

ORDINANCE NO. 2014- 5

**AN ORDINANCE AMENDING SECTIONS 6-1-E-16-a, 6-1-E-17-a, AND 6-1-E-20-a,  
LARGE SCALE DEVELOPMENTS: GENERAL PROVISIONS, OF THE UTAH  
COUNTY LAND USE ORDINANCE**

**WHEREAS**, the Utah County Planning Commission initiated a review of the Utah County Land Use Ordinance (UCLUO), dealing with amending Sections 6-1-E-16-a, 6-1-E-17-a, and 6-1-E-20-a, related to the period of viability of approved large scale development plats; and

**WHEREAS**, the Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during the regularly scheduled meeting of the Planning Commission, scheduled and held a public hearing regarding the proposed amendment, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, and the minutes from the Utah County Planning Commission meeting and public hearing regarding the proposed amendment to the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed amendment to the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners finds the proposed amendment to the Utah County Land Use Ordinance conforms to the Utah County General Plan, 2006, and is consistent with the other provisions of the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners finds that the proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors.

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

**Part I:**

Section 6-1-E-16-a, "Limited Period of Viability", of the Utah County Land Use Ordinance, is hereby amended, to read as follows:

16. Limited Period Of Viability
  - a. The approval of the development by the County Commission shall be



valid for a period of one year from the date of the County Commission's approval. The plat must be recorded within such one-year period. If the plat is not recorded within such one year period, the approval of the County Commission, the recommendation of the Planning Commission, and the developer's application, automatically expire and become null and void.

EXCEPTION ONE:

In the event than any person or entity files an appeal or legal action challenging the County Commission's approval of the development, the one-year period during which the plat may be recorded and during which the approval remains viable shall not commence on the date of the County Commission's approval, but shall commence on the date that the appeal or legal action is finally resolved. This Exception One shall apply to any development approved by the County Commission on or after January 1, 2014.

EXCEPTION TWO:

The County Commission, may, for good cause shown, extend the one-year period during which the plat may be recorded and during which the approval remains viable. Any such extension of time must be approved by the County Commission prior to the expiration of the one-year period. This Exception Two shall apply to any development approved by the County Commission on or after January 1, 2014.

EXCEPTION THREE:

In planned unit developments only, the developer may request approval of a phased planned unit development by complying with all of the following requirements:

- i. The developer shall request approval of a phased planned unit development in the initial application filed with the Community Development Department.
- ii. In the request for approval of a phased planned unit development, the developer shall describe, as to each proposed phase, the size in area of each phase (which size of the initial phase shall not be less than twenty acres and each phase after the initial phase shall not be less than ten acres), the number and type of dwelling units in each phase, the order of phasing, the projected time for recording the plat for each phase, a description and estimated cost for all required improvements for each phase, a detailed description of how the initial phase independently meets all of the requirements for a planned unit development, and how each subsequent phase, together with the previously recorded phases, will meet all of the requirements for a planned unit development.
- iii. For phased planned unit developments, the approval of the County

- Commission for the initial phase plat and for all other phase plats shall automatically expire and become null and void if the initial plat is not recorded within eighteen months from the date of the County Commission approval. After the eighteen month period, the approval of the County Commission, the recommendation of the Planning Commission, and the developer's application, for the phased planned unit development (including the initial phase plat and all other phase plats), automatically expire and become null and void.
- iv. For all phase plats subsequent to the initial phase plat, the approval of the County Commission for all unrecorded phase plats shall automatically expire and become null and void eighteen months from the date of the recording of the most recently approved phase plat, unless the next phase plat is approved and recorded prior to the end of said eighteen month period. After the eighteen month period, the approval of the County Commission, the recommendation of the Planning Commission, and the developer's application, as to all unrecorded phase plats, automatically expire and become null and void.
  - v. Each phase must be submitted, reviewed, approved, and recorded in the order of phasing established in the initial approval process. No phase plat can be recorded unless the preceding phase plat has been recorded.
  - vi. The initial bond amount shall be set for only the plat for the first phase to be recorded. The bond amount for each subsequent phase shall be determined prior to the recording of the plat for each such phase.
  - vii. No plat shall be approved or recorded for the initial phase unless the initial plat meets all of the requirements of this land use ordinance for a planned unit development, except the minimum size for the initial plat may be reduced to not less than twenty acres.
  - viii. No plat shall be approved or recorded for any subsequent phase unless the subsequent phase plat, together with the previously recorded phase plats, meets all of the requirements of this land use ordinance for a planned unit development, except the minimum size for any subsequent phase plat may be reduced to not less than ten acres.
  - ix. No plat shall be approved or recorded for any subsequent phase unless all requirements, conditions of approval, and agreements related to any previously recorded phase plat have been met, and the developer is not in violation of any provision of this land use ordinance.
  - x. The application process described in this land use ordinance for planned unit developments, including the payment of all related fees,

