



TOQUERVILLE CITY
ORDINANCE 2017.07
Title 10 Amendments

AN ORDINANCE TO AMEND TITLE 10, CHAPTER 9 AGRICULTURAL DISTRICTS TO ALLOW BED AND BREAKFAST ESTABLISHMENTS AS CONDITIONAL USE PERMITS; AMENDING TITLE 10 CHAPTER 13 BMP BUSINESS AND MANUFACTURING ZONE TO REMOVE BED AND BREAKFAST AS A CONDITIONAL USE; AMENDING TITLE 10, CHAPTER 17 SUPPLEMENTAL USE REGULATIONS, ARTICLE 4 NIGHTLY OR SHORT TERM RENTALS TO ALLOW FOR SEPARATE COOKING FACILITIES WITHIN THE ESTABLISHMENT; AMENDING CHAPTER 19 SUBDIVISIONS, ARTICLE C APPLICATION AND REVIEW PROCESS TO MODIFY THE TERM PRELIMINARY PLAN TO PRELIMINARY PLAT.

RECITALS

WHEREAS, Toquerville City, as municipal corporation and political subdivision of the State of Utah ("City"), has authority pursuant to its constitutionally granted police powers, to protect the health, safety and general welfare of the residents of the City; and

WHEREAS, bed and breakfast establishments are not allowed within A-1 zones; and

WHEREAS, bed and breakfast establishments are allowed within a BMP Zone; and

WHEREAS, it is desirable to allow bed and breakfast establishments in an A-1 zone; and

WHEREAS, it is not desirable to allow bed and breakfast establishments in BMP Zone; and

WHEREAS, Title 10, Chapter 17, Article 4 does not allow separate cooking facilities within a nightly/short term rental establishment; and

WHEREAS, separate cooking facilities are reasonable expected amenities within a nightly/short term rental establishment; and

WHEREAS, Title 10, Chapter 19C, Article 3 the term Preliminary Plan is an inaccurate description of the definition and should be changed to Preliminary Plat.

ORDINANCE

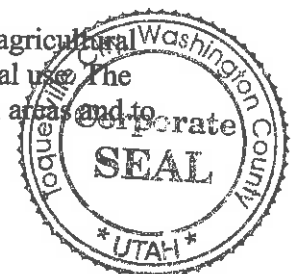
NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of Toquerville City, State of Utah, as follows:

Chapter 9 AGRICULTURAL DISTRICTS

10-9A-1: PURPOSE:

The purpose of this district is to identify and preserve appropriate lands for permanent agricultural use, and such incidental uses normally and necessarily related to the primary agricultural use. The district regulations are intended to maintain the unique character of the city agricultural areas and to ensure the survival of agricultural uses and attendant open spaces.

10-9A-2: PERMITTED USES:



Agricultural buildings and uses as necessarily ancillary and related to agricultural operations.

Crop production.

Family food production.

Household pets, as limited by the animal control ordinance, [title 5, chapter 1](#) of this code.

Livestock, as permitted under section [5-1-4](#) of this code.

One single-family dwelling.

10-9A-3: CONDITIONAL USES:

Bed and breakfast rentals

Cemeteries.

Commercial kennels.

Commercial livestock operations.

Commercial roadside stands for sale of produce grown and sold on premises.

Home occupations.

Public utilities.

Residential facility for elderly persons.

Residential facility for persons with a disability¹. This use shall require a permit under section [10-17-2](#) of this title.

Riding stables.

Vertical storage silos.

Other uses, similar to the above and judged to be in harmony with the character and intent of the zone.

CHAPTER 13: BMP BUSINESS AND MANUFACTURING ZONE

10-13A-1: PURPOSE:

The purpose of the BMP zone is to provide aesthetically attractive planned developments having a mix of office, research and development, light manufacturing and limited retail uses. Typical uses in this zone include offices, clean indoor manufacturing facilities, service retail, restaurants, athletic clubs, medical offices and research facilities.

10-13A-2: PERMITTED USES:

Animal hospital.



Bank.

~~Bed and breakfast.~~

Business equipment, sales, rental, supplies.

Car wash.

Church.

Club or service organization.

Construction sales and service.

Convenience store.

Cultural services.

Daycare center.

Funeral home.

Garden center.

Gasoline service station.

General manufacturing (light and clean manufacturing).

Golf course.

Hospital.

Hostel.

Hotel.

Laundry and dry cleaning.

Operations center.

Park.

Post office.

10-17-4: NIGHTLY OR SHORT TERM RENTALS:

- A. Blanket Prohibition: The nightly or short term rental of a residence shall be prohibited in all zoning districts of the city except to duly licensed and permitted bed and breakfast establishments.



B. Nightly Or Short Term Rental Defined: The "nightly or short term rental" is the act of leasing a residence, or any part thereof, by a person or entity to another for a consecutive period of ninety (90) calendar days or less in exchange for direct or indirect remuneration.

