

ORDINANCE NO. 24-02

AN ORDINANCE AMENDING SECTIONS 16.04.020, 16.04.040, 16.04.050, 16.04.060, 16.04.070, 16.04.080, 16.04.090, 16.04.100, 16.04.110, 16.04.120, 16.08.020, 16.08.030, 16.08.040, 16.12.010, 16.12.020, 16.12.030, 16.12.040, 16.12.050, 16.12.060, 16.12.070, 16.12.080, 16.12.090, 16.12.100, AND 16.12.110 OF THE MURRAY CITY MUNICIPAL CODE REGARDING SUBDIVISION APPROVAL PROCEDURES.

BE IT ENACTED BY THE MURRAY CITY MUNICIPAL COUNCIL:

Section 1. Purpose. The purpose of this ordinance is to amend Sections 16.04.020, 16.04.040, 16.04.050, 16.04.060, 16.04.070, 16.04.080, 16.04.090, 16.04.100, 16.04.110, 16.04.120, 16.08.020, 16.08.030, 16.08.040, 16.12.010, 16.12.020, 16.12.030, 16.12.040, 16.12.050, 16.12.060, 16.12.070, 16.12.080, 16.12.090, 16.12.100, and 16.12.110 of the Murray City Municipal Code regarding Subdivision approval procedures.

Section 2. Amend Sections 16.04.020, 16.04.040, 16.04.050, 16.04.060, 16.04.070, 16.04.080, 16.04.090, 16.04.100, 16.04.110, 16.04.120, 16.08.020, 16.08.030, 16.08.040, 16.12.010, 16.12.020, 16.12.030, 16.12.040, 16.12.050, 16.12.060, 16.12.070, 16.12.080, 16.12.090, 16.12.100, and 16.12.110 of the Murray City Municipal Code. Sections 16.04.020, 16.04.040, 16.04.050, 16.04.060, 16.04.070, 16.04.080, 16.04.090, 16.04.100, 16.04.110, 16.04.120, 16.08.020, 16.08.030, 16.08.040, 16.12.010, 16.12.020, 16.12.030, 16.12.040, 16.12.050, 16.12.060, 16.12.070, 16.12.080, 16.12.090, 16.12.100, and 16.12.110 of the Murray City Municipal Code shall be amended to read as follows:

16.04.020: DEFINITIONS:

AVERAGE PERCENT OF SLOPE: The rise or fall in elevation along a-line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a lot. A vertical rise of one hundred feet (100') between two (2) points one hundred feet (100') apart measured on a horizontal plane is a one hundred percent (100%) grade or a one to one (1:1) slope.

COMPLETE APPLICATION: An application that clearly demonstrates that the applicant has met all objective ordinance-based application criteria and has paid the application fees.

CUT: Either excavated material, or the void resulting from the excavation of earth material. The reference for a cut is the distance from a survey elevation stake to a required lower adjacent elevation.

DEVELOPER: Any subdivider or any person or organization that develops, or intends to develop, property after it has been divided.

EXCAVATION: Either the removal of earth from its natural position, or the cavity resulting from the removal of earth.

FILL: Earth materials used either as a manmade deposit or to raise an existing grade, or shall mean the depth or the volume of such material. The reference for a fill is the distance from a survey elevation stake to a required higher adjacent elevation.

FINAL GRADING: The last stage of grading a soil or gravel material prior to landscaping or the installation of concrete or bituminous paving, or other required final surfacing material.

FINAL PLAT: A map and supporting documents, prepared in accordance with the provisions of this title and prepared for recording in the office of the county recorder.

GRADING: Either an excavation or fill, or the act of excavating or filling.

IMPROVEMENTS: Curbs, gutters, sidewalks, gradings, pavings, landscaping, water, sewer and power systems, drainage systems, fences, public facilities, amenities and other such requirements of this title.

LAND USE AUTHORITY: For purposes of Title 16, the Planning Commission is the land use authority for review and approval of a preliminary subdivision application and planning staff is the land use authority for review and approval of a final subdivision application.

