

Ordinance No. 10-15

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTION 15-1-18 (C) REGARDING THE OPTION OF APPOINTING A HEARING PANEL TO HEAR CERTAIN APPEALS OF PLANNING COMMISSION DECISIONS

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owner's of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, Chapter 1, General Provisions and Procedures, provides a description of general requirements, provisions and procedures and the City desires to clarify and revise these requirements, provisions and procedures regarding appeals of Planning Commission decisions in all zoning districts, as outlined in the staff report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearing on these amendments on March 24, 2010 and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted public hearings at its regularly scheduled meetings on April 1 and April 15, 2010; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 1- Section 15-1-18 (C). The recitals above are incorporated herein as findings of fact. Chapter 1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

SECTION 2. SEVERABILITY OF ORDINANCE. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such

unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 15th day of April, 2010.

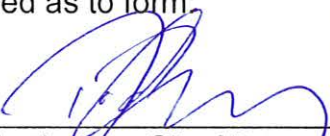
PARK CITY MUNICIPAL CORPORATION


Dana Williams, Mayor

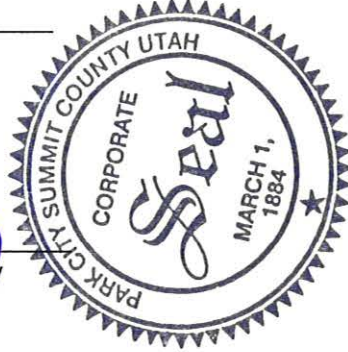
Attest:


Janet M. Scott, City Recorder

Approved as to form:


Mark Harrington, City Attorney

THOMAS A. DALCY, SR



PARK CITY MUNICIPAL CODE
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TITLE 15 - LAND MANAGEMENT CODE

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES

Chapter adopted by Ordinance No. 00-25

CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES.

15-1 -1. SHORT TITLE.

This Title shall be known as the Park City Land Management Code (LMC).

15-1 -2. STATEMENT OF PURPOSE.

The LMC is designed, enacted, restated and reorganized to implement the goals and policies of the Park City General Plan, and for the following purposes:

- (A) To promote the general health, safety and welfare of the present and future inhabitants, Businesses, and visitors of the City,
- (B) To protect and enhance the vitality of the City's resort-based economy, the overall quality of life, the Historic character, and unique mountain town community,
- (C) To protect and preserve peace and good order, comfort, convenience, and aesthetics of the City,

(D) To protect the tax base and to secure economy in governmental expenditures,

(E) To allow Development in a manner that encourages the preservation of scenic vistas, environmentally sensitive lands, Historic Structures, the integrity of Historic Districts, and the unique urban scale of original Park City,

(F) To provide for well-planned commercial and residential centers, safe and efficient traffic and pedestrian circulation, preservation of night skies and efficient delivery of municipal services,

(G) To prevent Development that adds to existing Geologic Hazards, erosion, flooding, degradation of air quality, wildfire danger or other conditions that create potential dangers to life and safety in the community or that detracts from the quality of life in the community,

(H) To protect and ensure access to sunlight for solar energy devices, and

(I) To protect or promote moderate income housing.

It is the intention of the City in adopting this LMC to fully exercise all of the powers granted to the City by the provisions of the

Title 10, Chapter 9a of the Utah Municipal Land Use Development and Management Act. Utah Code Annotated, 1991, as amended, and all other powers granted by statute or by common law for the necessary regulation of the Use and Development of land within the City.

(Amended by Ord. No. 06-22)

15-1 -3. CONFLICT.

The provisions of the LMC are in addition to all other City ordinances, the Laws of the State of Utah, the Laws of the United States, and applicable common law. The LMC shall not supersede any private land Use regulations in deeds or covenants, which are more restrictive than the LMC. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law. The City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations herein.

15-1 -4. DEFINITIONS.

All capitalized proper nouns in the text of the LMC are defined terms. Defined terms are located in LMC Chapter 15-15.

15-1 -5. ZONING MAP ADOPTED.

The zoning map for Park City as adopted by the City Council and executed by the Mayor is the Official Zoning Map for Park City. Upon amendment to the Official Zoning Map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon.

15-1 -6. ZONE DISTRICTS AND ZONE MAP.

In order to carry out the purposes of the LMC, Zoning Districts have been established as set forth in LMC Chapters 15-2 and as identified on the Official Zoning Map. In interpreting the Official Zoning Map, the following standards shall apply:

(A) The zoning boundary lines are intended to conform to existing Property boundary lines when not in a public Right-of-Way, or to follow the center line of public Rights-of-Way, including prescriptive Rights-of-Way, unless the lines are located by specific dimensions, in which case the dimensions shall control.

(B) Where the Zoning District lines appear to have intentionally divided a Lot or Parcel between two (2) or more districts, the applicable zoning for each portion of the Lot or Parcel must be determined by using the scale shown on the map.

(C) There is no minimum Area or diversity of ownership requirement for a zone designation. Neither the size of a Zoning District nor the number of landowners within the district may be used as evidence of the illegality of a Zoning District or of the invalidity of a municipal decision.

(Amended by Ord. No. 06-22)

15-1 -7. AMENDMENTS TO THE LAND MANAGEMENT CODE AND ZONING MAP.

All amendments to the LMC must be made in the following manner:

(A) **APPLICATION.** An Application must be filed first with the Planning Department on a form prescribed for that purpose. The Planning Department, upon its own initiative or at the direction of the City Council, Planning Commission, or Historic Preservation Board may initiate an amendment as provided below.

(B) **HEARINGS BEFORE PLANNING COMMISSION.** The Planning Commission shall hold a public hearing on all amendments to the LMC. Notice of amendment hearings before the Planning Commission shall be given by posting notice in at least three (3) public places within the City and providing at least fourteen (14) days published notice in a newspaper of general circulation within the City. The notice must state generally the nature of the proposed amendment, land affected, and the time, place, and date of the hearing. Once opened, the hearing may be continued, if necessary, without republication of notice until the hearing is closed.