C. Exception: The prohibition against nightly or short term rentals set forth above, may be waived only when the owner complies with all of the following:

1. Owner Primary Residence Within City: The owner of the residence where the nightly or short term rental occurs must have his or her primary residence within the municipal boundaries of the city. For purposes of this chapter, the term "owner" shall mean:
 - a. A natural person owning an undivided interest of one hundred percent (100%) of the residence, or
 - b. A business entity which owns one hundred percent (100%) of the residence and who has a natural person principal owning one hundred percent (100%) of the ownership interest in the business entity.
2. License/Permit Required: The owner applies for and obtains a business license pursuant to [title 3, chapter 1](#) of this code and a nightly rental permit which is a special permit similar, but separate and distinct from a home occupation permit, but that is reviewed, approved and otherwise regulated pursuant to chapter 23 of this title for that use. Said business license and nightly rental permit is nontransferable to another owner or residence.
3. Prohibitions: The nightly or short term rental shall not occur within the owner's personal residence or within an accessory structure located upon the same lot or parcel as the owner's personal residence, regardless of whether the accessory structure is an attached building or detached, and no more than one building per lot may be utilized for a nightly or short term rental.
4. Log: The owner must maintain a log with the following information:
 - a. Name and number of guests.
 - b. Number of vehicles with license plate numbers.
 - c. Date of occupancy.
 - d. Written verification that guests have agreed to comply with all applicable city rules and regulations.
5. Maximum Guests: Maximum number of guests in the nightly or short term rental residence shall be no more than two (2) persons per bedroom with a maximum of ten (10) occupants per residence.
6. Noise: Amplified sound that can be heard outside the residence shall not be allowed between the hours of eight o'clock (8:00) P.M. and nine o'clock (9:00) A.M.
7. Safety Codes: The owner and the residence where the nightly or short term rental occurs must comply with all applicable safety codes, laws, rules, ordinances and regulations.
8. Notification: Applicant must pay for and provide notification to neighboring property owners within a three hundred foot (300') radius of a public meeting of the city's planning commission where the issuance of the nightly rental permit for the subject residence is being considered in compliance with section [10-23-9](#) of this title. However, said notice shall indicate, and the planning commission shall conduct, a public hearing on the application. Seventy five percent (75%) of the property owners



within the three hundred foot (300') radius of the residence must not object to the application. Failure of property owner within three hundred feet (300') to submit an objection (either vocally at the public hearing or in writing prior to the start of the public hearing) to the application will be deemed consent thereto.

9. Separation: There shall be no less than one thousand feet (1,000') separation between parcel/lot boundaries of residences where nightly or short term rental will occur, and in no case shall the total number of residences with nightly rental permits exceed two percent (2%) of the entire number of residences within the city.
10. Semiannual Review: A mandatory review by the city's planning commission of the nightly rental permit granted herein must be had every six (6) months.
11. Off Street Parking: The residence where the nightly or short term rental will occur must provide sufficient off street parking in designated areas only. There shall be one off street parking stall for every bedroom in the residence. No parking by guests may occur on the streets.
12. Fees: In addition to the payment of the fee for a business license, applicants shall pay a special application fee for the home occupation permit in an amount designated in the city's uniform fee schedule which shall initially be one thousand dollars (\$1,000.00) to cover additional oversight costs incurred by the city.
13. Modifications: Modifications to the appearance and size of a residence where a home occupation permit for nightly or short term rental has been issued should be in keeping with the residential character of the neighborhood within which the residence is located. If modifications to the existing structures are made, they may not include separate outside entrances to bedrooms or living quarters.

~~14. No Separate Cooking Facilities: No separate cooking facilities are permitted in individual bedrooms or living quarters of a residence where nightly or short term rental will occur.~~

14. 15. Owner Contact Info And Availability: The owner of a residence where nightly or short term rental will occur must maintain current contact information with the city, and the owner must be available twenty four (24) hours per day during any rental period.

15. 16. Penalties: Upon finding a violation under this section, the following penalties shall apply:

- a. First violation: One thousand dollars (\$1,000.00).
- b. Second violation: Five thousand dollars (\$5,000.00).
- c. Third violation: Ten thousand dollars (\$10,000.00).
- d. Fourth violation: License automatically revoked.



16. 17. Review: Upon the second or subsequent violation of this section, there shall be a mandatory review conducted before the city's planning commission, who shall have the ability and right to revoke the nightly rental permit in its sole and absolute discretion. Revocation of a nightly rental permit, for any reason, shall result in a minimum twelve (12) month waiting period prior to any new application, which revocation shall run with the land. Upon revocation, there is no guarantee of any future issuance of a nightly rental permit and all applications will be processed under the then current ordinances and in light of the citywide limitation on the nightly or short term rental of residences set

forth in this section. Failure to pay a fine as required by the previous subsection shall constitute grounds for automatic revocation of the owner's nightly rental permit.

D. Enforcement: In addition to the fines set forth in subsection C of this section, all violations of this chapter shall constitute a class C, misdemeanor and shall be enforced in compliance with [chapter 5](#) of this title.