LAND USE AUTHORITY does not include the City Council or a member of the City Council.

LOT: A tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

LOT, DOUBLE FRONTAGE: A subdivision lot which has access from an interior subdivision street and also abuts the right-of-way of a collector or arterial street along the rear lot line.

MONUMENT: A permanent survey marker established by the county surveyor and shown on a final plat with state plane coordinates, and/or a survey marker set in accordance with the City Engineer's specifications and referenced to county survey monuments.

NATURAL STATE: The condition of land which has not been graded, disturbed, or built upon.

PARCEL: Any real property that is not a lot.

REVIEW CYCLE: Means the occurrence of:

- A. the applicant's submittal of a complete subdivision land use application including the City's written determination of completeness;
- B. the City's review of that subdivision land use application;
- C. the City's response to that subdivision land use application, in accordance with this section; and

D. the applicant's reply to the City's response that addresses each of the City's required modifications or requests for additional information.

SENSITIVE AREA: An area of land which contains environmental or geological elements which, if altered, may cause damage to the environment or the improvements thereon.

STREET: A right of way for the purpose of vehicular and pedestrian traffic.

STREET, ARTERIAL: a street that functions or is intended to function as a major traffic way and is designated on the master transportation plan as a controlled access highway, major street, parkway or other equivalent term to identify those streets comprising the basic structure of a street plan.

STREET, COLLECTOR: A street that is of considerable continuity that functions or is intended to function as the principal traffic way between large and separated areas or districts, and that is the means of access to the major or arterial street system.

STREET, CULD-DE-SAC: a street closed at one end by an enlarged, circular turnaround area.

STREET, LOCAL: A street which is supplementary to a collector street and of limited continuity which functions as or is intended to serve the local needs of a neighborhood, and which is the means of access to the collector street system. Local streets primarily serve land-access functions. Local street design and control facilitates the movement of vehicles onto and off the street system from land parcels. Through-movement is difficult and discouraged by both the design and control of this type of facility. This level of street network is likely to provide the highest level of comfort to bicyclists and pedestrians. Local streets will have the lowest speeds and be mostly absent of large vehicles. Existing local streets are identified in the Master Transportation Plan.

SUBDIVIDER: Any person who: a) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who b) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit, or plat in a subdivision; or who c) engages directly, or through an agent, in the business of selling, leasing, developing or offering for sale, lease, or development a subdivision; or who d) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

SUBDIVISION: Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms and conditions. "Subdivision" includes: a) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat or other recorded instrument; and b) divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural and industrial purposes.

SUBDIVISION IMPROVEMENT PLANS: the civil engineering plans associated with required infrastructure and municipally controlled utilities required for a subdivision.

SUBDIVISION ORDINANCE REVIEW: review by the City to verify that a subdivision land use application meets the criteria of the City's subdivision ordinances.

SUBDIVISION PLAN REVIEW: a review of the applicant's subdivision improvement plans and other aspects of the subdivision land use application to verify that the application complies with municipal ordinances and applicable standards and specifications.

UTILITIES: Natural gas, electric power, cable television, telephone, storm system, sewer, culinary water and other services deemed to be of a public utility nature by the City.

UTILITY EASEMENT: The area designated for access to construct or maintain utilities on privately or publicly owned land.

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16.04.040: GENERAL RESPONSIBILITIES:

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B. The City shall review the plans and plats for design; for conformity to the general plan and to title 17 of this code; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.

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F. The Planning Commission shall act as the final Land Use Authority to approve (1) preliminary subdivision plats; and (2) the establishment of requirements and design standards for public improvements. It shall make investigations, reports and recommendations on proposed subdivisions as to their conformance to the general plan and title 17 of this code, and other pertinent documents as it deems necessary. After completing its review of the final plat, the Planning Commission shall approve or disapprove the final plat in accordance with section 16.12.070 of the Code.

G. The planning staff shall act as the final Land Use Authority to approve final subdivision plats. After completing its review of the final plat, the planning staff shall approve or disapprove the final plat in accordance with section 16.12.070 and 16.04.045 of this chapter.

