

ORDINANCE NO. 12-01-2017

AN ORDINANCE AMENDING THE SANTAQUIN CITY CODE TO AMEND THE APPROVAL PROCESSES FOR LOT LINE ADJUSTMENTS AND VACATING OR CHANGING A SUBDIVISION PLAT, PROVIDING SEVERABILITY AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a request has been made to amend Santaquin City Code Section 11-5-11 and create Section 11-5-12 relating to the approval processes for lot line adjustments and vacating or changing a subdivision plat; and

WHEREAS, the Santaquin City Planning Commission held a public hearing on November 9, 2017 to receive public input on the proposed amendments, which hearing was preceded by the posting of public notice in at least three public places within the City limits of Santaquin City, and which notice of public hearing was published in the Payson Chronicle Newspaper in accordance with Section 10-9a-205 of the Utah State Code; and

WHEREAS, after the noted public hearing, the Santaquin City Planning Commission forwarded a recommendation to the City Council for approval of the amendments; and

WHEREAS, the City Council has been given specific authority in Title 10, Chapter 9a Utah Code Ann. 1953 to adopt a zoning plan including an ordinance and map which divide the municipality into districts or zones and within such districts to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures and the uses of land; and

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the city to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e. providing for the public safety, health, morals, and welfare.

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

Section I. Amendments

Section 11-5-11 is amended as follows: (Underlined text is added, stricken text is deleted)

11-5-11: VACATING OR CHANGING A SUBDIVISION PLAT: A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition to have some or all of the plat vacated or amended.

A. Petition Submittal Requirements: Except as provided in section 11-5-12 herein, a petition to vacate, alter, or amend an entire plat, portion of a plat, or a street or lot contained in a plat shall be accompanied by the following:

1. The name and address of all owners of record of the land contained in the entire plat;

2. The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and

3. The signature of each of these owners who consents to the petition.

B. The ~~land use authority~~ City Council may, ~~with or without a petition,~~ consider and resolve any petition submitted under subsection A above ~~proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat~~ in accordance with the following subsections:

~~A. Petitioners: Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this title may, in writing, petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.~~

~~B. Planning Commission Recommendation: The planning commission shall consider and provide a recommendation to the land use authority for a proposed vacation, alteration, or amendment before the land use authority takes final action. The planning commission shall give its recommendation within thirty (30) days after the proposed vacation, alteration, or amendment is referred to it, or as that time period is extended by agreement with the applicant.~~

~~C. Public Hearings: Unless otherwise stated below, if a petition is filed, the land use authority shall hold a public hearing within forty five (45) days after the petition is filed or, if applicable, within forty five (45) days after receipt of the planning commission's recommendation, if:~~

~~1. Any owner within the plat notifies the municipality of their objection in writing within ten (10) days of mailed notification; or~~

~~2. A public hearing is required because all of the owners in the subdivision have not signed the revised plat.~~

~~D. Petitions For Lot Combinations: No public hearing is required and a land use authority may consider at a public meeting an owner's petition to alter a subdivision plat to combine lots if:~~

~~1. The petition seeks to join two (2) or more of the owner's contiguous, residential lots;~~

~~2. Notice has been sent to the adjacent property owners;~~

~~3. Petitioners have provided a legal description of the proposed new lot; and~~

~~4. Petitioners have provided documented determination and/or agreement regarding the vacation or realignment of any public utility easements through the lots to be combined.~~

1. The City shall provide notice of the petition by mail to the owners within the plat and each affected entity that provides a service to an owner of the record of the portion of the plat that is being vacated or amended at least 10 calendar days before the City Council may approve the vacation or amendment of the plat.
2. The City Council shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - a. any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or
 - b. a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
3. The public hearing requirement does not apply and the City Council may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if the petition seeks only to:
 1. join two or more of the petitioner fee owner's contiguous lots;
 2. subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;
 3. on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the City; or
 4. alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - a. owned by the petitioner; or
 - b. designed as a common area.

C.E. Petition To Vacate, Or Alter A Street Or Alley: If a petition is submitted containing a request to vacate or alter any portion of a street or alley within a subdivision the following shall apply:

- ~~1. The land use authority shall make a recommendation to the mayor concerning the request to vacate or alter the street or alley as proposed; and~~
- ~~1.2. The mayor Planning Commission shall review the request hold a public hearing, after providing notice to property owners within three hundred feet (300') of the area being petitioned for vacation or alteration and make a recommendation to the City Council. determine whether good cause exists for the vacation or alteration.~~
- ~~2.3. The City Council shall hold a public hearing, after providing notice to property owners within three hundred feet (300') of the area being petitioned for vacation or alteration. After the public hearing, the City Council may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement~~

if it finds that good cause exists for the vacation or alteration and neither the public interest nor any person will be materially injured by the vacation. If the ~~mayor~~ City Council vacates or alters any portion of a street or alley, the City Recorder ~~mayor~~ shall ensure that the plat is recorded in the office of the recorder of the county in which the land is located.

