

Ordinance 2018-24

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, SECTIONS 15-4-12, 15-7.1-3, 15-7.1-6, AND 15-15-1 TO REPLACE THE TERM RECORD OF SURVEY WITH CONDOMINIUM; SECTIONS 15-10-11 AND 15-11-3 TO UPDATE THE BOARD OF ADJUSTMENT AND HISTORIC PRESERVATION BOARD VOTING LANGUAGE; AND SECTION 15-15-1 TO UPDATE THE DEFINITION OF FLOOR AREA

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 owners 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 and identifies necessary amendments to address planning and zoning issues that have come up in the past, and to address specific Land Management Code issues raised by the public, Staff, and the Commission, and to align the Code with the Council's goals and implementation of the General Plan; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, Section 15-4-12 provides an overview of the condominium conversion process; and

WHEREAS, Section 15-7.1-3 provides a classification of subdivisions; and

WHEREAS, Section 15-7.1-6 provides the application procedure and requirements, Planning Commission and City Council review of final subdivision plats; and

WHEREAS, Section 15-10-5 provides a description of the organization of the Park City Board of Adjustment; and

WHEREAS, Section 15-11-3 provides a description of the organization of the Park City Historic Preservation Board; and

WHEREAS, Section 15-12-15 provides a description of the review of the Planning Commission; and

WHEREAS, Section 15-15-1 provides definitions of terms, how words shall be used, interpreted, and defined as set forth in the Land Management Code

WHEREAS, on April 7, 2018, legal notice was published in the Park Record as required by the Land Management Code; and

WHEREAS, the Planning Commission conducted a public hearing at the regularly scheduled meeting on April 25, 2018, and a positive recommendation to the City Council; and

WHEREAS, the City Council conducted a public hearing at its regularly scheduled meeting on May 17, 2018; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, and preserve the community's unique character.

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 15-4 Supplemental Regulations Section 15-4-12, Chapter 15-7.1 Subdivision Procedures Section 15-7.1-3 and 15-7.1-6, Chapter 15-12 Planning Commission Section 15-12-15, and Chapter 15-15 Defined Terms Section 15-15-1. The recitals above are incorporated herein as findings of fact. The applicable Sections of the Land Management Code of Park City are hereby amended as redlined (see Attachment 1).

SECTION 2. AMENDMENTS TO TITLE 15 – Land Management Code Chapter 15-10 Board of Adjustments Section 15-10-11 and Chapter 15-11 Historic Preservation Section 15-11-3. The recitals above are incorporated herein as findings of fact. The applicable Sections of the Land Management Code of Park City are hereby amended as redlined (see Attachment 2).

SECTION 3. AMENDMENTS TO TITLE 15 – Land Management Code Chapter 15-15 Defined Terms Section 15-15-1. The recitals above are incorporated herein as findings of fact. The applicable Sections of the Land Management Code of Park City are hereby amended as redlined. (see Attachment 3).

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 31st day of May, 2018

PARK CITY MUNICIPAL CORPORATION



Attest:

Michelle Kellogg
Michelle Kellogg, City Recorder

Andy Beerman
Andy Beerman, Mayor

Approved as to form:

Mark Harrington
Mark Harrington, City Attorney

Attachment 1 – Condominium Amendments

Condo Amendment #1:

15-4-12 Condominium Conversion

Existing Structures shall not be converted to Condominium ownership without first receiving the review and recommendation of the Planning, Engineering and Building Departments, City Attorney, and ~~Condominium-record-of-survey~~ plat approval from the City. Required Public Improvements and landscaping shall be completed at the time of conversion or security provided to ensure completion as provided by ordinance. The Structure must be brought into substantial compliance with the Building code as a condition precedent to plat approval.

