

ORDINANCE 2023-14

AN ORDINANCE AMENDING TITLE 16, "SUBDIVISIONS" OF THE RICHFIELD CITY LAND USE ORDINANCE TO INCLUDE A DEFINITION AND OTHER REQUIREMENTS FOR CONDOMINIUMS AND CONDOMINIUM CONVERSIONS.

PREAMBLE

WHEREAS, the City of Richfield ("City") has adopted the Subdivision Ordinance, a Land Use Ordinance of Richfield; and

WHEREAS, the Richfield City Planning Commission held a Public Meeting to receive comments on the proposed amendment to the Subdivision Ordinance of Richfield City and recommended to the City Council that the Subdivision Ordinance of Richfield City be amended to establish standards and requirements for condominiums and condominium conversions; and

WHEREAS, the Mayor and City Council of the City of Richfield have comprehensively examined proposed amendments as approved and submitted by the Planning Commission; and

WHEREAS, the City Council conducted a Public Hearing to receive comments on the proposed amendments recommended by the Planning Commission;

WHEREAS, the Mayor and City Council of the City have determined that the enactment of these amendments to the Subdivision Ordinance, a Land Use Ordinance for Richfield City to amend Chapter 16 of the Subdivision Ordinance establishing standards and requirements for condominiums and condominium conversions, will be in the best interest of the public health, safety, and welfare of the City, its citizens, inhabitants, owners, occupants, or users of property within the City; now, therefore;

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF RICHFIELD, SEVIER COUNTY, STATE OF UTAH:

SECTION 1. Preamble: The recitals in the Preamble are enacted to be deemed a part of this Ordinance and are hereby declared to express the intent hereof.

SECTION 2. Chapter 16, Subdivisions in the Richfield City Zoning Ordinance, a Land Use Ordinance, is amended to include standards and requirements for condominiums and condominium conversions as follows:

Chapter 16.01.050 Designation of Land Use Authority. Table 1 – Designation of Land Use Authority shall be amended to include the following:

Type Of Land Use Application	Reviewing Body	Recommending Body	Land Use Authority	Appeal Authority / Final Appeal Authority
Condominium / Condominium Conversion Plan -Preliminary -Final	City Staff City Staff	Planning Commission Zoning Administrator	City Council Planning Commission	Land Use Hearing Officer (LUHO) / District Court

Chapter 16.07 Condominiums; Condominium Conversions. Chapter 16.07 shall be included as follows:

16.07.010 Purpose And Objectives

1. The procedure and requirements of this chapter shall apply to and govern the construction and/or conversion of condominiums within the corporate limits of the City. Said provisions shall supplement existing zoning, health, building, and other adopted ordinances of the City which may be applicable.
2. The procedures set forth herein are intended to recognize the unique characteristics of condominiums and condominium conversion projects and to provide a review process and a set of standards that will address these characteristics, reducing any negative impacts upon the community, specific neighborhood areas, or prospective owners or tenants.
3. In the interest of the public's health, safety, and welfare, condominium or condominium conversion projects, including their associated record of survey map (i.e., plat), bylaws, and declarations, therefore shall be reviewed and approved by the Land Use Authority as outlined in 16.01.050 prior to the commencement of construction or conversion of any building to be used as a condominium.
4. Condominiums or condominium conversion projects shall only be approved by the Land Use Authority when they are in conformance with the procedures, requirements, and standards contained herein and as required under the Utah Condominium Ownership Act, §57-8 of Utah State Code (as amended).

16.07.020 Applications Required

1. Applicant(s) shall submit preliminary and final plat applications in accordance with the requirements of this title.
2. Said applications shall also be accompanied by:
 - a. A site plan(s) provided in accordance with the requirements of the City's zoning ordinance, which illustrates various aspects of the proposed condominium or condominium conversion project, including building design, landscaping, off-street parking, lighting, and improvements.
 - b. Two (2) copies of the proposed condominium or condominium conversion's declarations and bylaws.
 - c. In the instance of a condominium conversion project, a property report containing the information specified herein on the proposed building or structure which is to be converted shall be submitted as part of the application, together with a plan outlining all proposed improvements and repairs.
 - i. The Property Report shall, at a minimum, contain the following information:
 1. The age of the building or buildings, with copies of original building plans and a disclosure of whether or not the actual building conforms to prior approved plans.
 2. The condition of structural elements, including roof, foundation, walls, mechanical, electrical, plumbing, and heating systems.
 3. A plan showing which parts of existing systems are maintained in common and which are maintained by individual units.
 4. The size of water service lines from meter to main and from main to building(s).
 5. The size and location of sewer laterals.