3.4. The action of the ~~mayor~~ City Council vacating or narrowing a street or alley that has been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon the effective date of the vacating plat, as a revocation of the acceptance thereof, and the relinquishment of the city's fee therein, but the right of way and easements therein, if any, of any lot owner and the franchise rights of any public utility may not be impaired thereby.

~~F. Petition For Lot Line Adjustment: The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with the following:~~

- ~~1. No new dwelling lot or housing unit results from the lot line adjustment;~~
- ~~2. The adjoining property owners consent to the lot line adjustment;~~
- ~~3. The lot line adjustment does not result in remnant land that did not previously exist;~~
- ~~4. The adjustment does not result in violation of applicable zoning requirements;~~
- ~~5. The proposed adjustment does not move outside of any approved public utility easements, or an agreement with any and all affected utility agencies or entities is formed to maintain or realign the easement; and~~
- ~~6. The petition has been reviewed and approved by the director of community development prior to recordation with the county recorder's office, as applicable.~~
- ~~7. Notice of approval shall be recorded in the office of the county recorder which:
 - ~~a. Is executed by each owner included in the exchange and by the land use authority;~~
 - ~~b. Contains an acknowledgment for each party executing the notice in accordance with the provisions of state code title 57, chapter 2A, recognition of acknowledgments act; and~~
 - ~~c. Recites the descriptions of both the original parcels and the parcels created by the exchange of title.~~~~
- ~~8. A conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.~~

~~G. Petition Submittal Requirements: All petitions to vacate, alter, or amend an entire plat, portion of a plat, or a street or lot contained in a plat shall be accompanied by the following:~~

- ~~1. The name and address of all owners of record of the land contained in the entire plat;~~
- ~~2. The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and~~
- ~~3. The signature of each of these owners who consents to the petition.~~

~~H. Appeals: An aggrieved party may appeal the land use authority's decision to the city's appeal authority by filing a written appeal within ten (10) days after the land use authority's decision. (Ord. 03-02-2007, 3-7-2007)~~

Section 11-5-12 is adopted as follows: (Underlined text is added, stricken text is deleted)

11-5-12: BOUNDARY LINE ADJUSTMENTS:

A. The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if properly executed and acknowledged as required under the provisions of Utah Code Ann. §10-9a-523 and §10-9a-524. The Community Development Department shall review the proposed boundary line adjustment to assure compliance with the following:

1. No additional parcel results from the boundary line adjustment;
2. The boundary line adjustment does not result in remnant land that did not previously exist;
3. The adjustment does not result in violation of applicable zoning requirements;
4. The proposed boundary does not materially affect any approved public utility easements, or an agreement with and between any and all affected utility agencies or entities is formed to maintain or realign the easement;

B. A boundary line agreement shall include:

1. a legal description of the agreed upon boundary line;
2. the signature of each grantor;
3. a sufficient acknowledgement for each grantor's signature; and
4. the address of each grantee for assessment purposes.

C. An exchange of title by either quit claim deed or by boundary line adjustment under this section shall:

1. be executed by each owner included in the exchange;
2. contain an acknowledgement for each party executing the notice in accordance with the provisions of Utah Code Ann. Title 57, Chapter 2a, Recognition of Acknowledgements Act; and
3. recite the descriptions of both the original parcels and the parcels created by the exchange of title.

D. A document of conveyance shall be recorded in the office of the county recorder.

E. A notice of approval recorded under this Subsection does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

Section II. Severability

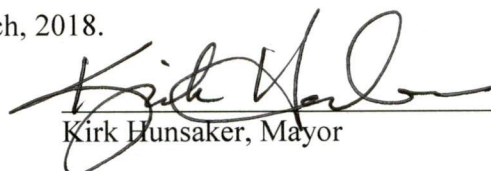
If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section III. Posting and Effective Date

This ordinance shall become effective at 5:00 p.m. on Thursday, March 8, 2018. Prior to that time, the City Recorder shall deposit a copy of this ordinance in the official records of the City and place a copy of this ordinance in three places within the City.

PASSED AND ADOPTED this 7th day of March, 2018.

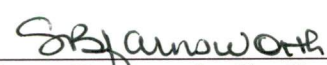




 Kirk Hunsaker, Mayor

Councilmember Elizabeth Montoya	Voted <u>aye</u>
Councilmember Lynn Mecham	Voted <u>aye</u>
Councilmember Keith Broadhead	Voted <u>Nay</u>
Councilmember Nick Miller	Voted <u>aye</u>
Councilmember Chelsea Rowley	Voted <u>aye</u>

ATTEST:



 Susan Farnsworth, City Recorder