

The Planning Commission shall be an advisory body to the City Council in making decisions pertaining to land use and development. To carry out these duties, the Planning Commission shall have the authorities granted by §10-9a of Utah Code Annotated and this Title. As it relates to this Title, the Planning Commission shall have the following powers and duties:

1. To prepare, or cause to be prepared, the Zoning Ordinance and Zoning Map, and all proposed amendments to the Zoning Ordinance or Zoning Map, and issue a recommendation to the City Council regarding this Ordinance or Zoning Map, or amendments to this Ordinance or Zoning Map.
2. To review and make recommendations to the City Council on applications for development approval, conditional use permits, site plans, signs, or other proposals subject to this Ordinance.
3. To adopt bylaws, policies, procedures and regulations for the conduct of Planning Commission duties, meetings, voting, and review of applications, provided that they are approved by the City Council before taking effect.

The members of the Planning Commission shall be residents of Payson and appointed by the Mayor with the advice and consent of the City Council. In organizing the Planning Commission the Mayor and City Council shall ensure:

1. The Planning Commission is composed of seven (7) members assigned to terms of four (4) years staggered so that no more than two (2) Planning Commissioners shall be appointed in a single year due to the expiration of terms. Existing Planning Commissioners may be re-appointed by the Mayor with the advice and consent of the City Council.
2. The Mayor shall place, or cause to be placed, an advertisement in the Payson Chronicle and the Payson City newsletter mailed with the utility bill indicating the number of Planning Commission positions open and the qualifications desired and required for Planning Commissioners. The advertisement shall be placed in the newspaper no later than March 1 of each year and give Payson residents no less than two (2) weeks to submit applications.
3. Members of the Governing Body will review the applications for Planning Commissioners and give advice to the interview panel as to who should be selected to be interviewed. The Mayor,

the City Councilmember assigned to the Development Services Department, the City Manager and the Development Services Director shall constitute the interview panel for Planning Commission applicants. Following the interview process, the Mayor shall present the name or names of potential Planning Commissioners to the City Council for their advice and consent.

Unless a Planning Commissioner notifies the City of their intention to continue serving on the Planning Commission by submitting an application, existing Planning Commissioners will not be interviewed for reappointment. The City Council reserves the right to reject any and all applications and to have the Planning Commission positions re-advertised.

4. Appointment of Planning Commission members shall occur at the first meeting of the City Council in April, or as soon thereafter as deemed necessary by the City Council to appoint qualified applicants.
5. ~~That the Planning Commission~~ shall elects a Chair ~~person~~ and a Vice Chair~~person~~ at the first meeting of April who shall be in charge of all proceedings necessary to preserve the order and integrity of Planning Commission meetings. ~~(8-6-14)~~

If a Planning Commissioner is unable to complete a term, the Mayor, with the advice and consent of the City Council, shall appoint a replacement to serve until the first meeting in April of the City Council. At the first meeting in April of the City Council, the Planning Commissioner shall be replaced in accordance the provisions of this Section.

Following a showing of just cause such as conflict of interest, lack of attendance, or misuse of information, an individual may be removed from the Planning Commission by a majority vote of the City Council.

### **19.2.5 Establishment of Board of Adjustment**

#### **19.2.5.1 Standard of Review**

There is hereby established an appeal authority named the Payson City Board of Adjustment, also known as the Board of Adjustment or Board. The organization of the Board of Adjustment shall be consistent with §10-9a-701 et. seq. Utah Code Annotated 1953, as amended. The Board of Adjustment is organized to provide for just and fair treatment in the administration of the Zoning Ordinance, and to ensure that substantial justice is

## Chapter 19.3

### General Provisions

- 19.3.1 Building Permits and Plats Required
- 19.3.2 Permits to Comply with Zoning Standards
- 19.3.3 Certificate of Occupancy & Zoning Compliance
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- 19.3.5 Assurance for Improvements
- 19.3.6 Public Works Inspections
- 19.3.7 Dedication and Acceptance of Property
- 19.3.8 Licensed Contractors, Surveyors, and Engineers (2-16-05)

#### 19.3.1 Building Permits and Plats Required

No building or structure shall be constructed, reconstructed, altered, or moved, nor shall the use of land be changed except after the issuance of a permit by the Development Services Department.