H. The City Attorney shall verify that the bond provided by the subdivider is acceptable, that the subdivider dedicating land for use of the public is the owner of record, that the land is free and clear of unacceptable encumbrances according to the title report submitted by the subdivider, and may review other matters which may affect the City's interests.

I. The Mayor may sign, as a non-discretionary and ministerial act, final subdivision plats for the acceptance of lands and public improvements that may be proposed for dedication to the city.

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16.04.050: REVIEW CYCLES

In reviewing a completed subdivision land use application, the review cycles set forth in Utah Code sections 10-9a-604.1 and 10-9a-604.2, or successor provisions, shall apply.

A. In reviewing a completed subdivision land use application, the City may require:

1. additional information relating to an applicant's plans to ensure compliance with City ordinances and approved standards and specifications for construction of public improvements; and

2. modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

B. The City's request for additional information or modifications to plans under Subsection (A)(1) or (2) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

C. The City will not require more than four complete review cycles.

D.

1. Subject to Subsection (D)(2), unless the change or correction is necessitated by the applicant's adjustment to a plan set or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in the City's plan review is waived.

2. A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

3. If an applicant makes a material change to a plan set, the City has the discretion to restart the review process at the first review of the final application, but only with respect to the portion of the plan set that the material change substantively effects.

E. If an applicant does not submit a revised plan within 20 business days after the City requires a modification or correction, the City shall have an additional 20 business days to respond to the plans.

F. After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the City's previous review cycle, the City may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

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1. In addition to revised plans, an applicant shall provide a written explanation in response to the City's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

2. The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

3. If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

H. If, on the fourth or final review, the City fails to respond within 20 business days, the City shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

1. for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection 10-9a-508(5)(d) to review and approve or deny the final revised set of plans; or

2. for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to the hearing officer.

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16.04.060: COMPLIANCE REQUIRED:

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2. Plat Must Not Conflict With Plans, Ordinances Or Laws: A plat shall not be approved if the City determines such plat to be in conflict with any provision or portion of the general plan, the transportation master plan, title 17 of this code, this chapter, and any other state law or City ordinance.

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16.04.070: CONCEPT REVIEW:

A. A concept review may be requested by the subdivider for all proposed subdivisions. A concept review provides the subdivider with an opportunity to consult with and receive information from the City regarding the regulations and design requirements applicable to the proposed subdivision. The concept review procedure may be informal and may consist of one or more meetings with affected departments, all as determined by the Community and Economic Development Director.

B. If a concept review is requested, the City shall, within 15 business days after the request, schedule the meeting to review the concept plan and give initial feedback.

C. At the concept review, City staff shall provide or have available on the City website:

1. copies of applicable land use regulations;
2. a complete list of standards required for the project;
3. preliminary and final application checklists; and
4. feedback on the concept plan.

D. The subdivider shall provide the following items:

1. The proposed name of the subdivision;
2. A vicinity plan showing significant natural and manmade features or existing structures on the site and within five hundred feet (500') of any portion of it; the property boundaries of the proposed subdivision; the names of adjacent property owners; topographic contours at no greater interval than two feet (2'); north arrow; and scale of the drawing;
3. A proposed lot and street layout;
4. Availability of utilities as evidenced by letters from the utility companies;
5. A description of those portions of the property which are included in the most recent flood insurance rate maps prepared by FEMA;
6. The total acreage of the entire tract proposed for subdivision;
7. Proposed changes to existing zoning district boundaries or zoning classifications or conditional use permits, if any.

E. After the concept review has been completed the subdivider may apply for preliminary plat review consistent with the concept review. If preliminary plat review is not requested within twelve (12) months after a concept review is completed, the Community and Economic Development Director may require a new concept review before the preliminary plat review may proceed.

