, such as the 2D virtual tenting. **Motion Carried.**

**MOTION:** Motion by Edinger, seconded by English to direct staff to complete a survey of the Fort Grounds as recommended by the University of Idaho and provide feedback to Council thereafter.

**DISCUSSION:** Ms. Anderson clarified that the survey would demonstrate how much has changed within the Fort Grounds since the prior survey, and what the potential impact of the ordinance would be. Councilmember Miller concurred that the Fort Grounds would be a great incubator for potential regulations. Councilmember Edinger said that the Fort Ground neighborhood is a historical area and is important to protect. Mayor Widmyer felt that more information is needed, such as the information that will come forward from the study. He also concurred that the Fort Grounds would be good as a pilot after more information is received.

**Motion carried.**

**ADJOURN:** Motion by Edinger, seconded by Gookin that there being no further business, this meeting is adjourned. **Motion carried.**

The meeting adjourned at 2:33 p.m.

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Steve Widmyer, Mayor

ATTEST:

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Renata McLeod, CMC  
City Clerk

## **PURPOSE AND APPLICABILITY:**

A. The purpose of this ordinance is to preserve and protect the health, safety, and general welfare of persons and property in the City by regulating the location and maintenance of portable toilets, and requiring a permit for their use and placement.

## **DEFINITIONS:**

As used in this chapter, the following terms shall have the meaning defined herein.

A. Offensive Odor. Any odor escaping from the portable toilet structure that can be detected outside of said structure.

B. Owner. The owner of the Portable Toilet; any person or entity renting or leasing said Portable Toilet; and the owner of the property on which the Portable Toilet is located.

C. Portable Toilet. A free-standing, movable toilet structure equipped with a water-tight impervious container which receives waste discharged through of a hopper, seat, urinal or similar device and into which container may be placed disinfecting or deodorizing chemicals, and which is not designed or intended for connection to a sewer systems with a standard connection. For the purposes of this section, portable toilet and chemical toilet shall have the same meaning.

D. Parks/Open Space. Public passive or active recreation areas including but not limited to: parks, hiking trails, natural areas, wildlife areas, arboretums, open grass areas, baseball diamonds, tennis courts, basketball courts, play fields, playgrounds, outdoor swimming pools, fitness courses and driving ranges. For the purposes of this section common areas owned and operated by homeowners associations are also included in this definition.

E. Privy. An outbuilding with one or more seats and a pit serving as a toilet.

F. Seasonal Use. Use that is dependent upon or accompanying the seasons of the year or some particular season, and that is repeated, or intended to be repeated, annually.

G. Temporary Use. Use that lasts, exists, serves, or is effective for a limited time only, not exceeding seven (7) consecutive days, and which is not repeated, or intended to be repeated, subsequently within the calendar year.

## **ALLOWABLE USE:**

A. Portable Toilets may only be used to provide temporary bathroom facilities for special events, seasonal bathroom facilities on public and private parks and open recreational spaces, or as part of construction projects. In no case shall portable toilets be used as permanent sanitary facilities for residential or nonresidential uses, or as secondary sanitary facilities on existing developed lots.

B. With an administrative permit, under the terms and conditions of this chapter, Portable Toilets may be used to provide temporary or seasonal bathroom facilities for commercial use only within zones C-17 and DC. In no event shall Portable Toilets be used in lieu of connection of a site or facility to the City's sanitary sewer system.

C. No person or persons shall construct or maintain any privy in the City.

**PERMIT REQUIRED:**

A. No person, firm, partnership, corporation, shall place or install a Portable Toilet in the City without first obtaining a permit (unless exempted above under ALLOWABLE USE). The following information shall be provided as part of the permit application:

- (1) The name and address of the owner of the property on which the Portable Toilet is to be placed.
- (2) The name and address of the owner of the Portable Toilet.
- (3) The dates during which the Portable Toilet is to be located on the property.
- (4) A site plan identifying the proposed location of the Portable Toilet and any proposed handwashing stations.
- (5) A description of the emptying and maintenance schedule and procedures.
- (6) A rendering showing how the Portable Toilet will be screened from the street and/or any adjacent residential areas as well as a description of materials to be used for screening shall be provided for review by the Planning Department. (Requirements for screening of service areas can be found in the Downtown Design Guidelines and Commercial Design Guidelines.)

B. Screening of Portable Toilets shall be required unless a determination is made by the Community Planning Director that the screening requirement can be waived due to site conditions that may sufficiently block the toilet from view of a street or adjacent residential area.