Condo Amendment #2:

15-7.1-3 Classification Of Subdivision

- A. **SUBDIVISION**. At its discretion, the Planning Commission may waive one or more of the steps in the approval process by allowing the Applicant and/or Developer to combine the requirements of the Preliminary Plat and final Subdivision Plat into a single submittal.
1. **MINOR SUBDIVISION**. A Subdivision containing not more than three (3) Lots fronting on an existing Street, not involving any new Street or road, or the extension of municipal facilities, or the creation of public improvements.
 - a. Final Plat. A Final Plat shall be approved in accordance with these regulations.
 2. **MAJOR SUBDIVISION**. A Subdivision of land into four (4) or more Lots, or any size Subdivision requiring any new Street.
 - a. Preliminary Plat. A Preliminary Plat may be approved in accordance with these regulations.
 - b. Final Plat. A Final Plat shall be approved in accordance with these regulations.
- B. **PLAT AMENDMENT**. The combining of existing subdivided Lots into one or more Lots or the amendment of plat notes or other platted elements including but not limited to easements, limits of disturbance boundaries or areas, building pads, and house size limitations. Plat Amendments shall be reviewed according to the requirements of Section 15-7.1-6 Final Subdivision Plat and approval shall require a finding of Good Cause and a finding that no Public Street, Right-of-Way, or easement has been vacated or amended.
 1. **FINAL PLAT**. A Final Plat shall be approved in accordance with these regulations.
- C. **CONDOMINIUM PLATRECORD OF SURVEY**.
1. **FINAL PLAT**. A Final Plat shall be approved in accordance with these regulations.

- D. **LOT LINE ADJUSTMENT**. The relocation of the Property boundary line between two adjoining Lots.
1. **FINAL PLAT**. A Final Plat shall be approved in accordance with these regulations.

Condo Amendment #3:

15-7.1-6 Final Subdivision Plat

- A. **APPLICATION PROCEDURE AND REQUIREMENTS**. Following approval of the Preliminary Plat, if necessary, the Applicant, if he wishes to proceed with the Subdivision, shall file with the Planning Department an Application for approval of a final Subdivision Plat. The Application shall:
1. Be made on forms available at the Planning Department and determined complete. A complete Application shall include all elements of the Subdivision and shall produce all information required by the Subdivision Application.
 2. Include all contiguous holdings of the Owner, unless specifically waived by the Planning Department and Planning Commission, including land in the "same ownership," as defined herein, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present Owner as recorded in the County Recorder's office. The affidavit shall advise as to the legal Owner of the Property, the contract Owner of the Property, the date a contract of sale was executed, and, if any corporations are involved, a copy of the resolution legally empowering the Applicant to make the Application.
 3. Include the entire Subdivision, or section thereof, which derives access from an existing state, county or local government highway.
- B. **REVIEW OF FINAL SUBDIVISION PLAT**. The Planning Department staff shall schedule the Final Plat Application for review by the Development Review Committee, including officials or agencies of the local government, adjoining counties or municipalities, school and special districts, and other official bodies as it deems necessary or as mandated by law, including any review required by metropolitan, regional, or state bodies under applicable state or federal law.

The Planning Department shall request that all officials and agencies, to whom a request for review has been made, submit their report to the Staff. The Staff will consider all the reports submitted by the officials and agencies concerning the Final Subdivision Plat and shall submit a report for proposed action to the Planning Commission.

Once an Application is received, the Staff will work diligently to review the Application, as quickly as time and workload allows. The scale or complexity of a project or Staff workload may necessitate a longer processing period. In such

cases the Staff will notify the Applicant when an Application is filed as to the projected time frame.

- C. **PLANNING COMMISSION AND CITY COUNCIL REVIEW OF FINAL SUBDIVISION PLAT.** The Planning Commission shall review the Final Subdivision Plat and the report of the Staff, taking into consideration requirements of the Land Management Code, the General Plan, and any Master Plan, site plan, or Sensitive Lands Analysis approved or pending on the Property. Particular attention will be given to the arrangement, location and width of Streets and their relation to sewerage disposal, drainage, erosion, topography and natural features of the Property, location of Physical Mine Hazards and Geologic Hazards, Lot sizes and arrangement, the further Development of adjoining lands as yet un-subdivided, requirements of the Preliminary Plat (if a Preliminary Plat was required), and requirements of the Official Zoning Map and Streets Master Plan, as adopted by the Planning Commission and City Council.

The Planning Commission shall make a finding as to Good Cause prior to making a positive recommendation to City Council.