Article C. APPLICATION AND REVIEW PROCESS

10-19C-1: APPLICATION AND REVIEW REQUIRED:

10-19C-2: CONCEPT PLAN:

10-19C-3: PRELIMINARY PLAN PLAT:

10-19C-4: FINAL PLAT:

10-19C-5: DEVELOPMENT AGREEMENT:

10-19C-6: CONSTRUCTION OF IMPROVEMENTS:

10-19C-7: SUMMARY OF REVIEW AND APPROVAL PROCESS:

10-19C-1: APPLICATION AND REVIEW REQUIRED:

- A. All proposed subdivisions shall meet the application and review requirements outlined in this article and the requirements of the individual zone in which the subdivision is proposed. All provisions of this chapter and other city requirements shall be met in preparing applications and designing and constructing the development.
- B. No subdivision of land shall be transferred, sold or offered for sale, contracted for sale, deeded or conveyed, nor shall a building permit be issued for a structure thereon (other than an approved model home or project amenities, such as clubhouse, pool, park, etc.) until:
 - 1. A concept plan, preliminary ~~plan~~ **plan plat** and a final plat of such subdivision are approved in accordance with the process set forth in this article; and
 - 2. The approved final plat is recorded in the office of the Washington County recorder; and
 - 3. The improvements required in connection with the subdivision have been constructed or guaranteed as provided in this chapter.
- C. In the absence of a planning and zoning administrator, the chairperson of the planning commission shall fulfill the duties of a planning and zoning administrator.

10-19C-2: CONCEPT PLAN:

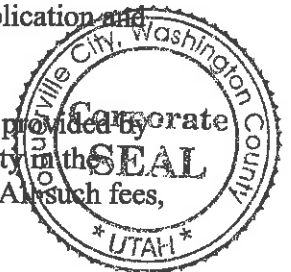
- A. Purpose: The concept plan is intended to be an abbreviated submittal, to allow the applicant and the review boards to determine the basic feasibility of the proposal before incurring the time and expense of the preliminary ~~plan~~ **plan plat** and final plat.
- B. Application: A concept plan application shall be submitted to the planning commission chairperson and the planning and zoning administrator, along with the application fees set by the city council for any proposed subdivision. The concept plan application will consist of an application form, fee and three (3) twenty four inch by thirty six inch (24" x 36") and fifteen (15) eleven inch by seventeen inch (11" x 17") reduced copies of the proposed subdivision, including the following:



1. The proposed name of the project.
2. Property owner of record and developer.
3. Property included in the proposed subdivision and all property owned or controlled by the developer or owner adjacent to the proposed subdivision.
4. Vicinity plan showing project location relative to city boundaries, major roads and minor roads that serve the property.
5. Property address, acreage, boundary and tax identification number.
6. Date, scale and north arrow.
7. Existing streets, rights of way widths, major utilities, easements, fencing, parks, trails, open space and infrastructure on or adjacent to the property.
8. Proposed streets, parks, trails, open space areas that are "unbuildable" due to slopes, wetlands or other conditions on the property, planned amenities, planned lot sizes and gross lot density, with calculations noted as to total acreage of parks, trails and open spaces combined; total acreage of building lots; and average lot size expressed in square feet.
9. A site plan showing the percentage grades of all slopes expressed in different colors for zero to ten percent (10%), eleven (11) to sixteen percent (16%), seventeen (17) to twenty three percent (23%), twenty four (24) to thirty percent (30%), thirty percent plus (30%+). This plan shall show a calculation of total "buildable" acreage.

C. Review Process:

1. **Staff Review, Referral To Other Agencies And Report:** The concept plan will be reviewed by the planning commission chairperson and planning and zoning administrator for general compliance with this chapter, the design standards and specifications for construction and all applicable ordinances. If the application is not complete or not in general compliance, the planning and zoning administrator shall notify the applicant in writing and specify the deficiencies in the application. When the application is complete and in general compliance, the planning and zoning administrator shall forward the completed application to the city planner, other city staff and departments, and other affected government entities and public utilities to obtain comment regarding the application. City staff will review the concept plan, make site visits, discuss engineering issues, check compliance with the city's general plan, and applicable ordinances to determine the adequacy of public facilities. The city planner shall review the application and engage the applicant in a review dialogue regarding issues and questions the planner may have. As part of this dialogue, the planner may require additional information, drawings or submittals. The planning and zoning administrator or the planning commission chairperson shall prepare the staff report, which shall include all review comments by the city staff, city departments and all other agencies required to review the application and submittals. The planning and zoning administrator shall forward the completed application and staff report to the planning commission.
2. **Consulting Costs:** The costs and expenses incurred by the city for professional services provided by planners, engineers or other professionals as may be required that are incurred by the city in the process of reviewing a subdivision plat for approval shall be paid for by the developer. All such fees,



costs and expenses associated with consultants incurred to date shall be paid in full before final approval of the preliminary **plan plat** and approval of the final plat.

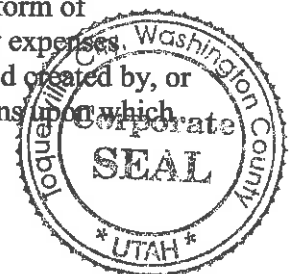
3. **Action Not Binding:** Meetings with city staff do not constitute acceptance of the project and only provide a forum to discuss issues that will assist the developers in preparing a preliminary subdivision **plan plat** application. Compliance with comments by the city planner or other individual staff members does not grant any vested rights and will not guarantee or imply approval of the preliminary **plan plat** or final plat for the subdivision.
4. **Report To Planning Commission And City Council:** The concept plan will be presented by the planning commission chairperson and/or planning and zoning administrator in a planning commission meeting and city council meeting at the first meeting possible, after a complete submittal is received, for their information and preliminary comments.
5. **Approval By Planning Commission:** If, after reviewing the application, making site visits and examining materials submitted by the developers, and after receiving comments from the city planner, staff and city council, the planning commission is satisfied there are adequate public services and improvements available to serve the proposed subdivision, and that the proposed concept is consistent with the planning principles and purposes of the city general plan, the planning commission shall approve the concept plan, or approve the plan with conditions.