- shall apply to all submitted plats.
- xi. When the developer desires to record a plat for the subsequent phase, in compliance with the approved order of phasing, the developer shall pay the applicable fee, shall meet with the Zoning Administrator and shall submit the following:
- (A.) A title report with an effective date not earlier than thirty (30) days prior to the submittal date, verifying that the owners who will execute the owner's dedication on the plat have sufficient control to effectuate the dedication without exceptions or limitations. The title report shall be a full report (title policy commitment quality and form), including a judgment search of all owners. All owners as shown on the title report shall sign the plat. If the property is owned in trust, a copy of the trust document shall be provided for review. The legal description of the property in the title report shall match exactly the legal description as contained on the plat. The plat description shall include all areas dedicated to the public, including streets. If the streets are not being dedicated to the public, the developer shall establish that the streets have previously been deeded to the County. All boundary disputes and boundary exceptions shall be resolved and deleted from the title report before it is submitted to the County (the only exceptions are the standard printed exceptions). All easements and other title restrictions shall be located on the plat and identified on the plat, including the recording information. All blanket easements shall be identified on the plat, by note, including the recording information. Partial deeds of re-conveyance shall be provided, reviewed, approved and recorded, to release all liens, including all trust deeds and mortgages, from the portion of property being dedicated for streets, easements, common areas, and public areas. If the plat is approved, the applicant shall provide an update letter from the title company, amending the prior title report effective date to the date of the recording of the plat.
  - (B.) A dated, signed and stamped itemized estimate from an engineer licensed by the State of Utah, verified by the County Engineer, stating the cost of installing all required improvements related to the phase plat.
  - (C.) A tax clearance from the County Treasurer indicating that all taxes, interest, and penalties owing on parcels within the proposed phase plat perimeter boundary have been paid, including greenbelt rollback taxes.
- xii. If the Zoning Administrator finds that the approval of the proposed

phase plat has not expired, that any title, bond and tax issues have been resolved, that all requirements, conditions of approval, and agreements related to any previously recorded phase plat have been met, that the developer is not in violation of any provision of this land use ordinance, and that the proposed phase plat meets all of the requirements of this section for a phased planned unit development, the Zoning Administrator shall transmit the materials and the proposed plat for the phase to the County Commission for review and consideration. The County Commission shall approve the phase plat if the County Commission finds that the approval of the proposed phase plat has not expired, that any title, bond and tax issues have been resolved, that all requirements, conditions of approval, and agreements related to any previously recorded phase plat have been met, that the developer is not in violation of any provision of this land use ordinance, and that the proposed phase plat meets all of the requirements of this section for a phased planned unit development, unless the County Commission, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the proposed phase plat.

- b. After approval by the County Commission, the Zoning Administrator shall keep the signed plat and documents to be recorded until the time the applicant records them, to insure compliance with this section.

## **Part II:**

Section 6-1-E-17-a, "Construction of Required Improvements", of the Utah County Land Use Ordinance, is hereby amended, to read as follows:

### 17. Construction of Required Improvements

- a. After receiving final approval from the County Commission, the developer shall execute a subdivision improvement and warranty agreement, in the form approved by the County, and
  - i. prior to recording the plat and prior to any development activity, the developer shall, within a period of time not to exceed one year from the date of the approval of the development by the County Commission, or within such extended period of time during which the approval of the development remains viable as provided in Subsection 6-1-E-16 of this land use ordinance, construct and complete all required improvements and post a cash warranty bond with the County; or
  - ii. upon request by the developer, the developer may post a cash construction bond with the County before recording the plat, in an amount equal to 125% of the estimated cost of the required improvements, as determined by the

County Engineer, to guarantee the installation of the required improvements without cost to Utah County, and a cash warranty bond. The final plat shall not be recorded until the developer has executed a subdivision improvement and warranty agreement, in the form approved by the County, and the improvements are either constructed or the construction bond and the warranty bond are delivered to and approved by the County. The construction bond, however, shall not limit the liability of the developer to install improvements, for the developer shall be obligated to the full extent of the cost of installing the improvements required by this ordinance. Private parties shall not be deemed third-party beneficiaries of the construction bond or of the warranty bond.