(C) **ACTION BY PLANNING COMMISSION.** Following the hearing, the Planning Commission must adopt formal recommendation(s) to the City Council regarding the matter before it, approving, disapproving, or modifying the proposal. If the Planning Commission fails to take action within thirty (30) days of the public hearing, the City Council may consider the matter forwarded from the Planning Commission with a negative recommendation and may hear the matter.

(D) **HEARING BEFORE CITY COUNCIL.** The City Council must hold a public hearing on all amendments to the LMC. Notice of the hearings shall be given

by providing actual notice or posting notice in at least three (3) public places within the City and providing at least fourteen (14) days published notice in a newspaper of general circulation within the City. Once opened the hearing may be continued, if necessary, without republication of notice until the hearing is closed. Following the hearing, the Council must approve, disapprove, or modify and approve the proposal before it. Recommendations of the Planning Commission are advisory only.

(E) **JOINT HEARINGS.** At the option of the City Council, the hearings before the Planning Commission and the Council may be consolidated into a single hearing, provided however, that separate votes are taken by the Commission and the Council. The Commission vote shall be taken first. Notice for any joint hearing shall be given by posting notice in at least three (3) public places within the City and by providing at least fourteen (14) days published notice in a newspaper of general circulation within the City.

(F) **TEMPORARY OR EMERGENCY ZONING.** The City Council may, without prior consideration of or recommendation from the Planning Commission, enact an Ordinance establishing temporary zoning regulations for any part or all of the Area within the municipality if:

- (1) The City Council makes a finding of compelling, countervailing public interest; or
- (2) The area is unregulated.

Those temporary zoning regulations may prohibit or regulate the erection,

construction, reconstruction, or alteration of any Building or Structure or Subdivision approval. The City Council shall establish a period of limited effect for the ordinance, not to exceed six (6) months.

(Amended by Ord. No. 06-22)

15-1 -8. REVIEW PROCEDURE UNDER THE CODE.

(A) No Building Permit shall be valid for any Building project unless the plans for the proposed Structure have been submitted to and have been approved by the Planning, Engineering and Building Departments.

(B) No new Use shall be valid on any Property within the City unless the Use is allowed.

(C) No Subdivision shall be valid without preliminary approval of the Planning Commission and final approval by the City Council with all conditions of approval completed.

(D) Proposals submitted to the Planning Department must be reviewed according to the type of Application filed. Unless otherwise provided for in this LMC, only one (1) Application per type, per Property, will be accepted and processed at a time.

(E) The Planning, Engineering and Building Departments review all Allowed Uses, Administrative Lot Line Adjustments, Administrative Permits, and Administrative Conditional Use permits.

(F) Projects in the Historic Districts and Historic Sites outside the Historic Districts are subject to design review under the Design Guidelines for Historic Districts and Historic Sites.

(G) Conditional Uses and Master Planned Developments are initially reviewed by staff and submitted to the Planning Commission for review, final permitting and approval.

(H) Subdivisions and Plat Amendments are initially reviewed by the Planning Commission and submitted to the City Council for final approval.

(I) Variances, Special Exceptions, Non-Conforming Uses and Non-Complying Structures are reviewed by the Board of Adjustment.

(J) No review may occur until all applicable fees have been paid. Final approval is not effective until all other fees including engineering fees have been paid, and following applicable staff review.

RECOMMENDATION (y) and FINAL ACTION (X) and APPEAL (z)					
	Planning	HPB	Board of	Planning	City

PARK CITY MUNICIPAL CODE - TITLE 15 LMC, Chapter 1 - General Provisions and Procedures **15-1-5**

	Department		Adjustment	Commission	Council
Allowed	X				
Allowed-Historic	X	z			
Administrative Permits	X			z	
Conditional Use				X	z
Conditional Use Admin.	X			z	
MPD				X	z
Non-Conforming Use			X		
Plat Amendment				y Recommendation to CC	X
Variance/Special Exception			X		
Subdivision				y Recommendation to CC	X
Annexation and Zoning				y Recommendation to CC	X
Zoning Appeal			X		
LMC Amendments				y Recommendation to CC	X

*All Applications are filed with the Planning Department. Planning Department staff makes a recommendation to the appropriate decision making body (X).

(Amended by Ord. Nos. 06-22; 09-10; 09-23)

15-1 -9. ALLOWED USE REVIEW PROCESS.

(A) An Applicant must file a Complete Application, using the forms established by the Planning Department, and include payment of all fees. On any Application to construct a Building or other Improvement

to Property which is defined by this Code as an Allowed Use in the Zone in which the Building is proposed, the Planning Department must review the Application to determine whether the proposal:

- (1) is an Allowed Use within the zone for which it is proposed;

(2) complies with all applicable Development requirements of that zone, including Building Height, Setback, Front, Side, and Rear Yards, and Lot coverage;

(3) respects Lot Lines of a legally subdivided Lot;

(4) meets the applicable parking requirements;

(5) conforms to the Park City Architectural Design Guidelines and/or the Design Guidelines for Historic Districts and Historic Sites, and the architectural review process established for that zone;

(6) can be adequately serviced by roads, and existing or proposed utility systems or lines; and

(7) pertains to land in which all tax assessments have been paid.

(B) If approved by the Planning Department Planning Staff, the plans must be forwarded to the Engineering Department and Building Department. The plans shall be reviewed for Building Code compliance and permit issuance procedures. Approval of Allowed Uses must be noted by the issuance of a Building Permit in compliance with the provisions of the Uniform Building Code, as adopted by Park City.