D. Standards For Review: Standards for review include:

1. The proposed subdivision shall conform to the general plan, this title, general design guidelines, and all relevant articles and sections of this chapter.
2. The proposed uses for the property are appropriate to the zone district.
3. The layout/design is responsive to the constraints of topography, soil types, watercourses, floodplains, visual impacts and preservation of views.
4. The capacity and adequacy of public services and utility services shall be adequate to service the proposed subdivision. Services required for the proposed subdivision may include roads, gas, electric, telephone, mail, police and fire protection, culinary water, secondary water, sewer and recreation.

E. Public Improvements:

1. If, after reviewing the application, making site visits and examining materials submitted by the developers, the city staff determine that adequate public improvements are not available and will not be available by the time of final plat approval, then one of the following alternatives may be elected to assure that adequate public services are available at the time of final plat recording:
 - a. Allow the developer to voluntarily construct those public improvements which are necessary to service development as determined by the city staff by entering into an appropriate form of development agreement, which shall include, if applicable, provisions to recoup any expenses incurred above and beyond those reasonable and necessary for, or related to, the need created by, or the benefit conferred upon, the proposed development, and the method and conditions under which expenses may be recouped;



- b. Allow the developer to phase the proposed development consistent with the availability of adequate public improvements;
 - c. Defer final plat approval and issuance of building permits until all necessary public improvements are adequate and available; or
 - d. Deny the concept plan approval and allow the applicant to reapply when adequate public improvements are available.
2. Notwithstanding anything to the contrary in this subsection, the requirements for the design and installation of improvements pursuant to this subsection may be deferred when a subdivision is sought solely for the purposes of a public donation of one or more of the resulting parcels of real property. For purposes of this subsection, public donations shall include donations to the city, other governmental entities or organizations that are tax exempt under 26 USC 501(c)(3). Any owner or developer desiring to defer the design and installation of improvements for a subdivision pursuant to this subsection for purposes of making a public donation shall execute an agreement for the deferral of the design and installation of improvements that is acceptable to the city. Any such agreement for the deferral of the design and installation of improvements pursuant to this subsection shall include provisions requiring that the deferred improvements be designed and installed prior to any subsequent division of any parcel resulting from the subdivision or the issuance of building permits for any portion of the parcels resulting from the subdivision.

10-19C-3: PRELIMINARY PLAN PLAT:

A. Purpose: The purpose of the preliminary plan plat is to review and resolve most of the technical details of the subdivision design in order to minimize changes and revisions which might otherwise be necessary on the final plat. The preliminary plan plat and all information and procedures relating thereto shall in all respects be in compliance with the provision of this chapter and all other applicable ordinances, as well as in compliance with the concept plan staff report for the development.

B. Application: The preliminary plan plat application shall be submitted to the planning commission chairperson and planning and zoning administrator, along with the application fee set by the city council. The preliminary plan plat application will consist of an application form and owner's affidavit and consent, fee and three (3) twenty four inch by thirty six inch (24" x 36") or larger copy and fifteen (15) eleven inch by seventeen inch (11" x 17") reduced copies of the proposed subdivision and attachments, including the following:

- 1. Names, address and phone numbers of the applicant, engineer, surveyor and/or architect/designer.
- 2. Vicinity map showing project location relative to city boundaries, major road and minor roads that serve the property.
- 3. Date, scale, north arrow, name of subdivision. Developer will check with the Washington County recorder to determine if subdivision name has been used.
- 4. Property address, certified legal description prepared by a state licensed surveyor, acreage, dimensions and tax identification number.
- 5. Existing streets (with names) and right of way widths, buildings, culverts, bridges, waterways, irrigation ditches and systems, wells, springs, utilities, easements, rights of way, flood boundary.



surface watercourse features, geologic hazards, fencing, parks, trails, open space, fire hydrants, streetlights, storm drain and sanitary sewer systems, soil conditions, topography (contours at maximum 2 foot intervals), survey monuments, section lines, and other features and infrastructure on or adjacent to the property as requested by the city planner, city engineer or other appropriate city staff member.

6. Proposed subdivision boundary and dimensions, streets (with names and widths), lot layout, lot sizes and dimensions, phasing, gross lot density, curbs, gutters, park strips and landscaping, waterways, demolition, fire hydrants, streetlights, sidewalks, fencing, easements, parks, trails, open space, public land dedications, storm and subsurface drainage systems, detention areas and potential flood boundary, sanitary sewer system, utilities, soil erosion and sedimentation control plan and any other infrastructure or improvements on or adjacent to the property and any other information requested by the city planner, city engineer or other appropriate city staff member.
7. Plans indicating the approximate alignment and sizing of water lines, sanitary sewers and storm drains, surface drainage, as well as easements for all utilities, if necessary.
8. Geotechnical and hydrology reports.
9. Documentation and/or reports concerning agreements with adjacent owners, agreements for the provision of utilities and easements, encumbrances, traffic impacts, compliance with federal, state and local requirements or others as requested by the city engineer or other appropriate staff member.
10. Preliminary chapter report verifying ownership.
11. Designation of common areas and amenities available for use of residents, commercial area customers and the general public.
12. Preliminary landscaping plan, preliminary lighting plan and plan for continued maintenance of the project.
13. The acreage and legal description of the area to be subdivided and boundaries of all properties within three hundred feet (300') of the subject property boundary.
14. In addition, the applicant shall furnish a list of names and addresses and two (2) sets of address labels and postage for owners of record at the Washington County recorder's office of the subject property and properties within three hundred feet (300') of the boundary line of the subject property. The list of property owners must be no older than thirty (30) days at the date of submission of the list. The developer is responsible for the completeness and accuracy of the list of owners of record, but may rely upon the records in the Washington County recorder's office. The failure to provide the name and address of any required owner of record may delay approval of the subdivision.
15. Preliminary ADA compliance report.
16. Tortoise habitat clearance form.
17. Complies with all state and federal statutes.