6. The capacity of electrical service for each unit measured in amps.
 7. The condition of paving materials on private streets, if any.
 8. The condition of paving or surfacing material on driveways, parking areas, sidewalks, curbs, etc.
 9. A detailed plan of parking and traffic circulation.
 10. The condition of paint and/or exterior surfaces of all buildings and structures.
 11. All known conditions constituting deficiencies.
 12. All known conditions which may require repair or replacement within the next succeeding five (5) year period.
- ii. The Property Report may be referred back to the Applicant(s) by the City for additional information as necessary to adequately evaluate the physical condition of the building, its equipment and premises to ensure that the standards of the declaration appropriately address existing and future conditions related to maintenance, upkeep and operation.
- iii. During the City's review of the submitted Property Report the Building Official or other authorized representatives of the City may make an inspection of the proposed building(s) to determine compliance with the life-safety provisions of the International Building Codes as adopted by the City and the State and to verify the submitted report.
- d. When required by this chapter, Proof of Notice to Tenants shall be submitted prior to final approval of the Land Use Authority. A copy of said notice with a list identifying the names and apartment/unit numbers for all tenants within the affected building(s) accompanied by an affidavit certifying that all tenants within the affected building(s) have been mailed by certified mail shall be provided to the Zoning Administrator.
- i. Proof of Notice to Tenants shall be required whenever the proposed project involves the conversion of an existing occupied residential structure. This notice requirement shall not apply to non-residential structures or to a residential structure that was vacant upon acquisition and remained so during the year prior to filing an application for condominium conversion. It shall not preclude the approval of a project prior to the expiration date where every tenant executed a waiver relinquishing their right of notice under this provision.
- ii. Proof of Notice to Tenants shall be provided by certified mail and shall include the following:
1. A summary of the Applicant(s) intentions and plans for the conversion of the building(s) to a condominium project.
 2. The estimated dates of termination of occupancy by tenants.
 - a. Termination of occupancy shall not be less than ninety (90) days from the date of notice.
 3. An indication of the approximate dates of construction, which shall not be less than one hundred twenty (120) days from the date of notice.
 4. A statement indicating that tenants shall be given first right to purchase their respective unit upon at least as favorable terms and conditions as said units are offered to the general public.
 5. Relocation information for tenants specifying available alternative housing relocation resource agencies and organizations and a plan of any service to be voluntarily provided by the Applicant(s).

16.07.030 Determination Of Application Completeness

1. The Zoning Administrator shall check submitted applications for general compliance with these regulations, design standards, and other applicable ordinances of the City.
2. If the applications are not complete or not in general compliance, the Zoning Administrator shall notify the applicant and specify the areas of deficiency.
3. If the applications are deemed complete and in general compliance, the Zoning Administrator shall transmit the applications to City Staff and any other affected entities.
 - a. City Staff and affected entities may forward to the Zoning Administrator a written report of their findings and recommendations to be included with the applications for review by the Recommending Body as outlined in 16.01.050.

16.07.040 Review By Recommending Body; Notification To Applicant(s)

1. Within a reasonable time after filing a condominium or condominium conversion application, the Reviewing Body shall review the applications and findings of City Staff and other affected entities. If the Reviewing Body finds that the proposed development complies with the requirements of this title and the City's zoning ordinance and determines they are satisfied with the proposed plans, they shall recommend approval, or approval with conditions of the application to the Land Use Authority. If the Reviewing Body finds that the proposed condominium or condominium conversion application does not meet the requirements of this title or other applicable City ordinances or State requirements or that they are not satisfied with the development plans, they shall recommend disapproval of such application to the Land Use Authority.
2. The Zoning Administrator shall notify the Applicant(s) in writing of the actions taken by the Reviewing Body. One (1) copy of the plat and accompanying conditions, if applicable, and the minutes of the Reviewing Body's meeting shall be retained.
3. Notification of an affirmative action by the Reviewing Body during preliminary plan review shall be authorization for the Applicant(s) to proceed with the preparation of final plans.
4. Approval of the preliminary plan application shall in no way relieve the applicant of their responsibility to comply with all required conditions and other ordinances of the City.

16.07.050 Review By Land Use Authority; Rejection Of Application(s)

1. Applications and the recommendation of the Reviewing Body shall be forwarded to the Land Use Authority for review.
2. The Land Use Authority shall consider the applications and any offers of dedication. If the Land Use Authority determines that plans are in conformity with the requirements of this title and other applicable ordinances, including offers of dedication, it shall approve said applications.
3. If the Land Use Authority determines that the plans are not in conformity with the requirements of this title, other applicable ordinances, or any reasonable conditions imposed, or if it rejects any offer or offers of dedication, the Land Use Authority shall disapprove the applications specifying reasons for such disapproval.
4. Within one (1) year after the Land Use Authority has disapproved any condominium or condominium conversion application, the subdivider may file with the Zoning Administrator an altered or amended plan that meets the requirements of the Land Use Authority.

