

## **ORDINANCE NO. DRAFT**

### **AN ORDINANCE AMENDING SANTAQUIN CITY CODE TO ALLOW OFF-SITE OPEN SPACE IMPROVEMENTS TO BE COUNTED TOWARDS THE MINIMUM PERMANENT IMPROVED OPEN SPACE PERCENTAGE REQUIRED FOR A PLANNED UNIT DEVELOPMENT (PUD) , PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE**

**WHEREAS**, the City of Santaquin is a fourth class city of the state of Utah; and

**WHEREAS**, the City Council has specific authority pursuant to Title 10, Chapter 9a Utah Code Ann. (1953 as amended) 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; and

**WHEREAS**, the City Council desires to amend Santaquin City Code Title 10 Chapter 20 Section 170 to allow off-site open space improvements to be counted towards the minimum permanent improved open space percentage required for a Planned Unit Development (PUD); and

**WHEREAS**, the Santaquin City Planning Commission held a public hearing on November 9, 2021, which hearing was preceded by the posting of public notice in at least three public places within the City limits of Santaquin City; and

**WHEREAS**, after the noted public hearing, the Santaquin City Planning Commission forwarded a recommendation to the City Council;

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

#### **Section I. Amendments**

**Title 10 Chapter 20 Section 170 is amended as follows:** (underlined text is added, stricken text is deleted)

##### D. Minimum Standards:

1. Open Spaces: Each planned unit development is required to contain at least fifteen percent (15%) of the net developable acreage of the development in permanent open space. The fifteen percent (15%) acreage must meet the following guidelines:
  - a. Such acreage must be nonencumbered except for utility easements and nonsensitive lands.

- b. The open space must be improved by the developer and contain recreation activity areas, picnic pavilions, gazebos, water features, playgrounds, or privately maintained landscape areas as stipulated in the development agreement.
- c. Where a development will be constructed in phases, the ratio of improved and dedicated open space to the total platted property must always meet or exceed the required open space amounts for the entire development.
- d. The fifteen percent (15%) open space requirement may not be used to obtain increased density bonuses under the provisions of paragraph E.
- e. A maximum of fifty percent (50%) of the open space may be utilized for storm drain detention or retention.
- f. All open space areas must be accessible by emergency vehicles and personnel.
- g. Preservation, maintenance, and/or ownership of required and amenity open spaces within a PUD development shall be accomplished by:
  - 1) Dedication of the land as a public park or parkway system if agreed to and accepted in writing by the City;
  - 2) Establish and operation of a condominium project in compliance with the provisions of the Condominium Ownership Act of 1963, Utah Code 57-8, as amended, which provides for the payment of common expenses for the upkeep of the common areas and facilities;
  - 3) Creation of a homeowners' association by which common areas shall be owned and maintained; or
  - 4) Other arrangement devised by the applicant, which is found to be acceptable and approved by the City Council prior to preliminary plat approval. (Ord. 08-01-2008, 8-6-2008, eff. 8-7-2008)
- h. [The City Council, at their discretion, may accept off-site open space improvements and credit the associated improved acreage towards the fifteen percent \(15%\) open space requirement.](#)

## **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. Contrary Provisions Repealed**

Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.

## **Section IV. Codification, Inclusion in the Code, and Scrivener's Errors**

It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Typographical errors which do not affect the intent of this ordinance may be

authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

**Section V. Posting and Effective Date**

This ordinance shall become effective at 5:00 p.m. on Wednesday, November 17<sup>th</sup>, 2021. 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 16<sup>th</sup> day of November 2021.

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Kirk Hunsaker, Mayor

Councilmember Nick Miller	Voted	___
Councilmember Elizabeth Montoya	Voted	___
Councilmember Lynn Mecham	Voted	___
Councilmember Jennifer Bowman	Voted	___
Councilmember David Hathaway	Voted	___

ATTEST:

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K. Aaron Shirley, City Recorder

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, K. AARON SHIRLEY, City Recorder of Santaquin City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Santaquin City, Utah, on the 16<sup>th</sup> day of November 2021, entitled

**“AN ORDINANCE AMENDING SANTAQUIN CITY CODE TO ALLOW OFF-SITE OPEN SPACE IMPROVEMENTS TO BE COUNTED TOWARDS THE MINIMUM PERMANENT IMPROVED OPEN SPACE PERCENTAGE REQUIRED FOR A PLANNED UNIT DEVELOPMENT (PUD) , PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Santaquin City Utah this 16<sup>th</sup> day of November, 2021.

\_\_\_\_\_  
K. AARON SHIRLEY  
Santaquin City Recorder

(SEAL)

AFFIDAVIT OF POSTING

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, K. AARON SHIRLEY, City Recorder of Santaquin City, Utah, do hereby certify and declare that I posted in three (3) public places the ordinance, which is attached hereto on the 16<sup>th</sup> day of November, 2021.

The three places are as follows:

1.     Zions Bank
2.     Post Office
3.     City Office

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

\_\_\_\_\_  
K. AARON SHIRLEY  
Santaquin City Recorder

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by K. AARON SHIRLEY.

\_\_\_\_\_  
Notary Public