C. Review Process:



1. Staff Review And Report: The preliminary **plan plat** will be reviewed by the planning commission chairperson and city planner, planning and zoning administrator and other city planning staff for general compliance with this chapter, the city standard specifications for design and construction, and all applicable ordinances. If the application is not complete or not in general compliance, the planning commission chairperson and/or planning and zoning administrator shall notify the applicant in writing and specify the deficiencies in the application. When the application is complete and in general compliance, the planning and zoning administrator shall forward the completed application to the city planner, city staff and departments, Ash Creek special service district, and affected government entities and public utilities to obtain comment regarding the application. City staff will review the preliminary **plan plat**, make site visits, discuss engineering issues, check compliance with city's general plan, master plans and city ordinances to determine the adequacy of public facilities. The planning commission chairperson and/or planning and zoning administrator shall prepare the staff report, which shall include all review comments by the city planner, city departments and all other agencies required to review the application and submittals. The planning commission chairperson and/or planning and zoning administrator shall forward the completed application and the staff report to the planning commission.

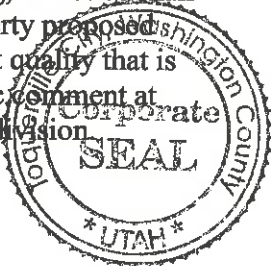
2. Planning Commission Public Hearing:

a. Once all application requirements have been met, redline corrections made, revised plans submitted and the staff report completed, the planning commission chairperson or planning and zoning administrator shall schedule the application on the planning commission agenda for a public hearing. Notice of the time, date and place of the public hearing shall be mailed not less than ten (10) days prior to the public hearing to all property owners of record in the Washington County recorder's office within three hundred feet (300') of the property line of the proposed subdivision (list of names to be furnished by applicant as required in section [10-1-8](#) of this title).

b. Notice shall also be posted not less than ten (10) days prior to the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passersby. The planning commission shall receive public comment at the public hearing regarding the proposed subdivision.

3. Planning Commission Review And Recommendation To City Council: If the planning commission finds that the proposed **plan plat** complies with the requirements of this chapter and is satisfied with the preliminary **plan plat** of the subdivision, it shall approve the **plan plat**, or approve the **plan plat** with conditions. If the planning commission finds that the proposed plan does not meet the requirements of this chapter or other applicable ordinances, it shall deny such **plan plat**.

4. City Council Public Hearing: Once the planning commission has approved the preliminary **plan plat**, the planning and zoning administrator shall schedule the application on the city council agenda for a public hearing. Notice of the public hearing shall be mailed not less than ten (10) calendar days prior to the public hearing to all property owners of record in the Washington County recorder's office within three hundred feet (300') of the property line of the proposed subdivision (list of names to be furnished by applicant as required in section [10-1-8](#) of this title). Notice shall also be published in a newspaper of general circulation not less than ten (10) days prior to the public hearing; or notice shall be posted not less than ten (10) calendar days prior to the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability and print quality that is reasonably calculated to give notice to passersby. The city council shall receive public comment at the public hearing regarding the planning commission's approval of the proposed subdivision.



5. City Council Review: After the planning commission has approved the preliminary **plan plat** and after holding a public hearing on the planning commission approval of the **plan plat**, the city council shall approve the **plan plat**, or approve the **plan plat** with conditions, if the city council finds that the proposed **plan plat** complies with the requirements of this chapter. If the city council finds that the proposed **plan plat** does not meet the requirements of this chapter or other applicable ordinances, it shall deny such **plan plat**.

D. Standards For Review:

1. The preliminary **plan plat** shall comply with the concept plan staff report.
2. Preliminary engineering plans shall indicate that public services, including roads, fire, police, gas, culinary water, secondary water, sewer, electricity, telephone and recreation, are available, and meet the requirements of this chapter and all applicable codes and regulations. If public improvements are not available, one of the following alternatives may be elected to assure that adequate public services are available at the time of final plat recording:
 - a. Allow the developer to voluntarily construct those public improvements which are necessary to service development as determined by the city staff and utility board by entering into an appropriate form of development agreement, which shall include, if applicable, provisions to recoup any expenses incurred above and beyond those reasonable and necessary for, or related to, the need created by, or the benefit conferred upon, the proposed development, and the method and conditions upon which expenses may be recouped;
 - b. Allow the developer to phase the proposed development consistent with the availability of adequate public improvements;
 - c. Defer final plat approval and issuance of building permits until all necessary public improvements are adequate and available; or
 - d. Deny the preliminary **plan plat** approval and allow the applicant to reapply when adequate public improvements are available.