(C) If the Application does not comply with the requirements of the zone, the Planning Department shall notify the Owner of the project or his Agent, if any, stating specifically what requirements of the zone

have not been satisfied, and also stating whether the project could be reviewed as submitted as a Conditional Use for that zone.

(D) **DISCLAIMER.** No permit issued shall be valid if any of the criteria listed in this section has not been met.

(Amended by Ord. Nos. 06-22; 09-23)

15-1 -10. CONDITIONAL USE REVIEW PROCESS.

There are certain Uses that, because of unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land Uses, may not be Compatible in some Areas or may be Compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

The Planning Department will evaluate all proposed Conditional Uses and may recommend conditions of approval to preserve the character of the zone, and to mitigate potential adverse effects of the Conditional Use.

A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards.

If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with

applicable standards, the Conditional Use may be denied.

The City must review all proposed Conditional Uses according to the following procedure, unless a subsequent provision of this LMC specifically sets forth an administrative approval process for a specific Conditional Use, in which case that section shall control:

(A) **PRE-APPLICATION CONFERENCE.** An Applicant may request a pre-Application conference with the Planning Department to discuss the proposed Conditional Use and the conditions that the staff would recommend to mitigate proposed adverse impacts.

(B) **THE APPLICATION.** An Applicant must file a Complete Application on forms provided by the Planning Department for Conditional Uses.

(C) **NOTICE/POSTING.** Upon receipt of a Complete Application, the Planning Department shall provide published notice once fourteen (14) days prior to the hearing and courtesy mailed notice to Owners of Property within three hundred feet (300') of the proposal. (See Section 15-1 -12. NOTICE.) The Planning Commission shall conduct a public hearing on the proposed Conditional Use permit and shall either approve, deny, or modify and approve the permit.

(D) **STANDARDS FOR REVIEW.** The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:

(1) the Application complies with all requirements of this LMC;

(2) the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;

(3) the Use is consistent with the Park City General Plan, as amended; and

(4) the effects of any differences in Use or scale have been mitigated through careful planning.

(E) **REVIEW.** The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:

(1) size and location of the Site;

(2) traffic considerations including capacity of the existing Streets in the Area;

(3) utility capacity;

(4) emergency vehicle Access;

(5) location and amount of off-Street parking;

(6) internal vehicular and pedestrian circulation system;

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

(9) usable Open Space;

(10) signs and lighting;

(11) physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

(12) noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

(13) control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas;

(14) expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; and

(15) within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

(F) **TRANSFERABILITY.** A Conditional Use permit is transferable with the title to the underlying Property so that an

Applicant may convey or assign an approved project without losing the approval. The Applicant may not transfer the permit off the Site on which the approval was granted.

(G) **EXPIRATION.** Unless otherwise indicated, Conditional Use permits expire one (1) year from the date of Planning Commission approval, unless the Conditionally Allowed Use has commenced on the project. The Planning Commission may grant an extension of a Conditional Use permit for up to one (1) additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted prior to the expiration of the Conditional Use permit, noticed and processed with a public hearing the same as a normal Conditional Use permit.

(H) **APPEALS.** Appeals must be pursuant to Section 15-1 -18 herein.

(Amended by Ord. No. 06-22)

15-1 -11. SPECIAL APPLICATIONS.

(A) **MASTER PLANNED DEVELOPMENT (MPD) REVIEW PROCESS.** Applications for MPDs shall be reviewed according to LMC Chapter 15-6.

(B) **VARIANCES, EXCEPTIONS, AND NON-CONFORMING USES.** The Board of Adjustment must review Applications for Variances, Special Exceptions and Non-Conforming Uses and Non-Complying Structures in accordance

with the regulations set forth in LMC Chapter 15-9. Such approval must be obtained from the Board of Adjustment prior to the issuance of any Conditional Use permit or Master Planned Development, or other approval by the Planning Commission or Planning Department. All action on an Application shall be stayed upon the determination that a Board of Adjustment approval is required.

(C) **PLAT AMENDMENTS/ SUBDIVISION.** Plat Amendments and Subdivisions must be reviewed pursuant to LMC Chapter 15-7. No Building Permit may be issued prior to such an approval.

(D) **ADMINISTRATIVE CONDITIONAL USE PERMITS.** The Planning Director shall review and take Final Action on Administrative Conditional Use permits. Review process shall be consistent with Section 15-1-10(A-H), with the exception that no published notice, as described in 15-1-12(B), shall be required.

(E) **ADMINISTRATIVE PERMITS.** The Planning Department shall review and take Final Action on Administrative Permits. Review process shall be consistent with the requirements herein for those Uses requiring an Administrative Permit, such as temporary tents, Structures, and vendors; temporary Special Event and overcrowding permits; regulated Accessory Apartments; specified outdoor events and Uses; Family Child Care in specified Zoning Districts; and temporary telecommunication Antennas, where these Uses are designated as requiring Administrative Permits. These Uses may require Administrative Conditional Use permits or Conditional Use permits in some Zoning Districts pursuant to Section 15-2.

(Amended by Ord. Nos. 06-22; 09-10)

15-1 -12. NOTICE.

Notice of a public hearing before the City Council, Planning Commission, Board of

Adjustment, and Historic District Commission must be provided in accordance with this section. All notices, unless otherwise specified in this Code or State law, must describe the proposed action affecting the subject Property or modification to the Park City General Plan, and the time, place and date set for public hearing on the matter. Notice shall be given according to Section 15-1-21 Notice Matrix and as follows:

(A) **POSTED NOTICES.** The Planning Department must post notice on the Property affected by the Application and on the City's official website or in at least three (3) public locations within the municipality.

(B) **PUBLISHED NOTICE.** Published notice shall be given by publication in a newspaper having general circulation in Park City.