1. The Planning Commission shall give notice pursuant to Section 15-1-12 of this Code and hold a public hearing on the proposed final Subdivision Plat before making its final recommendation to the City Council.
2. After considering the final Subdivision Plat and proposed ordinance, the Planning Commission shall recommend to the City Council approval or disapproval of the Subdivision Application and set forth in detail any conditions to which the approval is subject, or the reasons for disapproval.
3. The City Council may adopt or reject the ordinance either as proposed by the Planning Commission or by making any revision it considers appropriate.
4. In the final ordinance the City Council shall stipulate the period of time when the Final Plat shall be recorded and when the performance Guarantee shall be filed or the required improvements installed, whichever is applicable. Provided, however, that no plats will be approved or released for recording until necessary Guarantees have been established in accordance with the Land Management Code. In no event shall the period of time stipulated by the City Council for completion of required improvements exceed two (2) years from the date of the final ordinance.
5. Extension of Approval. Applicants may request time extensions of the City Council approval by submitting a request in writing to the Planning Department prior to expiration of the approval. The City Council may grant an extension to the expiration date when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change in circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the requirements for a Final Plat in Section 15-1-12.

- D. **SUBMISSION AND REVIEW**. Subsequent to the resolution of the Planning Commission, one
1. paper copy of the construction plans, and one copy of the original Subdivision Plat on paper shall be submitted to the Planning Department for final review. No final approval shall be endorsed on the plat until the staff's review has indicated that all requirements of the ordinance have been met.
- E. **VESTED RIGHTS**. Vesting for purposes of zoning occurs upon the filing of a complete Application provided, however, that no vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the Chairman of the Planning Commission and the Mayor of Park City. All requirements, conditions, or regulations adopted by the Planning Commission and City Council applicable to the Subdivision or to all Subdivisions generally shall be deemed a condition for any Subdivision prior to the time of the signing of the Final Plat by the Chairman of the Planning Commission and Mayor. Where the Planning Commission or Council has required the installation of improvements prior to signing of the Final Plat, the Planning Commission or Council shall not unreasonably modify the conditions set forth in the final approval.
- F. **LOT LINE ADJUSTMENTS**. The Planning Director may approve a Lot Line Adjustment between two (2) Lots without a plat amendment, within the corporate limits of Park City, if:
1. the Owners of both Lots demonstrate, to the satisfaction of the Planning Director that:
 - a. no new developable Lot or unit results from the Lot Line Adjustment;
 - b. all Owners of Property contiguous to the adjusted Lot(s) or to Lots owned by the Applicant(s) which are contiguous to the adjusted Lot(s), including those separated by a public Right-of-Way, consent to the Lot Line Adjustment;
 - c. the Lot Line Adjustment does not result in remnant land;
 - d. the Lot Line Adjustment, and resulting Lots comply with LMC Section 15-7.3 and are compatible with existing lot sizes in the immediate neighborhood;
 - e. the Lot Line Adjustment does not result in violation of applicable zoning requirements;
 - f. neither of the original Lots were previously adjusted under this section;
 - g. written notice was mailed to all Owners of Property within three hundred feet (300') and neither any Person nor the public will be materially harmed by the adjustment; and
 - h. the City Engineer and Planning Director authorizes the execution and recording of an appropriate deed and Plat, to reflect that the City has approved the Lot Line Adjustment.
 - i. Extension of Approval. Applicants may request time extensions of the Lot Line Adjustment approval by submitting a request in writing

to the Planning Department prior to expiration of the approval. The Planning Director shall review all requests for time extensions of Lot Line Adjustments and may grant a one year extension.

Extension requests may be granted when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change in circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the requirements for Lot Line Adjustments in Section 15-1-12.

2. If, based upon non-compliance with Subsection (1), the Planning Director denies the Lot Line Adjustment, the Director shall inform the Applicant(s) in writing of the reasons for denial, of the right to appeal the decision to the Planning Commission, and of the right to file a formal plat amendment Application.

G. COMBINATION OF ADJOINING CONDOMINIUM UNITS WITH A CONDOMINIUM RECORD OF SURVEY PLAT.

1. Subject to the condominium declaration, a unit owner after acquiring an adjoining unit that shares a common wall with the unit owner's unit and after recording an amended condominium ~~record of survey~~ plat in accordance with this Title, a unit owner may:
 - a. remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or
 - b. create an aperture to the adjoining unit or portion of a unit.
2. A unit owner may not take this action if such action would:
 - a. impair the structural integrity or mechanical systems of the building or either unit;
 - b. reduce the support of any portion of the common areas and facilities or another unit;
 - c. constitute a violation of Utah Code Section 10-9a-608, as amended, or violate any section of this code of the IBC.
3. Approval of a condominium plat amendment to combine units does not change an assessment or voting right attributable to the unit owner's unit or the acquired unit, unless the declaration provides otherwise.