E. Preliminary **plan plat** Approval Expiration:

1. A preliminary subdivision plan approval shall remain valid for six (6) months from the date of approval. If a final subdivision plat is not approved within six (6) months of the date of the preliminary approval, the preliminary **plan plat** shall be void, unless a onetime extension of six (6) months is requested by the developer and is granted by the city council prior to the expiration date.
2. For multi-phased projects, final subdivision plat for at least one phase must be approved within one year of the preliminary subdivision plat approval. The preliminary subdivision **plan plat** for all phases for which a subdivision plat has not been finally approved will expire three (3) years from the date of the preliminary plat approval by the city council, unless an extension of one year is requested by the developer and is granted by the city council prior to the expiration date or is included in a written development agreement.

10-19C-4: FINAL PLAT:



A. Purpose: The purpose of the final subdivision plat is to provide formal approval by the city before a subdivision is recorded in the office of the Washington County recorder. The final subdivision plat application shall be submitted to the city for any proposed subdivision only after the preliminary subdivision ~~plan~~ **plat** has been approved by the city council.

B. Application: The completed final plat application shall be submitted to the planning commission chairperson and planning and zoning administrator, along with the following information or other information as required by the city planner, city engineer, city attorney or other designated city staff members. The final plat will consist of an application form, with required fee, and three (3) twenty four inch by thirty six inch (24" x 36") copies and fifteen (15) eleven inch by seventeen inch (11" x 17") reduced copies of the final subdivision plat, and three (3) copies of the stamped engineer drawings showing all utilities as required, which shall be drawn to a scale acceptable to the city engineer and attachments showing the following:

1. Subdivision name prominently printed on the plat.
2. Names, addresses and phone numbers of the applicant, engineer and surveyor.
3. Date, scale and north arrow.
4. An accurate and complete survey prepared by a state licensed land surveyor in a form acceptable to the city engineer.
5. An accurately drawn subdivision boundary showing proper bearings and dimensions, properly tied to public survey monuments, and drawn slightly bolder than lot and street lines.
6. All survey and mathematical information and data necessary to locate all monuments, and to locate and retrace all interior and exterior boundary lines appearing thereon, including bearing and distance of straight lines, and central angle, radius and arc length of curves, and such information as may be necessary to determine the location of beginning and ending points of curves. All boundary corners and monuments within the subdivision shall show the Utah coordinate system 1983 south zone grid coordinates and shall reference existing monumentation on the Washington County horizontal control network. Lot and boundary closure shall be calculated to the nearest one-hundredth ($1/100$) of a foot.
7. All lots, blocks and parcels offered for dedication for any purpose delineated and designated with dimensions, boundaries and courses clearly shown and defined in every case. The square footage of each lot shall be shown. Parcels offered for dedication other than for streets or easements shall be clearly designated on the plat. Sufficient linear, angular and curved data shall be shown to determine readily the bearing and length of the boundary lines of every block, lot and parcel which is part thereof. No ditto marks shall be used for lot dimensions.
8. The right of way lines of each street, the width of any portion being dedicated and widths of any existing dedications. The widths and locations of adjacent streets and other public properties within one hundred fifty feet (150') of the subdivision shall be shown with dashed lines. If any street in the subdivision is a continuation or an approximate continuation of an existing street, the conformity of the amount of nonconformity of such existing streets shall be accurately shown.
9. All lots and blocks numbered consecutively under a definite system approved by the city engineer. Numbering shall continue consecutively throughout the subdivision with no omissions or duplications.



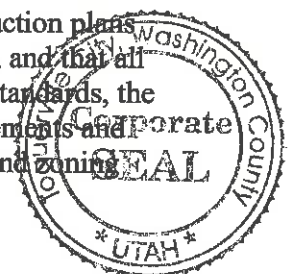
10. All streets within the subdivision shall be numbered (named streets shall also be numbered) in accordance with, and in conformity with, the adopted street system of the city¹. Named streets are optional, however all named streets must also be numbered. Each lot shall show the approved street addresses assigned thereto, and shall be according to the standard addressing methods approved by the city. In the case of corner lots, an address may be assigned for each part of the lot having street frontage.
11. The side lines of all easements shall be shown by fine dashed lines. The width of all easements and sufficient ties thereto to definitely locate the same with respect to the subdivision shall be shown. All easements shall be clearly labeled and identified. Easements shall be ten feet (10') from the property line for all front yards and seven and one-half feet (7¹/₂') from the property line for all side and rear yards. Larger easements may be required under specific circumstances requiring greater areas.
12. All fully and clearly shown stakes, monuments and other evidence indicating the boundaries of the subdivision as found on the site. Any monument or benchmark that is disturbed or destroyed before acceptance of all improvements shall be replaced by the developer under the direction of the city engineer. The following required monuments shall be shown on the final plat:
 - a. The location of all monuments placed in making the survey, including a statement as what, if any, points were reset by ties.
 - b. All right of way monuments at angle points and intersections as approved by the city engineer.
13. The name of the surveyor, together with the date of the survey, the scale of the map and the number of sheets. The following certificates, acknowledgments and descriptions shall appear on the chapter sheet of the final subdivision plat, and such certificates may be combined where appropriate:
 - a. Registered land surveyor's "Certificate Of Survey" in form acceptable to the city.
 - b. Owner's "Dedication Certificate" in form acceptable to the city.
 - c. Necessary notary public's acknowledgment of signatures.
 - d. A correct "metes and bounds" description of all property included within the subdivision.
14. Plats shall contain blocks for signature of the city engineer, city attorney, planning commission and city council. (A signature line for the mayor and an attestation by the city recorder.) A block for the Washington County recorder shall be provided in the lower right corner of final subdivision plat.
15. Such other affidavits, certificates, acknowledgments, endorsements and notarial seals as are required by law, by this chapter, city staff, city engineer or city attorney.
16. Other information such as the location of jurisdictional boundary lines (federal emergency management agency, U.S. army corps of engineers, bureau of land management, U.S. fish and wildlife service, state institutional trust lands agency, Washington County habitat conservation plan, etc.), adjoining lot lines or property owners, fencing notes, or any other special notes or requirements as deemed appropriate by the city staff, city engineer, city attorney or city council.
17. The developer shall note on the final subdivision plat those public right of way areas, including public park strips.



