

**RICHMOND CITY CORPORATION  
ORDINANCE 2024-09**

WHEREAS, the City Council of Richmond has the responsibility for the general welfare of the City; and

WHEREAS, such responsibility includes but is not limited to, establishment of best management practices;  
and

WHEREAS, management practices may evolve over the passage of time:

NOW THEREFORE, the City Council of Richmond City, County of Cache, State of Utah, hereby adopts, passes and publishes the following, an Ordinance adopting a procedure to preserve open spaces within the City from being developed contrary to the City zoning code:

**AN ORDINANCE AMENDING THE RICHMOND CITY MUNICIPAL CODE, TITLE 12-000  
“LAND USE, DEVELOPMENT AND MANAGEMENT (LUDMO)”, CHAPTER 12-500  
“ADMINISTRATION” BY ADDING IN ITS ENTIRETY PART 12-521 “RESTRICTIONS ON  
OPEN SPACE LOTS OR PARCELS / NOTICE OF RESTRICTIONS”**

WHEREAS, some zones and overlays within the Richmond City Zoning Code require a certain amount of Open Space as defined in the Richmond City Land Use, Development, and Management Ordinance, Title 12-000 et seq. (the “City Zoning Code”), as a condition of approval of certain developments within the City in order to control density within those zones in the City;

WHEREAS, the subsequent development of any such Open Spaces would subvert the central public policy purpose of requiring Open Space in certain zones within the City and run contrary to central purposes of the Municipal Land Use, Development, and Management Act, Utah Code 10-9a-102(1) and the City Zoning Code;

WHEREAS, the Richmond City Council (the “Council”) has determined that it is in the best interest of its citizens and the public in general to protect and safeguard existing and future Open Space and prevent their development by adopting an Ordinance that allows for the recording of notices on title to existing and future Open Space and that prohibits the granting of any development applications of any kind for any existing or future Open Space;

WHEREAS, the City Planning Commission has reviewed this Ordinance and recommended its adoption by the Council.

NOW, THEREFORE, BE IT ORDAINED, by the Richmond City Council, Cache County, State of Utah, as follows:

1. The following Part 12-521 is hereby adopted and added to the City Subdivision Code as follows:

**Part 12-521 Restrictions on Open Space Lots or Parcels / Notice of Restrictions**

A. Purpose. The purpose of this Part 12-521 is to ensure that existing and future Open Space required under the Richmond City Land Use, Development, and Management Ordinance, Title 12-000 et seq. (the “City Zoning Code”) remain Open Space and are not developed in contradiction to the public policies behind the requirement of Open Space within the City Zoning Code.

B. Application. This Part 12-521 applies to any Open Space within the City, whether existing at the time of adoption of this Part 12-521 or existing thereafter. As used in this Part 12-521, Open Space shall have the same meaning as it is defined in Richmond City Code 12-300 and 12-1010-7.

C. Prohibition on Development. No applications for subdivision of any kind, building permit, utility connection of any kind, or any other similar development applications may be granted or issued for any Open Space or any portion of it.

1. Notwithstanding the foregoing, a water connection and power connection may be granted to an Open Space for the purpose of allowing the watering of the lawn and other landscaping on the Open Space and for the purpose of getting water and power to a common area pavilion, playground, or other similar common or community improvement so long as the use of the same is compliant with the City Zoning Code.

D. Prohibition on Use. No use may be conducted or maintained on any Open Space except those uses which are expressly authorized by the City Zoning Code specifically for Open Space.

E. Recording of a Notice of Open Space Restrictions. The City Administrator, or any other person designated by the Mayor, may have recorded in the Cache County Recorder's Office a Notice of Zoning Restrictions on title to any Open Space in order to provide notice to the public of the restrictions of this Part and the City Zoning Code. Additionally, any land use authority may require the recording of a Notice of Zoning Restrictions on title to any Open Space as a condition of approval of any land use application involving any Open Space.

F. Form of the Notice of Open Space Restrictions. The Notice of Open Space Restrictions shall be in a form as required for the recording of documents on record title at the Cache County Recorder's Office and shall reference this Part and briefly explain the restrictions on the Open Space as set forth herein. The Notice of Open Space Restrictions shall also indicate how further inquiries may be made at the City regarding the Notice. The Notice of Open Space Restrictions may not be construed as a lien, interest, or encumbrance on an owner's interest to any property but shall be deemed to have provided constructive notice to any person of the restrictions placed upon the Open Space by virtue of this Part or the City Zoning Code.

G. Notice of Recording for Existing Open Space. If a Notice of Open Space Restrictions is recorded against any Open Space existing at the time of adoption of this Part 12-251, then the City shall serve a copy of the same on the record owner of the Open Space as listed in the records of the Cache County Recorder, if one can be determined.

H. Request for Hearing. Within fourteen (14) days of the day on which the Notice of Open Space Restrictions is served on the property owner, the property owner may request a hearing with the City Council to present facts and argument as to why the property is not Open Space or is otherwise not subject to the restrictions of this Part or the City Zoning Code. The property owner shall file the request for a hearing in writing with the City Recorder and pay any filing fees set by the City Council for the same. The written request for a hearing shall set forth the property owner's position as to why the property owner is entitled to relief. The City Recorder shall notify the City Council of the request for a hearing and the request shall be placed on the agenda for the next regularly scheduled meeting of the City Council.

I. Hearing with the City Council. The City Council shall review the Notice of Open Space Restrictions and any information or documents related to the same provided by the City, the written request for a hearing, and any other information that the property owner or any other interested party may present, and make a determination as to whether Notice of Open Spaces Restrictions should be removed from title to the property. The City shall have the burden of proving by a preponderance of the evidence that the property is Open Space, and if the City does so, then the property owner shall have the burden of proving by a preponderance of the evidence as to why the Notice of Open Space Restrictions does not apply to the property or should be removed from title to the property.

J. If the property owner has not requested a hearing with the City Council within the fourteen (14) day period, or if after a hearing on the matter the City Council determines that the Notice of Open Space Restrictions has been correctly recorded against the property, then the Notice of Open Space Requirements shall remain on title to the property and the decision shall be binding on the owner and any subsequent owner of the property. If the City Council determines that the Notice of Open Space Restrictions has not been correctly recorded against the property, the City Council, or other person designated by the Mayor, shall record a release of the Notice of Open Space Restrictions on title to the subject property.

2. To the extent of any conflict between this Ordinance and any other ordinance(s) or regulation(s) of Richmond City, the provisions of this Ordinance shall be controlling.
3. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.
4. This ordinance shall become effective immediately upon publication or posting as set forth by State Law.

THIS ORDINANCE shall be attached as an amendment to the Richmond City Municipal Code above referred to.

ADOPTED AND PASSED by the Richmond City Council on this 21st day of March, 2024.

**RICHMOND CITY CORPORATION**

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Paul J. Erickson, Mayor

**ATTEST:**

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Justin B. Lewis, City Recorder