Condo Amendment #4:

15-12-15 Review By Planning Commission

- A. General planning and review of specific Development projects by the Planning Commission shall be divided into the following functions:
 1. City General Plan and General Plan amendments review and recommendation to City Council;
 2. Annexation and zoning review with recommendation to City Council;

3. Land Management Code and re-zoning review with recommendation to City Council;
 4. Subdivision approval with recommendation to City Council;
 5. Large scale Master Planned Development approval;
 6. Conditional Use permit ratification of findings of fact, conclusions of law and conditions of approval, if applicable;
 7. Consent agenda items;
 8. Review of appeals of Planning Directors interpretation of the Land Management Code and decisions;
 9. Subdivision and ~~Condominium-record-of-survey~~ plat and plat amendment review with recommendation to City Council;
 10. Sensitive Lands review; and
 11. Extension of Conditional Use permit and Master Planned Development approvals.
- B. The scope of review for each of these functions is as follows:
1. **CITY GENERAL PLAN REVIEW.** The Planning Commission shall have the primary responsibility to initiate and update the City General Plan, including planning for adequate Streets and utilities, parks, trails, recreation facilities, housing, and open space. The Commission shall consider long-range zoning and land use objectives, protection of Sensitive Lands, and shall conduct periodic review of existing plans to keep them current.
 2. **ANNEXATION REVIEW.** The Commission shall review all annexation requests according to the Utah State Code regarding annexations, including Section 10-2-401.5, regarding adoption of an annexation policy plan, and shall make a recommendation to City Council for action. The Commission shall recommend zoning on land to be annexed.
 3. **LAND MANAGEMENT CODE AND REZONING REVIEW.** The Commission shall initiate or recommend zone changes and review the Land Management Code Development standards within zones. The Commission shall hear all requests for zone changes and forward a recommendation to City Council for action. The Commission shall have the primary responsibility to review amendments to the Land Management Code and shall forward a recommendation to the City Council.
 4. **SUBDIVISION APPROVAL.** The Planning Commission shall review all applications for Subdivisions under the provisions of the Park City Subdivision Control Ordinance in Section 15, Chapter 7.
 5. **LARGE SCALE MASTER PLANNED DEVELOPMENT APPROVAL.** All proposals for large scale Master Planned Development approval shall be reviewed by the Planning Commission. In reviewing requests for large scale Master Planned Development approval, the Commission shall consider the purpose statements and MPD requirements as stated in Section 15-6-1 and Section 15-6-5. All Master Planned Developments shall be processed by the Planning Department and the Planning Commission as outlined in Section 15-6-4.

6. **RATIFICATION OF CONDITIONAL USE PERMITS.** The Planning Commission has the authority to review and ratify or overturn all actions of the Planning Department regarding Conditional Use permits. In reviewing requests for Conditional Use permits, the Commission shall consider the Conditional Use process and review criteria as stated in Section 15-1-10. In approving or denying a Conditional Use permit the Commission shall ratify and include in the minutes of record the findings of fact, conclusions of law, and conditions of approval, if applicable, upon which the decision to approve or deny was based.
7. **CONSENT AGENDA ITEMS.** The following items may be placed on the consent agenda, if the Application is uncontested, or if a public hearing has already been conducted and has been closed by formal action of the Planning Commission:
 - a. Conditional Use permits, including Steep Slope Conditional Use permits;
 - b. Plat and plat amendment approvals;
 - c. Requests for time extensions of Conditional Use permit, Master Planned Development, and plat approvals.
 - d. Other items of a perfunctory nature, which the Chair directs the Department to place on the consent agenda for action.

All items on the consent agenda shall be passed or denied by a single motion at the Commission meeting, unless a motion to remove a specific item is made. If a member of the public or a member of the Planning Commission requests a public hearing on a consent agenda item, then the item shall be removed from the consent agenda. When an item is removed from the consent agenda, it shall be acted on at the same meeting at which the removal occurs, unless the Applicant requests the item be continued in order to prepare additional information to respond to the Commission's concerns.