(C) **COURTESY NOTICE.** As a courtesy to adjacent Property Owners, the Applicant must provide the Planning Department with stamped and pre-addressed envelopes for each Owner of record of each Parcel located entirely or partly within three hundred feet (300') from all Property Lines of the subject Property, together with a mailing list for those Owners. The addresses for adjacent Owners must be as shown on the most recently available Summit County tax assessment rolls. If the subject Property is a Condominium, the Owners Association is sufficient in lieu of the address for each unit Owner. Courtesy notice is not a legal requirement, and any defect in courtesy notice shall not affect or invalidate any hearing or action by the City Council or any Board or Commission.

(D) **APPLICANT NOTICE.** For each land Use Application, the Planning Department must notify the Applicant of the date, time and place of each public hearing and public meeting to consider the Application and of any final action on the pending Application.

(E) **EFFECT OF NOTICE.** Proof that notice was given pursuant to subsections (A) and (B), above is prima facie evidence that notice was properly given. If notice given under authority of this section is not challenged as provided for under State law within thirty (30) days after the date of the hearing or action for which the challenged notice was given, the notice is considered adequate and proper. Notice pursuant to subsections (C) and (F) is courtesy only.

(F) **OWNERS ASSOCIATION REGISTRATION AND NOTIFICATION.**

(1) **REGISTRATION.** Owners associations desiring notice of requests for Building Permits within their boundaries must file written registration annually with the Park City Building Department and pay an annual fee of fifty dollars (\$50.00). The registration must consist of a copy of the Owners association's Utah State Business or corporate registration and the name(s), addresses including post office box numbers, and telephone numbers of at least three (3) authorized representatives of the Owners association and a notarized statement certifying that these individuals are the authorized representatives of said association.

Associations not registered with the City will not be included in the published list of Owners associations and do not receive notice of Building Permit requests prior to their issuance.

Any change(s) in the above information must be forwarded in writing to the Building Department within ten (10) days of the change.

(2) **NOTICE.** Prior to, or at the time of Application for a permit for any Development, the Applicant must file with the City evidence of notification to the appropriate registered Owners association(s). Acceptable evidence of notification shall be the following:

(a) the properly executed notice form, as approved by the City; or

(b) a signed return receipt from a certified letter posted to the registered association representative, with a copy of the notice form approved by the City.

(3) **CITY NOT PARTY TO DISPUTES.** The City is not the arbiter of disputes between an Applicant and an Owners association. Nothing herein shall be interpreted to require Owners association consent prior to City Final Action.

(Amended by Ord. Nos. 02-57; 06-22; 09-10)

15-1-13. COMPLETION OF SITE IMPROVEMENT WORK PRIOR TO THE APPROVAL OF PLATS OR ISSUANCE OF CERTIFICATES OF OCCUPANCY.

(A) **POLICY.**

(1) **GUARANTEE REQUIRED.** In order to protect the City from the financial burdens resulting from damage to or increased maintenance costs for City facilities that may occur as a result of incomplete or inadequate Site or Public Improvements on construction projects, it is the policy of the City to require that Developers either complete all Site or Public Improvements prior to occupancy, or if that is not possible, that adequate financial Guarantees for completion, together with a right of entry to the Property to complete that work be granted to the City. No plat will be approved, where required, and no Certificate of Occupancy granted unless and until an adequate financial Guarantee is posted in accordance with this section. It is also the policy of the City to require Developers to post a financial Guarantee to ensure compliance with a Historic Preservation Plan whenever a Building project affects a Historic Building, Structure, Site or Object, as defined by this Title.

(2) **NO THIRD PARTY BENEFICIARIES INTENDED.** It

is the intention of the City that this financial Guarantee given by the Developer is limited to a contract between the City and the Developer for the express purposes of providing for the protection of City facilities, eliminating conditions which could become public nuisances, and ensuring compliance with a Historic Preservation Plan. It is not intended that this security be available for payment of subcontractors or material suppliers in the nature of a surety bond, or that the security provided become available to the purchasers of Property to correct construction flaws or defects, which are the fault of the Developer.

(B) CONSTRUCTION ACCORDING TO APPROVED PLANS.

All construction shall be completed according to the approved plans on which the Building permits were issued. The approved plans shall also include the Site and Public Improvements shown on the Site plan. Where applicable, the approved plans shall also include a Historic Preservation Plan. For purposes of this Code, the term "Site Improvement" shall include all roads, sidewalks, curbs, gutters, drains, drainage works, Grades, walls, landscaping, planting, paving, paths and trails, and similar improvements as shown on the set of plans on which the final approval and Building permits are based. The term "Public Improvement" is defined in Chapter 15 of this Title. The term "Historic Preservation Plan" means a plan approved by the Planning Director and Chief Building Official, or their designees, that specifies the Historic character of a Historic Building Structure, Site or Object, and the methods

and means a Developer will use to preserve that Historic character during the Building project. Deviations from the approved plans must be approved in advance by the Chief Building Official.

(C) GUARANTEE FOR COMPLETION.

No Certificate of Occupancy will be issued, nor any plat approved when plats are required by this Code, unless the Building and all required Site or Public Improvements are completed, or the Developer has provided adequate security to Guarantee completion of the Site or Public Improvements. When the Site or Public Improvements and the Building cannot be completed simultaneously due to weather conditions or other factors beyond the control of the Developer, excluding financial inability to complete the project, the City may grant plat approval for recording and/or issue Certificates of Occupancy for the project, provided the following conditions are met:

- (1) The Building or Buildings, or portions thereof, on the Property to be platted or occupied have been constructed in accordance with the approved plans for those Buildings, and are in full compliance with applicable Building and fire codes, and are completed to the extent that only exterior Site or Public Improvement work remains unfinished; and
- (2) The Building Official determines that occupancy of the Buildings, or portions thereof, prior to completion of required Site or Public Improvements is safe and that Access for emergency vehicles is

adequate with the Site or Public Improvements unfinished; and

(3) The Developer posts an adequate Guarantee for the benefit of the City to insure completion of the Site or Public Improvements in full compliance with the approved plans within one (1) year from the date of plat approval, if required, or issuance of the Certificate of Occupancy, whichever occurs first.