16.07.060 Bonding, Recordation; Expiration Of Final Approval

1. Bonding shall be required as specified in this title when any public improvements are

- required in conjunction with a new condominium or condominium conversion project.
2. Final plats are required to be recorded with the County Recorder's Office as specified in this title.
 3. If the requirements set forth in this chapter are not met by the applicant within six (6) months from the date of City Council approval, such approval shall be null and void.
 4. This time period may be extended for one (1) additional six (6) month period by the City Council. The applicant shall petition for an extension prior to the expiration of the original six (6) months in writing through the Zoning Administrator. An extension may be granted only if the Land Use Authority finds that the extension will not be detrimental to the City. If any of the fees charged as a condition of subdivision approval, including but not limited to: inspection fees, parks fees, flood control fees, as well as the amount the City uses to estimate performance bonds to ensure completion of required improvements, have increased, the City Council may require the applicant to pay such increases as a condition of granting the extension.

16.07.070 Construction; Amendments To Approved Plans

1. Upon approval of a condominium or condominium conversion project, construction shall proceed only in accordance with the plans and specifications approved by the Land Use Authority and in conformity with any conditions attached to its approval.
2. Amendments to approved plans and specifications for a condominium or condominium conversion project shall be approved by the Land Use Authority indicated in 16.01.050.
3. The Building Official or any other City department shall not issue any permit for any proposed building, structure, activity, or use within the condominium or condominium conversion project unless such building, structure, activity or use is in accordance with the approved plans and any conditions imposed.

16.07.080 Appeals

1. Appeals may be made to the Land Use Hearing Officer from any decision, determination or requirement of the Land Use Authority as outlined in the City's zoning ordinance.
2. Application for appeal shall be provided to the Zoning Administrator within ten (10) days after such decision or determination, or requirement is made. Such application shall set forth in detail the action and grounds upon which the Applicant(s), or other interested persons deems aggrieved.
3. The Zoning Administrator shall set the appeal for hearing before the Land Use Hearing Officer within forty-five (45) days from the date of receipt of the appeal. Such hearing may, for good cause, be continued.
4. Written notice of the date set for hearing the appeal shall be mailed to the appellant by the City at least ten (10) days before the appeal hearing date.
5. After hearing the appeal, the Land Use Hearing Officer may affirm, modify or overrule the decision, determination or requirement appealed and enter any such order or orders as are in harmony with the spirit and purposes of this title. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the Land Use Hearing Officer.
6. Appeals of any decision of the Land Use Hearing Officer may be made to the District Court. Such appeal shall be made within thirty (30) days of the rendering of a decision by the Land Use Hearing Officer.

16.07.090 Enforcement

1. It shall be unlawful for any person to sell any unit of any condominium or condominium conversion project or any other portion thereof until the final record of survey map, in full compliance with the provision of this title, have been approved by the Land Use Authority and duly recorded in the Office of the County Recorder.
2. Any map, permit, or license issued or approved in conflict with the provisions of this title shall be null and void.
3. Any developer, agent of a developer, owner, successor-in-interest of a developer or owner, tenant purchaser, builder, contractor or other person who violates any provisions of this chapter or any conditions imposed pursuant to the title shall be deemed guilty of a Class "C" misdemeanor.
4. The City shall have the authority to enforce this chapter against violations thereof by actions including but not limited to the following:
 - a. To serve notice requiring the cessation or correction of any action in violations of this chapter upon the developer, agent of the developer, successor-in-interest of the developer or owner, tenant, purchaser, builder, contractor or other person who commits or assists in such violation.
 - b. To deny the condominium or condominium conversion project application.
 - c. To maintain an action for injunction relief to restrain, abate or cause the correction of such violation.
 - d. To institute criminal proceedings.

16.07.100 Development Standards

1. To achieve the purposes and objectives of this chapter, all proposals for new condominiums or condominium conversion projects shall be made pursuant to the provisions of this chapter. Where the provisions of this chapter cannot reasonably be complied with in the case of condominium conversions due to the design and location of existing structures and/or roads, the Land Use Authority may waive or modify some, or all, of these provisions.
2. The standards and criteria contained herein are intended to provide assurances that the layout of the project is accomplished in a manner which is attractive and is not detrimental to the functioning of the project or surrounding areas, and that the contents of the declaration assure proper operation, construction, maintenance and upkeep of all utilities, facilities, recreation areas, roads and parking areas within the development.
3. **General requirements.**
 - a. The area proposed for condominium development shall be in single ownership during development to provide for full supervision and control of said development, and to ensure conformance with these provisions and all conditions imposed upon the preliminary and final development plans.
 - b. The condominium or condominium conversion plans shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.
4. **Density; Site requirements.**
 - a. Residential density as measured by dwelling units per acre within a condominium development may exceed that permitted by the underlying zone up to a maximum of twenty percent (20%), provided that the density does not exceed the maximum recommended in the City's General Plan. The Planning Commission and City Council both must find, however, that any increase in density will be compensated for by increased amenities and improved design which, in their opinions, are

proportional to the density increase which it authorizes.