8. **REVIEW OF APPEALS OF THE PLANNING STAFF'S INTERPRETATION OF THE LAND MANAGEMENT CODE.** The Owner, Applicant, or any non-Owner with standing as defined in Section 15-1-18(D) of this Code may request that Planning Staff Final Action on a project be reviewed by the Planning Commission. The standard of review by the Planning Commission shall be the same as the scope of review at the Staff level. Appeal process shall be in accordance with Section 15-1-18. Appeals shall be heard by the Planning Commission within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.
9. **SUBDIVISION AND ~~CONDOMINIUM RECORD OF SURVEY~~ PLAT AND PLAT AMENDMENT REVIEW.** The Commission shall review all plats affecting land within the City limits or annexations to the City, according to Section 15-7. The scope of review on plat approval is limited to finding substantial compliance with the provisions of the state statute on recording of plats, and that all previously imposed conditions of approval, whether imposed by the Staff or the Commission have been satisfied.

Upon finding that the plat is in compliance with the state statute, and that conditions of approval have been satisfied, the plat must be approved. The City Engineer, City Attorney, City Recorder, City Council, and Mayor shall all review the plat as required by statute before recording. Plats may be approved on the consent agenda.

10. **SENSITIVE LANDS REVIEW.** Any project falling within the Sensitive Lands Area Overlay Zone is subject to additional requirements and regulations as outlined in the Sensitive Area Overlay Zone Regulations, Section 15-2.21.
11. **EXTENSION OF CUP AND MPD APPROVAL.** See extension of Conditional Use Permit, Section 15-1-10(G) and MPD Section 15-6-4(H), Length of Approval.

Condo Amendment #5:

15-15-1 Definitions

[...]

APPLICATION. A written request, completed in a manner prescribed in this Code, for review, approval, or issuance of a Development permit, including but not limited to Conditional Use permits, Building Permits, variances, annexation and re-zoning requests, Subdivision and ~~Condominium record-of-survey~~ plats, plat amendments, Code amendments, design review, and Administrative Permits.

1. **Application, Complete.** A submission that includes all information requested on the appropriate form, and payment of all applicable fees.

[...]

Attachment 2 – BOA and HPB Chair Vote Amendment

BOA Amendment:

15-10-11 Vote Necessary

All actions of the BOA shall be represented by a vote of the membership. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, or determination of any such administrative official, board, or commission, or to decide in favor of the Applicant.

HPB Amendment:

15-11-3 Organization

- A. **CHAIR**. The HPB shall elect one of its members to serve as Chair for a term of one (1) year at its first meeting following the expiration of terms and appointment of new members. The Chair may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. If the Chair is absent from any meeting where a quorum would otherwise exist, the members may appoint a Chair Pro Tem to act as Chair solely for that meeting.
- B. **QUORUM**. No Business shall be conducted without a quorum at the meeting. A quorum shall exist when the meeting is attended by four (4) of the appointed members, including the Chair or Chair Pro Tem.
- C. **VOTING**. All actions of the HPB shall be represented by a vote of the membership, including the HPB Chair. A simple majority of the members present at the meeting in which action is taken shall approve any action taken. ~~The Chair may vote at the meetings.~~

Attachment 3 – Floor Area Amendment

15-15-1 Definitions

For the purpose of the LMC, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth herein. Defined terms will appear as proper nouns throughout this Title. Words not defined herein shall have a meaning consistent with Webster's New Collegiate Dictionary, latest edition.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations"; "used" or "occupied" as applied to any land or Building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

[...]

BASEMENT AREA BELOW FINAL GRADE.

The Area located under a ceiling that is below Final Grade.

[...]

FLOOR AREA.

1. **Floor Area, Gross Residential.** The Area of a Building, including all enclosed Areas, **consisting of the Area of all floors located under a ceiling that is above Final Grade, measured in square feet.** Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.
2. **Floor Area, Gross Commercial.** The Area of a Building including all enclosed Areas excluding parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.
3. **Floor Area, Net Leasable.** Gross Floor Area excluding common hallways, mechanical and storage Areas, parking, and restrooms.

¹400 sq. ft. in Historic Districts

[...]