If property boundaries are in any way uncertain, applications for building permits shall be accompanied by a plat, drawn to scale, showing the actual dimensions of the lot to be built on, the size and location of existing and proposed buildings, and any other information needed to make a well informed decision.

The staff, Planning Commission or City Council may require, at the applicants expense, a legal description, professional survey, title search showing ownership, contour map, and any other information deemed necessary to enforce the terms of this Ordinance.

Except as noted below, prior to issuance of a building permit for any lot or parcel, the applicant must complete all improvements required to serve the proposed structure including curb, gutter and sidewalk and upgrades to any existing utility connections. (3-21-01)

In the case of a legal non-conforming lot of record, or a residential subdivision of three lots or less along an existing public street, improvements are not required to be completed until the footing and foundation of the dwelling is completed. No inspections beyond those required for footing and foundation will be completed until all improvements are installed, including, but not limited to utilities, meters, curb, gutter, sidewalk, and the asphalt tie-in.

In the case of inclement weather, an additional building permit may be issued by the Development

Services Department to continue residential construction of a dwelling located on an existing public street if:

1. The asphalt batch plants have been closed for the winter season.
2. The applicant submits a cash bond equal to one hundred fifty (150) percent of the estimated cost, as approved by the City Engineer, of the installation of curb, gutter, sidewalk, asphalt tie-in and proper filling of utility trenching.
  - a. If the applicant completes the improvements within six (6) weeks of the spring opening of the asphalt batch plants, the cash bond will be refunded to the applicant. The date of the opening of the batch plants will be posted in the Development Services Department.
  - b. If the applicant does not complete the improvements within six (6) weeks of the spring opening of the asphalt batch plants, the cash bond will be forfeited to Payson City and the City will complete the improvements.
3. All utilities to serve the dwelling have been extended to at least the private property line and the utility trenching has been filled with temporary asphalt (cold patch). (11-6-02)

For residential construction, curb, gutter, sidewalk and all other required infrastructure must be completed prior to the issuance of a building permit for the following actions:

1. The construction of a new dwelling unit.
2. An addition to an existing dwelling unit of twenty-five (25) percent or more of the existing square footage.
3. The construction of an attached or detached garage.
4. Notwithstanding the provisions of this Section, a building permit may be issued prior to the installation of curb, gutter and sidewalk provided:
  - a. The parcel in question is more than three hundred (300) feet from any existing curb, gutter and sidewalk and is not included in the original block system of the Townsite Survey of 1919, which is generally located between 700 North and 800 South and 700 East and 800 West. (8-6-14)
  - b. The parcel is at least one acre in size and capable of being subdivided in accordance with the provisions of the Payson City development ordinances.

### **19.6.11 RMO-A Accessory Living Unit Overlay Zone (5-16-12)**

- 19.6.11.1 Purpose and Zone Characteristics
- 19.6.11.2 Accessory Living Unit Defined
- 19.6.11.3 Scope and Application
- 19.6.11.4 Project Plan Approval
- 19.6.11.5 Building Alterations
- 19.6.11.6 Required Improvements
- 19.6.11.7 Zoning Considerations

#### *19.6.11.1 Purpose and Zone Characteristics*

The RMO-A, Accessory Living Unit Overlay Zone is established to conserve and protect the residential atmosphere and character of established neighborhoods and to maintain desirable, attractive, and safe places to live throughout the community. Moreover, these regulations are intended to protect the investment made by adjacent landowners as well as provide a safe living environment for the residents of the structure.