C. If the Portable Toilet is part of a proposed new use, the project in its entirety (including screening of the Portable Toilet) may be subject to review by the Design Review Commission under Section 17.09, IV. Design Review Procedures, of the Zoning Code.

D. Under the following specific instances, a Portable Toilet placement permit shall not be required:

1. The placement of Portable Toilets by the City on public property for community events lasting up to seven (7) days.
2. The seasonal placement of Portable Toilets by the City at or within Parks/Open Spaces.

3. The placement of Portable Toilets on public or private property in conjunction with public road and utility construction projects, as long as the City approves the location.

4. The placement of Portable Toilets on public or private property in conjunction with private development road and utility projects, or individual building projects, as long as the City approves the location.

5. The placement of Portable Toilets to support emergency services operations during emergencies and natural disasters, and during interruption of sewer service due to emergencies or planned upgrades/repairs.

#### **STANDARDS; LOCATION AND ORIENTATION.**

A. Setbacks, residential and non-residential property. Portable Toilets shall be located at least twenty-five (25) feet from any residential and non-residential property line.

B. Setbacks, lakes and streams. Portable Toilets shall be located at least fifty (50) feet from the ordinary high water elevation of any lake or stream.

C. Orientation.

1. Portable Toilets shall be oriented in such a way that the opening or door faces away from any residential dwelling unit unless screened by a sight-obscuring fence or enclosure at least six (6) feet in height equipped with a door or scree wall which completely blocks the view of the Portable Toilet.

2. Portable Toilets located within Parks/Open Spaces and within fifty (50) feet of a dwelling unit must be screened by a sight-obscuring fence or enclosure at least six (6) feet in height.

D. Location.

1. All Portable Toilets shall be located in such a manner as to allow for the appropriate servicing and to ensure that any vehicle required for said servicing shall not cause damage to property.

2. Portable Toilets shall be located on the site so as to not obstruct existing structures or driveways. Portable Toilets shall be located in such a manner as to not be potentially impacted by site conditions such as slopes, ditches, or prevailing winds. Portable Toilets located in residential zones shall be located to provide the maximum practical screening from roads and adjacent properties as the site allows.

E. All Portable Toilets shall otherwise comply with all applicable Waste Water, Building, Fire, and other City codes and regulations. The Owner is responsible for ensuring compliance with all applicable codes and regulations.

F. All Portable Toilets utilized in conjunction with the preparation, service or consumption of food shall be equipped with, or shall be accompanied by, an approved hand-washing station.

#### **MAINTENANCE.**

A. All Portable Toilets shall be emptied and cleaned no less often than once per week, and more often if necessary, for the purpose of preventing Offensive Odors, and promoting the health and safety of those using the Portable Toilets.

B. All Portable Toilets shall be monitored and serviced by a person, firm or corporation engaged in the business of cleaning or emptying portable toilets and recharged at a sufficient frequency to prevent the escape of offensive odors or spillage. Every individual engaged in the business of cleaning or emptying portable toilets shall use a suitable vehicle property provided in water-tight, completely closed tanks or boxes designed to prevent leakage onto the streets or highways and further designed to prevent the escape of offensive odors in the atmosphere. The Owner shall provide proof of an agreement to monitor and service the Portable Toilet prior to placement.

C. Portable Toilets shall be kept in good working condition without any broken surfaces or leaks. Doors must be in good working condition and must be able to be securely latched while in use.

D. It is the Owner's responsibility to ensure that Portable Toilets are not used in a dangerous or inappropriate manner, especially by children. This may be accomplished by monitoring or securing the Portable Toilets during periods of inactivity, such as night time and weekend hours, or by other effective means as appropriate.

#### **PUBLIC NUISANCE.**

Any Portable Toilet that is placed without the required permit, emits an offensive odor, is leaking, is located in contradiction to the requirements of this chapter, is located in such a manner as to block any public or private right of way, or that in any way causes a hazard to the public health safety and welfare shall be declared a public nuisance. The Building Code Official or his designee shall immediately cause to be removed any Portable Toilet that is deemed a public nuisance, and the Owner of said Portable Toilet shall be responsible for such removal and any cost thereof. The declaration of public nuisance and removal of the Portable Toilet may be in addition to any penalty provided by the City Code or other remedy provided by law.

#### **ENFORCEMENT.**

The Building Code Official or his designee shall have the authority to enforce the provisions of this chapter.

**SEVERABILITY.**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.