(D) AMOUNT OF GUARANTEE FOR SITE OR PUBLIC IMPROVEMENTS.

The amount of the Guarantee for Site or Public Improvements to be posted by the Developer, shall be equal to 125% of the amount reasonably estimated by the City Engineer, or his designee, as being necessary to complete remaining Site or Public Improvements as shown on the approved plans. In the event that the Developer disputes the City's cost estimate, the Developer may prove a lower construction cost by providing binding contracts between the Developer and contractor or subcontractor appropriate to perform the required work as a stated, fixed price. These contracts must be supported by a 100% performance bond, insuring performance by the subcontractor or contractor. Bid proposals are not satisfactory for this purpose. If the contracts submitted are acceptable in form, the amount of security required shall be 125% of the total contract price of all such contracts submitted, plus the estimated reasonable cost of performing any work not covered by the contracts. Specifications in such contracts shall be sufficiently clear to identify the work called for under the contract.

(E) **TERMS OF GUARANTEE.** The terms of any Guarantee arrangement offered to the City shall state a date by which the Developer agrees to have Site or Public Improvement work completed in accordance with the plans, and shall further provide that in the event that the Developer has not completed the required Site or Public Improvements work by that date, the City may at its option and on its schedule, draw on the Guarantee by its own act, and shall not be required to obtain consent of Developer to withdraw funds for completion of the work shown on approved plans. The City's actual costs in administering the completion of work in the event of a default by the Developer shall be reimbursed from the Guarantee.

(F) FORM OF GUARANTEE.

Guarantee arrangements offered in lieu of simultaneous completion of Buildings and Site or Public Improvements shall be in an amount fixed under the terms of Section 15-1-13(D), and shall be in one or more of the following forms:

(1) An irrevocable letter of credit issued by a bank authorized to do Business in the State of Utah or an out-of-state bank, provided that a bank authorized to do Business in Utah confirms in writing that it will honor the letter of credit, naming Park City Municipal Corporation as the payee of funds drawn against that letter of credit and Guaranteeing the availability of funds for one (1) year, or

(2) A deposit of cash with a third party Escrow, or

(3) A deposit of cash with the City, or

(4) Some combination of the above as approved by the City or an approved equal.

(G) **RETAINED AMOUNT.** The amount in excess of the actual construction costs, but in no event more than twenty five percent (25%) of the actual construction cost, shall be held for a period of one (1) year following final inspection and approval of the Site or Public Improvement work by the City. The retained amount may be provided in any of the ways described in Section 15-1-13(F). If the Developer fails to provide a new Guarantee sixty (60) days prior to the expiration of the Guarantee instruments provided for the initial construction under Section 15-1-13(F), the City shall make a demand or draw on that Guarantee to the extent of the required retained amount, and hold the proceeds in cash until and unless other adequate Guarantee, as provided in this Code, is posted by the Developer. The retained amount will be used to replace or repair any Site or Public Improvements, which fail or appear to be defective during the one (1) year period. The corrective work may be done by the City or the Developer. At the completion of that work, the retained amount, or so much of it remains, shall be released. Retained amounts may be drawn and applied to any outstanding fees owed by the Developer to the City, provided that such fees are imposed by ordinance and the amount of the fees is not contested by the Developer.

(H) **MODIFICATION OF PLANS.** A Developer may, at its option, request modifications to plans covering Site or Public Improvement work by submitting revised plans to the City for review and action. Until the revised plans have received approval by the City, the Developer shall be required to offer a Guarantee for the performance of the Site or Public Improvement work as shown on the last set of plans to have received City approval. Upon acceptance of revised plans by the Department, the City shall release any cash, credit or other Guarantee held, which is in excess of 125% of the completion cost, estimated, of work shown on the most recently revised plan. If the modification of the plans increases the cost of required Site or Public Improvements, additional Guarantee must be provided by the Developer to cover the increased costs.

(I) **PAYMENT OF INTEREST.** The City shall not be required to pay interest to the Developer on any funds in escrow or on cash held by the City as a Guarantee.

(J) **DETAILED SITE PLANS.** A detailed Site plan shall be presented, showing the location and nature of drainage works, Grade changes, retaining walls, and landscaping, together with any trails, paths, or walkways that may be included or required under other provisions of the Land Management Code.

(K) **SINGLE FAMILY HOMES.** This provision shall apply to all construction in Park City, including single family homes, provided, however, that the amount of Guarantee required for single family homes shall be the reasonably estimated cost to complete construction of any Site or Public

Improvements on a labor and materials basis, and the estimated cost to complete landscaping, to the extent necessary to hold the soil in place, on the basis of materials only.

(L) **PHASED PROJECTS.** Site or Public Improvements applicable to each phase of a phased project or Development shall be completed or Guarantee for completion provided as each phase is constructed and either platted or occupied. Site or Public Improvements on other phases of the project shall be completed or Guarantee offered as those phases are completed.

(Amended by Ord. Nos. 02-07; 06-22; 09-09)

15-1 -14. TERMINATION OF PROJECTS FOR INACTION.

Recognizing the length of the planning review process will vary with the size and complexity of each proposal, Applicants must move their projects either to approval or denial in a reasonably expeditious manner. The City may formally deny Applications, which remain inactive for long periods of time due to acts or omissions of the Applicant. See Section 15-12-15(A)(10).