#### *19.6.11.2 Accessory Living Unit Defined*

For the purposes of this Section, accessory living unit shall be defined as a second living unit within a single family dwelling which is accessory to the single family dwelling and is an architectural and integral part of the single family dwelling. No more than one (1) accessory living unit shall be allowed in each single family dwelling.

#### *19.6.11.3 Scope and Application*

When deemed appropriate and if the applicable provisions of this Section are satisfied, the City Council may approve an accessory living unit in any zone where single family dwellings are permitted. These provisions do not change the regulations of the underlying zoning districts, but are an addition or overlay to those regulations. The scope of these provisions apply only to an accessory living unit in a single family dwelling and all other provisions of the development ordinances of Payson City remain applicable, unless otherwise noted herein.

#### *19.6.11.4 Project Plan Approval*

An accessory living unit requires the approval of an overlay zone which is a legislative action of the City Council. Approval for the use of the RMO-A Overlay Zone shall be processed in the same manner as a zone change in accordance with Section 19.2.8 herein, with the exception that approval for the use of the overlay zone need not be shown on the Zoning Map.

Use of the RMO-A Overlay Zone is a request for increased intensity in the permitted uses of the

underlying zone. The City Council is not obligated to approve the overlay zone and denial of the use of the overlay zone will not result in a constitutional taking because the owner of the single family dwelling will be allowed to use the property in accordance with the provisions of the underlying zoning district.

#### *19.6.11.5 Building Alterations*

The accessory living unit shall be designed so that, to the degree reasonably feasible, the appearance of the structure remains that of a single family residence, including retention and enhancement of landscaping. The materials used for any exterior improvements must be similar in character to traditional materials evident in the neighborhood.

A building permit must be obtained for all applicable building alterations associated with the accessory living unit. Prior to the approval, the Payson City Building ~~Official~~ **Inspector** will conduct, at the expense of the applicant, an inspection of the single family dwelling and determine if any alterations are necessary to preserve the health and safety of the inhabitants of the structure. All alterations considered necessary to preserve the health and safety of the ~~future~~ inhabitants must be consistent with the adopted building and fire codes and completed prior to occupancy of the accessory living unit. (8-6-14)

#### *19.6.11.6 Required Improvements*

The following are the minimum required improvements that must accompany the request for an accessory living unit:

1. There must be at least two (2) hard surfaced, off-street parking spaces for each residential unit.
2. Existing utility laterals and service connections will need to be inspected and upgraded as deemed appropriate by the utility provider.
3. Curb, gutter, and sidewalk must be installed along the frontage of the parcel. Replacement and/or repair of existing curb, gutter and sidewalk may be required.
4. The address for each unit must be clearly visible from a public street.
5. Proper exiting from each unit must be independently provided and must not depend upon the residents of the second unit. In other words, if the second unit is in a basement, the residents in the basement must be able to independently exit the structure from an exit that cannot be locked by the residents on the ground floor.

#### *19.6.11.7 Zoning Considerations*

Public benches may be located on public or private property when approved under a conditional use by the City Council after receiving a recommendation from the Planning Commission. Approval shall be subject to the following:

1. The benches shall be located at an approved bus stop.
2. Only one bench shall be permitted per bus stop.
3. No public hazard or nuisance is created.
4. No bench shall be located closer than fifty (50) feet from an intersection or twenty (20) feet from a driveway approach or ingress or egress to a parking lot.
5. No bench shall be located on or within one (1) foot of a sidewalk.
6. No bench shall be closer than two (2) feet from the back of a curb and gutter or no closer than two (2) feet from the street where no curb exists.
7. The maximum height of a bench shall be three (3) feet and the maximum length shall be eight (8) feet.
8. The bench shall be permanently connected to the ground.
9. Bench covers may be installed over a bench to protect the bench from the environmental factors as long as the walls are of tempered glass or plastic meeting the requirements of the building code and the roof does not exceed twelve (12) feet in height or extend lower than eight (8) feet. Corners may be of wood or metal as long as they are not more than four (4) inches wide.
10. The bench must have proof of liability insurance of not less than \$100,000.
11. The bench shall be maintained in good repair at all times by the owner as determined by the Building Official.
12. Benches that are improperly located, damaged, in disrepair, or determined to be unsafe shall be repaired or removed within 24 hours of notification from the Building Official. Benches that are not removed as required above shall be removed by the City at the owner's expense.
13. The city may revoke a conditional use permit for a bench if it finds that it interferes with other desired city uses of the location, or is objectionable for any other reason.