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16.04.080: EXEMPTION FROM PLAT REQUIREMENT (LOT SPLIT SUBDIVISIONS):

1. A plat is required if the proposed subdivision requires a dedication of real property for public street, utility easements, or other similar public purposes, as determined by the Community and Economic Development Department after consultation with affected City departments. If a plat is required by this subsection, the plat must be reviewed and approved by the planning staff and dedications accepted by the Mayor before recording.

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E. Final Approval: If the survey and proposed division are in compliance with all City ordinances and conditions imposed, the lot split subdivision shall be approved by the Community and Economic Development Director or designee, and no further approval from the City is required.

F. Subdivision: After final approval, the property may be subdivided as approved and conveyed by metes and bounds legal descriptions.

G. Fee: The City charges a fee for applications for lot split subdivisions, which must be paid at the time the application is submitted. The fee will be established by the Mayor in a written fee schedule in an amount reasonably necessary to defray costs of processing an application. The written fee schedule will be made available for public inspection in the Department.

H. Appeal: A final decision of the Community and Economic Development Director or designee may be appealed to the Appeal Authority by any aggrieved person or by any officer, department, board or agency of the City affected by the decision or action. Appeals must be filed, in writing, with the City's Community and Economic Development Department within ten (10) days after the decision is made. The appeal will then be heard according to the rules and bylaws of the Appeal Authority. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the Appeal Authority. Appeal of the decision of the Appeal Authority is governed by title 10 chapter 9a of the Utah Code.

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16.04.090: MODIFICATIONS; PERMITTED WHEN; PETITION FROM SUBDIVIDER:

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16.04.100: PENALTIES:

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16.08.020: APPLICATION:

A. The City shall maintain and publish a list of items comprising the complete preliminary subdivision land use application. Compliance with the application is mandatory. The application for preliminary subdivision applications and materials can be found on the City's website and at the Department Office. These materials include, among other requirements, provisions for:

1. the owner's affidavit;
2. an electronic copy of all plans in PDF format;
3. the preliminary subdivision plat drawings; and
4. a breakdown of fees due upon application.

B. The subdivider of a subdivision, after completing a concept review, if requested, shall file an application for preliminary plat approval with the Community and Economic Development Department on a form prescribed by the City, together with at least two (2) copies of the preliminary plat, one of which shall be electronic. An application may not be forwarded to or scheduled for hearing before the Planning Commission until all required information has been received by the City demonstrating that the applicant has met all objective ordinance-based criteria and the fees have been paid for the submission of a preliminary subdivision application. The City shall review and determine whether the application is complete within fifteen (15) business days after receipt of an application.

16.08.030: PRELIMINARY PLAT SUBMITTAL:

The preliminary plat shall be prepared, stamped and signed by a professional engineer licensed by the state of Utah. The preliminary plat shall include, at a minimum, the information required by the preliminary subdivision application. Additional information may be required by the staff or Planning Commission.

16.08.040: PLANNING COMMISSION REVIEW:

A. No later than 15 business days after the day on which an applicant submits a complete preliminary subdivision application, the Planning Commission shall review the submitted preliminary plat and determine compliance with the standards, specifications, and criteria set forth in this title and all other applicable ordinances of the City, including, but not limited to, title 17 of this code, general plan and the transportation master plan. The subdivision plan review shall include receiving public comment in no more than one public hearing.

B. In reviewing the preliminary subdivision land use application, the Planning Commission may require:

1. additional information relating to an applicant's plans to ensure compliance with City ordinances and approved standards and specifications for construction of public improvements; and
2. modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

The City's request for additional information or modifications to plans under Subsection (B)(1) or (2) shall be specific and include citations to all City ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

C. The Planning Commission may approve, approve subject to modification, or disapprove the submitted preliminary plat, and shall make findings specifying any inadequacy in the application, such as noncompliance with City regulations, questionable or undesirable design and/or engineering. The subdivider shall be notified in writing of the action taken by the findings of the Planning Commission regarding the submitted preliminary plat.

D. Completion of preliminary plat review by the planning commission does not constitute a final acceptance of the subdivision by the City.