18. All easements and rights of way within or required for the subdivision shall be shown on the plat.
19. When a subdivision contains lands which are reserved in private ownership for community use, including common areas, the developer shall submit, with the final subdivision plat, the name, articles of incorporation and bylaws of the owner or organization empowered to own, maintain and pay taxes on such lands and common areas, with proof of filing with the state.
20. If the subdivision is owned by other than an individual, proof or documentation of the owning entity acceptable to the city.
21. Current chapter report is to be reviewed by staff. A "current chapter report" is considered to be one which correctly discloses all recorded matters of chapter regarding the property and which is prepared and dated not more than thirty (30) days before the proposed recording of the final subdivision plat.
22. Proposed restrictive covenants, articles, bylaws, consents and other legal documents governing the subdivision in a recordable form and acceptable to the city.
23. Lighting plan, landscape plan and plan for continued maintenance of common areas and public areas.
24. Cost estimate of all off site improvements prepared by developer's engineer.

C. Review Process:

1. Staff Review And Report: The planning and zoning administrator shall check the final plat for completeness and compliance with this chapter and for incorporation of any changes required during the preliminary ~~plan~~ **plat** application procedure. If the submission is not complete, not in general compliance with or does not incorporate conditions of previous approvals, the planning and zoning administrator shall notify the applicant in writing and specify the respects in which the application is deficient. When the submission is complete, in general compliance with applicable ordinances and incorporates all prior conditions of approvals, the planning and zoning administrator shall refer the final plat and application to the city planner, departments and applicable agencies for their approval, or direct the applicant to secure such approvals. The planning and zoning administrator shall prepare the staff report and include all department, city planner and other agency comments regarding the final plat.
2. Planning Commission Final Plat Review: The final subdivision plat and the staff report will be scheduled on the planning commission agenda. If the planning commission finds that the final plat is in compliance with the approved preliminary ~~plan~~ **plat**, it shall approve the final plat.
3. City Engineer Review: The city engineer shall review the final subdivision plat and determine compliance with general good engineering practices, engineering and surveying standards set forth in this chapter, other applicable city ordinances, and engineering and surveying standards adopted by the city council. The city engineer shall sign the plat if the city engineer finds that the subdivision fully complies with the improvement standards required by this chapter, that the construction plans are complete and signed by all utility departments, that the survey description is correct, and that all easements are correctly described and located. If the final subdivision plat meets these standards, the city engineer shall review an estimate of the construction costs for all proposed improvements and sign the plat in the appropriate signature block and return the final plat to the planning and zoning



administrator. If the final subdivision plat does not comply, the city engineer shall return the plat to the planning and zoning administrator with comments.

4. **City Attorney Review:** The city attorney shall review the final subdivision plat and the current chapter report. The legal description in the chapter report shall be compared with any legal description in the restrictive covenants, articles, consents and other legal documents. All persons shown on the chapter report as owners or lienholders must sign and have acknowledged by a notary the plat unless prior approval is given by the city attorney. All lienholder consents must not only show consent to recording of the plat and any restrictive covenants, but must also indicate the lienholder's approval of and joinder in the dedication of any public streets or rights of way. The applicant shall also submit the improvement guarantee and any other documents and information required by the city attorney. Once the city attorney has reviewed and is satisfied that the final plat is in compliance with all requirements of this chapter, he shall sign the final plat.

5. **Preparation Of Final Plat Mylar:** Once all requirements have been met, redline corrections made, revised plans and plat submitted and city staff review completed, and the planning commission and city council has approved the final plat, the applicant shall submit a twenty four inch by thirty six inch (24" x 36") mylar drawing of the corrected final subdivision plat with the signatures of the owners and other required signatures.

D. Final Subdivision Plat Expiration: If the final subdivision plat is not recorded within one year from the date of approval, the approval shall expire and the final subdivision plat shall be null and void. The city council may grant a onetime extension to the recording of the final subdivision plat not exceeding six (6) months; provided, that the developer submits the request for extension prior to expiration of the final plat and satisfies any new city requirements pertaining to the public health, safety and welfare.