(A) **TERMINATION OF APPLICATIONS.** When the Planning Director finds an Application to be inactive, the Planning Director may deny the Application and close the files with respect to that project. No Application shall be denied on the basis of Inaction without giving fourteen (14) days written notice to the Applicant. Such notice must state the

intent of the Planning Director to have the project denied because of Inaction and the right to contest said denial to the Planning Commission.

Delays occasioned by the City shall not constitute cause for terminating an Application.

(B) **REINSTATEMENT.** An Applicant may appeal the Planning Director's denial of a project for Inaction to the Planning Commission in the same manner as any other appeal. The Planning Commission may reinstate subject to payment of full or partial submission fees, reinstate subject to specific ordinance changes, or deny reinstatement. If reinstatement is denied, the Application is considered formally denied. If the Applicant desires to proceed with the project, the Applicant must submit a new Application and pay new submission fees, and the new Application shall be subject to all ordinances then in effect.

(Amended by Ord. No. 06-22)

15-1 -15. PENALTIES.

Any Person, firm, partnership, or corporation, and the principals or Agents thereof violating or causing the violation of this LMC shall be guilty of a Class "C" misdemeanor and punished upon conviction by a fine and/or imprisonment described in the current Park City Criminal Code. In addition, the City shall be entitled to bring a civil action to enjoin and/or abate the continuation of the violation.

Private citizens of Park City or Property Owners have the right to file actions to enjoin the continuation of a violation

affecting their interests, provided that the plaintiff in such action gives notice of the action to the City Recorder prior to filing the action.

15-1 -16. LICENSING.

Licenses or permits issued in violation of this LMC are null and void.

15-1 -17. VESTING.

(A) An Applicant is entitled to approval of a land Use Application if the Application conforms to the requirements of an applicable land Use ordinance in effect when a Complete Application is submitted and all fees have been paid, unless:

(1) the land Use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or

(2) in the manner provided by local ordinance and before the Application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the Application as submitted.

(B) The municipality shall process an Application without regard to proceedings initiated to amend the municipality's ordinances if:

(1) 180 days have passed since the proceedings were initiated; and

(2) the proceedings have not resulted in an enactment that prohibits approval of the Application as submitted.

(C) An Application for a land Use approval is considered submitted and complete when the Application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(D) The continuing validity of an approval of a land Use Application is conditioned upon the Applicant proceeding after approval to implement the approval with reasonable diligence.

(B) A municipality is bound by the terms and standards of applicable land Use ordinances and shall comply with mandatory provisions of those ordinances.

(Amended by Ord. No. 06-22)

15-1 -18. APPEALS AND RECONSIDERATION PROCESS.

(A) **STAFF.** Any decision by either the Planning Director or Planning Staff regarding Application of this LMC to a Property may be appealed to the Planning Commission. Appeals of decisions regarding the Design Guidelines for Historic Districts and Historic Sites shall be reviewed by the Historic Preservation Board as described in 15-11-12(E). All appeals must be filed with the Planning Department within ten (10) days of Final Action.

There shall be no additional notice for appeal of the staff determination other than listing the matter on the agenda, unless

notice of the staff review was provided in which case the same notice must be given for the appeal.

(B) **HISTORIC PRESERVATION BOARD (HPB).** Final Actions by the Historic Preservation Board may be appealed to the Board of Adjustment.

(C) **PLANNING COMMISSION.** Final Actions by the Planning Commission on appeals of Staff action may be appealed to the Board of Adjustment. Final Action by the Planning Commission on Conditional Use permits and Master Planned Developments (MPDs) involving City Development may be appealed to the Board of Adjustment at the City Council's request. All other Final Action by the Planning Commission concerning Conditional Use permits and MPDs may be appealed to the City Council. When the City Council determines it necessary to ensure fair due process for all affected parties or to otherwise preserve the appearance of fairness in any appeal, the City Council may appoint an Appeal Panel as appeal authority to hear any appeal or call up that the Council would otherwise have jurisdiction to hear. The Appeal Panel will have the same scope of authority and standard of review as the City Council. Only those decisions in which the Planning Commission has applied a land Use ordinance to a particular Application, Person, or Parcel may be appealed to an appeal authority.

(1) **APPEAL PANEL MEMBERSHIP AND QUALIFICATIONS.** The Appeal Panel shall have three (3) members. The decision to appoint and the appointment of an Appeal Panel

shall be made by the City Council at a duly noticed public meeting after publicly noticed request for qualifications. Qualifications shall include a weighted priority for the following: Park City or area residency, five years or more of prior experience in an adjudicative position, and/or a legal or planning degree. Each member of the Appeal Panel shall have the ability to:

(a) Conduct quasi-judicial administrative hearings in an orderly, impartial and highly professional manner.

(b) Follow complex oral and written arguments and identify key issues of local concern.

(c) Master non-legal concepts required to analyze specific situations, render findings and determinations.

(d) Absent any conflict of interest, render findings and determinations on cases heard, based on neutral consideration of the issues, sound legal reasoning, and good judgment.

(2) **PROCESS.** Any hearing before an Appeal Panel shall be publically noticed, include a public hearing, and meet all requirements of the Utah Open and Public Meetings Act. The Appeal Panel shall have the same authority and follow the same procedures as designated for

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the "City Council" in this section 15-1-18 (G-I). The City Council may decide to appoint an Appeal Panel for a particular matter at any time an application is pending but the appointment of the individual members of the panel shall not occur until an actual appeal or call up is pending.

(D) **STANDING TO APPEAL.** The following has standing to appeal a Final Action:

- (1) Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board or Planning Commission;
- (2) The Owner of any Property within three hundred feet (300') of the boundary of the subject site;
- (3) Any City official, Board or Commission having jurisdiction over the matter; and
- (4) The Owner of the subject Property.