E. Preliminary and final subdivision review may be done concurrently.

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16.12.010: FINAL PLAT REVIEW AND APPROVAL

A. Final Subdivision Application.

The City shall publish a list of items that comprise a complete and final subdivision land use application. Compliance with the application is mandatory. The application for final subdivision applications and materials can be found on the City's website and at the Community and Economic Development Department Office.

B. Review Process and Timing.

No later than 20 business days after the day on which an applicant submits a complete final application, the planning staff shall complete a review of the applicant's final subdivision land use application including all subdivision plan reviews. In reviewing the final subdivision land use application, the planning staff may require:

1. additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements; and

2. modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

The planning staff's request for additional information or modifications to plans under Subsection (B)(i) or (ii) shall be specific and include citations to all City ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

16.12.020: FILING DATA FOR FINAL PLAT:

At the time a final plat of a subdivision is submitted to the City Engineer, the subdivider shall submit therewith the information and documents required by the final subdivision application. Additional information may be required by the staff.

16.12.030: PREPARATION AND MATERIALS OF FINAL PLAT:

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16.12.040: PUBLIC IMPROVEMENT AGREEMENT:

A. Prior to the approval by the planning staff of the final plat, the subdivider shall execute and file an agreement between the subdivider and the City specifying the

period within which the subdivider shall complete all public improvement work to the satisfaction of affected City departments, and providing that if the subdivider shall fail to complete the work within such period, the City may complete the same and recover the full cost and expense thereof from the subdivider or the subdivider's surety. The agreement shall also provide for inspection of all public improvements by the City Engineer and that the cost of such inspections shall be reimbursed to the City by the subdivider.

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16.12.050: BOND AND SECURITY REQUIREMENTS:

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16.12.060: NO PUBLIC RIGHT OF ACTION:

The provisions of sections 16.12.040 and 16.12.050 of this chapter, or successor sections, shall not be construed to provide any private right of action on either tort, contract, third party contract or any other basis on behalf of any property holder in the subdivision as against the City or on the cash bond, corporate surety bond or letter of credit required under section 16.12.050 of this chapter or its successor in the event that the improvements are not constructed as required.

16.12.070: CITY ENGINEER REVIEW AND CERTIFICATION:

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16.12.080: APPROVAL BY PLANNING STAFF:

Upon receipt of the final plat, the planning staff shall examine the same to determine whether the plat conforms with the preliminary plat. If in conformity with the preliminary plat and City ordinances, the planning staff shall approve the plat. If the plat is not in conformity with (1) the preliminary plat; or (2) the requirements of the ordinances of the City, the planning staff shall disapprove the plat, specifying the reasons for such disapproval. Within thirty (30) days after the planning staff has disapproved any plat, the subdivider may file with the City Engineer a plat altered to meet the requirements of the planning staff. No final plat shall have any force or effect until the same has been approved by the planning staff.

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16.12.090: ACCEPTANCE OF OFFERS OF DEDICATION BY MAYOR:

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16.12.100: RECORDATION WITH COUNTY:

A. When the planning staff has approved the final plat, all required fees have been paid, and the subdivider has filed the approved agreement and bond required in this chapter, the plat may be presented to the County Recorder for recordation.

B. The subdivision plat shall be recorded within one year of the final approval by the planning staff or the final plat shall be null and void. The applicant may request a one-time extension of up to twelve (12) months for special circumstances. The extension must be requested prior to final plat expiration.

16.12.110: AMENDMENTS TO FINAL PLAT:

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Section 3. Effective date. This Ordinance shall take effect upon first publication.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this 16th day of January, 2024.



MURRAY CITY MUNICIPAL COUNCIL


Pam Cotter, Chair


ATTEST:


Brooke Smith, City Recorder

Transmitted to the Office of the Mayor of Murray City on this 22nd day of January 2024.

MAYOR'S ACTION: Approved

DATED this 22nd day of January, 2024.


Brett A. Hales, Mayor

ATTEST:



Brooke Smith, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance, or a summary hereof, was published according to law on the 22nd day of January, 2024.



Brooke Smith, City Recorder