- b. All required improvements shall be constructed in accordance with approved plans and Utah County development standards and inspected by the County Engineer. The developer shall pay an inspection fee to the County in the amount set by the County.

### **Part III:**

Section 6-1-E-20-a, "Timing of Construction", of the Utah County Land Use Ordinance, is hereby amended, to read as follows:

#### 20. Timing of Construction

- a. All required improvements shall be constructed and completed by the developer within one (1) year from the date of the approval of the development by the County Commission, or within such extended period of time during which the plat may be recorded and during which the approval of the development remains viable as provided in Subsection 6-1-E-16 of this land use ordinance. However, the County Commission may require the developer to install what it determines to be critical improvements on all or part of an approved large scale development within a time period which is less than the maximum time period specified.

### **Part IV:**

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

### **Part V:**

If any of the sections, sentences, clauses or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

**Part VI:**

This ordinance shall become effective fifteen (15) days after it is passed and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 1st day of July 2014.

**UTAH COUNTY COMMISSION**

**VOTE**

\_\_\_\_\_  
GARY J. ANDERSON, CHAIR

aye

\_\_\_\_\_  
DOUG WITNEY, COMMISSIONER

aye

\_\_\_\_\_  
LARRY A. ELLERTSON, COMMISSIONER

aye

**ATTEST:**

**BRYAN E. THOMPSON**

County Clerk/Auditor

By: Renee H. Curran  
Deputy



**APPROVED AS TO FORM:**

**JEFFREY R. BUHMAN**

County Attorney

Approved

Disapproved

By: Paul Stewart  
Deputy

Date of Publication: Once only, as soon as possible

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PROOF OF PUBLICATION

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CUSTOMER NAME AND ADDRESS	ACCOUNT NUMBER	DATE
UTAH COUNTY AUDITOR, KENT MONSON KENT MONSON 100 E CENTER ST STE 3600 PROVO UT 84606	9001334912	7/16/2014

ACCOUNT NAME	
UTAH COUNTY AUDITOR,	
TELEPHONE	ADORDER# / INVOICE NUMBER
8018518238	0000970874 /
SCHEDULE	
Start 07/16/2014	End 07/16/2014
CUST. REF. NO.	
#2014-807	
CAPTION	
SUMMARY OF ORDINANCE ORDINANCE NO. 2014-5 WAS ADOPTED BY THE BOARD OF	
SIZE	
25 Lines	1.00 COLUMN
TIMES	RATE
2	
MISC. CHARGES	AD CHARGES
TOTAL COST	
31.25	

**SUMMARY OF ORDINANCE**  
ORDINANCE NO. 2014-5 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON JULY 1, 2014, AMENDING SECTIONS 6-1-E-16-a, 6-1-E-17-a AND 6-1-E-20-d, LARGE SCALE DEVELOPMENTS; GENERAL PROVISIONS, OF THE UTAH COUNTY LAND USE ORDINANCE.  
A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE COUNTY CLERK / AUDITOR'S OFFICE, COMMISSIONER GARY J. ANDERSON, COMMISSIONER LARRY A. ELLERTSON, AND COMMISSIONER DOUG WITNEY VOTED IN FAVOR OF THE ORDINANCE.  
970874 UPAXLP

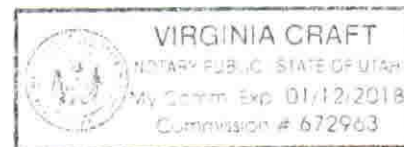
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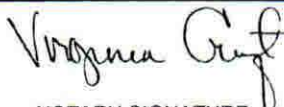
AS NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF **SUMMARY OF ORDINANCE ORDINANCE NO. 2014-5 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON JULY 1, 2014, AMENDING SECTIONS 6-1-E-16-a,** FOR **UTAH COUNTY AUDITOR,** WAS PUBLISHED BY THE NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH. NOTICE IS ALSO POSTED ON UTAHLEGALS.COM ON THE SAME DAY AS THE FIRST NEWSPAPER PUBLICATION DATE AND REMAINS ON UTAHLEGALS.COM INDEFINATELY. COMPLIES WITH UTAH DIGITAL SIGNATURE ACT UTAH CODE 46-2-101; 46-3-104.

PUBLISHED ON Start 07/16/2014 End 07/16/2014

SIGNATURE 

DATE 7/16/2014



  
NOTARY SIGNATURE

THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"  
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