(E) **TIMING.** All appeals must be made within ten (10) calendar days of the Final Action. The reviewing body, with the consultation of the appellant, shall set a date for the appeal. All appeals shall be heard by the reviewing body within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

(F) **FORM OF APPEALS.** Appeals to the Planning Commission, Board of Adjustment, or Historic Preservation Board must be filed with the Planning Department. Appeals to the City Council must be filed with the City Recorder. Appeals must be by letter or petition, and must contain the name, address, and telephone number of the petitioner; his or her relationship to the project or subject Property; and must have a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken. The Appellant shall pay the applicable fee established by resolution when filing the appeal. The Appellant shall present to the appeal authority every theory of relief that it can raise in district court. The Appellant shall provide required envelopes within fourteen (14) days of filing the appeal.

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(G) **BURDEN OF PROOF AND STANDARD OF REVIEW.** The appeal authority shall act in a quasi-judicial manner. The appellant has the burden of proving that the land Use authority erred. Except for appeals to the Board of Adjustment, the appeal authority shall review factual matters de novo and it shall determine the correctness of a decision of the land Use authority in its interpretation and application of the land Use ordinance. Appeals to the Board of Adjustment will review factual matters for correctness and determine the correctness of a decision of the land Use authority in its interpretation and application of the land Use ordinance. The scope of review of the Board of Adjustment is limited to issues brought to the land Use authority below.

(H) **WRITTEN FINDINGS REQUIRED.** The appeal authority shall direct staff to prepare detailed written Findings of Fact, Conclusions of Law and the Order.

(I) **CITY COUNCIL ACTION ON APPEALS.**

- (1) The City Council, with the consultation of the appellant, shall set a date for the appeal.
- (2) The City Recorder shall notify the Owner of the appeal date. The City Recorder shall obtain the findings, conclusions and all other pertinent information from the Planning Department and shall transmit them to the Council.
- (3) The City Council may affirm, reverse, or affirm in part and reverse in part any properly appealed decision of the Planning Commission. The City Council may remand the matter to the appropriate body with directions for specific Areas of review or clarification. City Council review of petitions of appeal shall include a public hearing and be limited to consideration of only those matters raised by the petition(s), unless the Council by motion, enlarges the scope of the appeal to accept information on other matters.
- (4) Staff must prepare written findings within fifteen (15) working days of the City Council vote on the matter.

(J) **CITY COUNCIL CALL-UP.** Within fifteen (15) calendar days of Final Action on any project, the City Council, on its own motion, may call up any Final Action taken by the Planning Commission or Planning Director for review by the Council. Call-ups involving City Development may be heard by the Board of Adjustment at the City Council's request. The call-up shall require the majority vote of the Council. Notice of the call-up shall be given to the Chairman of the Commission and/or Planning Director by the Recorder, together with the date set by the Council for consideration of the merits of the matter. The Recorder shall also provide notice as required by Section 15-1 -12 herein. In calling a matter up, the Council may limit the scope of the call-up hearing to certain issues. The City Council, with the consultation of the Applicant, shall set a date for the call-up. The City Recorder shall notify the Applicant of the call-up date. The City Recorder shall obtain the findings, and all other pertinent information and transmit them to the Council.

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(K) **NOTICE.** Notice of all appeals to City Council or call-ups shall be given by:

- (1) Publishing the matter once at least seven (7) days prior to the hearing in a newspaper having general circulation in Park City; and
- (2) By mailing courtesy notice seven (7) days prior to the hearing to all parties who received mailed courtesy notice for the original action. The City Recorder shall provide noticing for Council call-ups.

(L) **STAY OF APPROVAL PENDING REVIEW OF APPEAL.** Upon the filing of an appeal, any approval granted by the Planning Commission will be suspended until the City Council has acted on the appeal.

(M) **APPEAL FROM THE CITY COUNCIL.** The Applicant or any Person aggrieved by City action on the project may appeal the Final Action by the City Council to a court of competent jurisdiction. The decision of the Council stands, and those affected by the decision may act in reliance on it, unless and until the court enters an interlocutory or final order modifying the decision.

(N) **RECONSIDERATION.** The City Council, and any Board or Commission, may reconsider at any time any legislative decision upon an affirmative vote of a majority of that body. The City Council, and any Board or Commission, may reconsider any quasi-judicial decision upon an affirmative vote of a majority of that body at any time prior to Final Action. Any action taken by the deciding body shall not be reconsidered or rescinded at a special meeting unless the number of members of the deciding body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

(O) No participating member of the appeal panel may entertain an appeal in which he or she acted as the land Use authority.

(Amended by Ord. Nos. 06-22; 09-10; 09-23)

15-1 -19. CONSTITUTIONAL TAKINGS REVIEW AND APPEAL.

In order to promote the protection of private Property rights and to prevent the physical taking or exaction of private Property without just compensation, the City Council and all Commissions and Boards shall adhere to the following before authorizing the seizure or exaction of Property:

(A) **TAKINGS REVIEW PROCEDURE.** Prior to any proposed action to exact or seize Property by the City, the City Attorney shall review the proposed action to determine if a constitutional taking requiring "just compensation" would occur. The City Attorney shall review all such matters pursuant to the guidelines established in subsection (B) below. Upon identifying a possible constitutional taking, the City Attorney shall, in a confidential, protected writing, inform the Council, commission or board of the possible consequences of its action. This opinion shall be advisory only. No liability shall be attributed to the City for failure to follow the recommendation of the City Attorney.

(B) **TAKINGS GUIDELINES.** The City Attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendments to the Constitution of the United States, or under Article I, Section 22 of the Utah Constitution. The City Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The City Attorney shall also determine whether the action

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deprives the private Property Owner of all reasonable Use of the Property. These guidelines are advisory only and shall not expand nor limit the scope of the City's liability for a constitutional taking.