E. Final Subdivision Plat Recording:

1. The city recorder or his/her designee shall record the final subdivision plat at the office of the Washington County recorder. The final subdivision plat may not be recorded until all of the following items have been completed:

- a. The final subdivision plat has been approved by the planning commission and city council and all requirements of the city engineer and city attorney have been met.
 - b. All required signatures, including the mayor's signature and city recorder's certification, have been applied to the mylar plat drawing.
 - c. The security for improvements as determined by the city engineer and approved by the city attorney has been properly posted with the city or improvements completed and accepted by the city.
 - d. All necessary deeds and agreements have been executed and submitted to the city.
 - e. A development agreement, if applicable, for the project has been approved.
 - f. All impact fees, development fees and other fees have been paid to the city.
2. Once all of the above actions have occurred, the city recorder or his/her designee shall record the final subdivision plat at the office of the Washington County recorder. In no instance shall a fully executed final plat be released to an applicant or property owner for recording on their own.



Notwithstanding the preceding sentence, the city recorder or his/her designee may release a fully executed and approved final plat to a licensed title company of an applicant's choosing for a courtesy recording.

F. Amending Recorded Plat:

1. Any landowner whose land has been platted as provided in this chapter may, upon application to the city, have such plat or portion thereof, or any street or alley therein contained, altered or amended.
2. The procedure for amending or altering a subdivision plat may be the same procedure as for approval of a new subdivision and will be determined at the discretion of the planning commission.

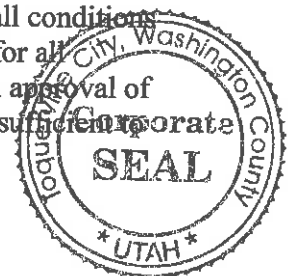
G. Vacating Recorded Plat: The procedure for vacation of a plat shall be governed by provisions of Utah Code Annotated section 10-9a-608.

10-19C-5: DEVELOPMENT AGREEMENT:

A. Purpose: The developer/property owner and the city may enter into a development agreement that outlines the duties, responsibilities, obligations, commitments and promises of the developer/property owner and the commitments of the city.

B. General Requirements:

1. The development agreement shall be approved by the city attorney and shall incorporate all agreements between the parties.
2. The development agreement must be approved prior to final plat approval.
3. If the developer is including parks, open space, clubhouses and/or trail improvements within a development, the development agreement shall include proposed phasing and terms of completion of these improvements.
4. Any special agreements, conveyances, restrictions or covenants which govern the use, maintenance and continued protection of common areas shall be included in the development agreement.
5. The development agreement may provide limitations on the number of building permits issued and/or phases of the project to be approved subject to the completion of the improvements.
6. The development agreement for phased subdivisions shall incorporate the phased subdivision master plan.
7. The development agreement shall include any provisions for security for completion of the subdivision improvements and/or schedule of utility construction and restoration bond requirements.
8. If the development is a phased subdivision, the development agreement shall specify all conditions and requirements that must be met in order to protect and maintain a vested approval for all subsequent phases. For example, the city may impose as a condition precedent to final approval of subsequent phases, the availability and access to water and sewer services and source sufficient to accommodate the subsequent phases.
9. Shall comply with current design standards.



C. Approval: The development agreement shall be approved by the city council and signed by the mayor.

D. Recording: The development agreement shall be recorded by the city at the Washington County recorder's office. Recordation by the city shall only take place after all of the necessary signatures are obtained, all approvals given and all bonds and fees posted. The development agreement must be recorded prior to the recording of the final plat.

10-19C-6: CONSTRUCTION OF IMPROVEMENTS:

The developer/owner may begin construction of required improvements after approval of the final plat, posting of restoration bond and prior to the recording of the final plat in accordance with the recorded development agreement and in accordance with construction drawings approved as required in this chapter.

10-19C-7: SUMMARY OF REVIEW AND APPROVAL PROCESS:

REVIEW/APPROVAL PROCESS

Concept Plan	Preliminary <u>plan plat</u>	Final Plat	Simple Subdivision	Master Planned Development	Phased Subdivision
1. Staff report	1. Staff report	1. Staff report	1. Staff report	1. Staff review	1. Staff review
Report to PC	PC public hearing	Staff approve	PC public hearing	Concept plan	Master plan
PC approve	PC approve	Development agreement	PC approve	Preliminary <u>plan plat</u>	PC public hearing
Report to CC	CC public hearing	PC approve	CC public hearing	Development agreement	PC approve
	CC approve	CC approve	CC approve	Final plat	CC public hearing
					CC approve
					Preliminary <u>plan plat</u>
					Development agreement
					Final plat

REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.



SAVINGS CLAUSE: If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

EFFECTIVE DATE. This Ordinance shall take effect immediately upon approved by the City Council.

PASSED AND APPROVED THIS 8 DAY OF June 2017.


Paul Heideman	Aye <u>X</u>	Nay _____
Keen Ellsworth	Aye <u>X</u>	Nay _____
Mark Fahrenkamp	Aye <u>X</u>	Nay _____
Brad Langston	Aye <u>X</u>	Nay _____
Ty Bringhurst	Aye _____	Nay <u>Absent</u>



CITY OF TOQUERVILLE a Utah Municipal Corporation


M. Darrin LeFevre, Mayor

Date 6.8.2017


Attest: Dana M. McKim, City Recorder