- b. All condominium developments or conversions shall have an area of at least one (1) acre.
- c. With the following exceptions, dwellings and permitted structures may be located as approved in the final development plans. Locations and arrangements of buildings on the lot should be accomplished in a manner that will best utilize the lot area and create an attractive living environment. The following exceptions shall be considered as minimum requirements as they apply:
 - i. Garages with entrances facing directly on streets, whether in a front or side yard, shall be set back at least twenty feet (20') from such streets.
 - ii. Setbacks shall be maintained along the peripheral property lines of the development which shall be equal to that required by the zone on the property immediately adjacent thereto. Buildings located on the periphery of the development shall be limited to a maximum height of two (2) stories.
 - iii. In those instances where a proposed condominium development will front upon one (1) or more existing streets, the setback from the street shall be equal to that required by the most restrictive zoning on property immediately adjacent along the same street frontage.

5. **Recreational spaces and landscaping requirements.** Each project shall meet the following standards for recreation spaces and landscaping:

- a. Residential condominiums which contain multiple unit structures having three (2) or more dwelling units per structure shall provide recreation space and landscaping in accordance with the City's zoning ordinance. Residential condominiums which consist of structures containing two (2) or fewer dwelling units shall provide not less than fifty percent (50%) of recreation space. Reduction may be made to the percentages of the required recreation space by the Planning Commission and upon a showing that the recreation space in the site area will provide amenities which will substantially meet the needs of future residents.
- b. Landscaping in commercial and industrial condominiums shall not be less than fifteen percent (15%) of the total site, lawn areas shall not exceed twenty percent (20%) of the total landscaped area, outside of active recreation areas.
- c. Preservation, maintenance, and ownership of required recreation spaces within the development shall be the responsibility of the owner or association established with the articles of incorporation and bylaws which are satisfactory to the City.

6. **Street and parking requirements.**

- a. Dedication and improvement of streets shall be made in accordance with the City's Master Transportation Plan and further as may be determined by the City Council upon the recommendation of the Planning Commission for special circumstances where it is necessary to serve the vehicular and pedestrian needs of the proposed development and of the City.
- b. Said streets shall be constructed to standards set forth for various classes of streets by the City and shall be dedicated to the City as public streets. In instances of severe topography, security requirements, or other special circumstances which make dedication or development to City standards impractical or undesirable, the City Council, upon recommendation of the Planning Commission, may allow development of streets to special standards specifically approved as part of the final development plan.
- c. Each unit in a condominium or condominium conversion project, irrespective of

size, shall conform to the parking provisions contained within the City's zoning ordinance.

7. Utility requirements.

- a. Each condominium unit within a development shall be separately metered for gas, electricity, water, and other utilities unless the declarations provide for the association to pay the cost of services and prorate those costs to unit owners on an equitable basis. Such declaration must disclose to the unit owners that non-payment of utility bills by the association may result in the loss of utility services.
- b. Each unit shall be provided with readily accessible individual shutoff valves, safety devices, or switches for water, gas, and electrical services.
- c. Each condominium unit shall be equipped with its own heating system, except where a central water or steam system is present.
- d. Each condominium unit shall be provided with its own means of controlling temperature in that unit when the building utilizes a central heating plant. All mechanical work and repairs shall be completed under a permit and shall comply with all applicable building, health, and fire codes.

SECTION 3. All other sections or provisions of the Land Use Ordinance Of Richfield City, not inconsistent with the amendments herein, shall remain in full force and effect.

SECTION 4. Effective Date. This Ordinance shall become effective immediately upon adoption, posting, and publication of a Summary on the public meeting notice website, www.pmn.utah.gov, and the City's website, www.richfieldcity.com.

PASSED and APPROVED this 24th day of October 2023.

CITY OF RICHFIELD

By _____
Bryan L. Burrows, Mayor

ATTEST:

Michele H. Jolley, City Recorder

(S E A L)

	<u>AYE:</u>	<u>NAY:</u>
Councilmember Brayden Gardner	_____	_____
Councilmember Kip Hansen	_____	_____
Councilmember Elaine Street	_____	_____
Councilmember Kendrick Thomas	_____	_____
Councilmember Tanner Thompson	_____	_____