(C) **APPEAL.** Any Owner of private Property who believes that his/her Property is proposed to be "taken" by an otherwise Final Action of the City may appeal the City's decision to the Takings Appeal Board within thirty (30) days after the decision is made. The appeal must be filed in writing with the City Recorder. The Takings Appeal Board shall hear and approve and remand or reject the appeal within fourteen (14) calendar days after the appeal is filed. The Takings Appeal Board, with advice from the City Attorney, shall review the appeal pursuant to the guidelines in subsection (B) herein. The decision of the Takings Appeal Board shall be in writing and a copy given to the appellant and to the City Council, Commission or Board that took the initial action. The Takings Appeal Board's rejection of an Appeal constitutes exhaustion of administrative remedies rendering the matter suitable for appeal to a court of competent jurisdiction.

(D) **TAKINGS APPEAL BOARD.** There is hereby created a three (3) member Takings Appeal Board. The City Manager shall appoint three (3) current members of the Board of Adjustment to serve on the Takings Appeal Board. If, at any time, three (3) members of the Board of Adjustment cannot meet to satisfy the time requirements stated in subsection (C), the City Manager shall appoint a member or sufficient members to fill the vacancies.

15-1 -20. EXACTIONS.

Exaction or exactions may be imposed on Development proposed in a land Use Application if:

- (A) An essential link exists between a legitimate governmental interest and each exaction; and
- (B) Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed Development.

(Created by Ord. No. 06-22)

15-1 -21. NOTICE MATRIX.

(See following pages)

NOTICE MATRIX			
ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Zoning and Rezoning	14 days prior to each hearing before the Planning Commission and City Council	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
LMC Amendments	14 days prior to each hearing before the Planning Commission and City Council.	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
General Plan Amendments	14 days prior to each hearing before the Planning Commission and City Council.	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
Master Planned Developments (MPD)	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Appeals of Planning Director, Historic Preservation Board, or Planning Commission decisions, including City Council Call-Up	7 days prior to the date set for the appeal or call-up hearing.	To all parties who received mailed notice for the original Administrative or Planning Commission hearing 7 days prior to the hearing.	Once 7 days before the date set for the appeal or call-up hearing.

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Conditional Use Permit	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Administrative Conditional Use Permit	The Property shall be posted 10 days prior to Final Action.	10 days prior to Final Action, to adjacent Property Owners.	No published notice required.
Administrative Permit	The Property shall be posted 10 days prior to Final Action.	10 days prior to Final Action, to adjacent affected Property Owners.	No published notice required.
Variance Requests, Non-conforming Use Modifications and Appeals to Board of Adjustment	14 days prior to the hearing before the Board of Adjustment.	14 days prior to the hearing before the Board of Adjustment, to owners within 300 ft.	Once 14 days prior to hearing before the Board of Adjustment.
Certificate of Appropriateness for Demolition (CAD)	45 days on the Property upon refusal of the City to issue a CAD; 14 days prior to the hearing before the Historic Preservation Board.	14 days prior to the hearing before the Historic Preservation Board, to Owners within 300 ft.	Once 14 days prior to the hearing before the Historic Preservation Board.
Designation of Sites to the Historic Sites Inventory	Once 7 days prior to hearing before the Historic Preservation Board.	-----	Once 7 days prior to hearing before the Historic Preservation Board.
Historic District or Historic Site Design Review	First Posting: The Property shall be posted for a 14 day period once a Complete Application has been received. Other posted legal	First Mailing: To Owners within 100 feet once a Complete Application has been received, establishing a 14 day period in which written public comment on the Application may be	See appeals from Planning Director, Historic Preservation Board, Planning Commission, including City Council Call-Up.

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	notice not required.	taken.	Section 15-1-18.
	Second Posting: For a 14 day period once the Planning Department has determined the proposed Development complies or does not comply with the Design Guidelines for Historic Districts and Historic Sites. Other posted legal notice not required.	Second Mailing: To Owners within 100 feet and individuals who provided written comment on the Application during the 14 day public comment period. The second mailing occurs after a 45 day period in which the Planning Department determines the proposed Development complies or does not comply with the Design Guidelines for Historic Districts and Historic Sites, establishing a 10 day period in which the Planning Department's decision may be appealed.	
Annexations	Varies, depending on number of Owners and current State law. Consult with the Legal Department.		
Termination of Project Applications	-----	Mailed Notice: To Owner/Applicant and certified Agent by certified mail 14 days prior to the Planning Director's termination and closure of files.	-----
Lot Line Adjustments: Between 2 Lots without a plat amendment.	-----	To Owners within 300 ft. at time of initial Application for Lot line adjustment. Need consent letters, as described on the Planning Department Application form, from adjacent Owners.	-----
Preliminary and Final Subdivision Plat Applications	14 days prior to the hearing before the	14 days prior to the hearing before the Planning Commission, to Owners	Once 14 days prior to the hearing before the Planning Commission.

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	Planning Commission.	within 300 ft.	
Condominium Applications; Record of Survey Plats	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Record of Survey Amendments	14 days prior to the hearing.	14 days prior to the hearing, to Owners within 300 ft.	Once 14 days prior to the hearing.
Subdivision Plat Amendments	14 days prior to the hearing.	14 days prior to the hearing, to Owners within 300 ft.	Once 14 days prior to the hearing.
Vacating or Changing a Street	-----	14 days prior to the hearing before the City Council, to Owners within 300 ft. and to affected entities.	Once a week for 4 consecutive weeks prior to the hearing before the City Council.
<p>Note: For all Applications, notice will be given to the Applicant of date, time, and place of the public hearing and public meeting to consider the Application and of any Final Action on a pending Application.</p> <p>Appendix A – Official Zoning Map (Refer to the Planning Department)</p>			

(Amended by Ord. Nos. 06-22; 09-10; 09-23)