### 19.9.13 Fences and Walls

#### *General Provisions and Guidelines*

Some regulations apply to all fences and walls within Payson City regardless of zone or location including:

1. In order to ensure correct placement to establish accurate property lines, avoid conflict with public

utilities, and reduce conflict between adjacent property owners, a fence permit issued by the Development Services Department must be obtained prior to the placement of any fence or wall. (1-18-06)

2. A fence or wall, or any portion thereof shall not be installed in a manner that would restrict access to utility meters, electrical devices and other utility appurtenances. Adequate clearance must be provided around electrical utility boxes in accordance with the Electrical Construction Standard Specifications of Payson City. (8-6-14)
3. A fence or wall, or any portion thereof, shall not be constructed within three (3) feet of a fire hydrant. If construction of a fence or wall requires a notch to accommodate a fire hydrant, the fence shall be installed at a forty five (45) degree angle beginning three (3) feet from the hydrant and angling outward to avoid a ninety (90) degree corner on the fence or wall that may result in the kinking of a fire hose. (7-6-05)
4. Fences or walls may not be used for advertising purposes or for the display of advertising with the following exceptions:
  - a. Advertising panels may be attached to outfield or perimeter fencing on athletic fields.
  - b. The name of a business or address may be incorporated into the materials used to construct the fence or wall but shall not be separately attached to the fence or wall. (7-6-05)

#### *Residential Zones*

Any fence or wall found to obstruct the view of vehicular traffic shall be removed or modified to mitigate the obstruction to the satisfaction of the Code Enforcement Officer. In all other instances, no fence, wall, living fence or similar device extending into or enclosing all or part of the front setback shall be constructed or maintained at a height greater than forty-two (42) inches, unless the fence is chain link or another open mesh fence. The fence must remain non-sight obscuring (defined as at least seventy (70) percent open space when viewed from either side of the fence) and shall not exceed sixty (60) inches in height. The permitted height of any fence, wall, living fence or similar sight obscuring device situated within any other portion of a lot shall be six (6) feet, except where the vision of an adjacent driveway may be affected. (7-19-00)

Any fence that may affect the vision of an adjacent driveway shall satisfy the following conditions.

## Chapter 19.13

### Conditional Use Permits

- 19.13.1 Purpose
- 19.13.2 Permit Required
- 19.13.3 Approval Procedure
- 19.13.4 Planning Commission Review
- 19.13.5 City Council Approval
- 19.13.6 Criteria and Factors
- 19.13.7 Atypical Conditional Uses (?-?-05)
- 19.13.8 Duration
- 19.13.9 Fees
- 19.13.10 Other Requirements
- 19.13.11 Appeals
- 19.13.12 Implementation
- 19.13.13 Amendment, Suspension or Revocation
- 19.13.14 Violation

#### 19.13.1 Purpose

Uses designated as conditional uses require special consideration from the City Council. These uses may or may not be appropriated for a specific piece of property. The purpose of this Chapter is to allow the City Council to evaluate the appropriateness of designated conditional uses on a case by case basis. The conditional use permit procedure allows the City Council to approve, deny, or conditionally approve any request for a conditional use permit.

#### 19.13.2 Permit Required

Persons or entities shall not operate or conduct a use designated as a conditional use within the applicable zone without first obtaining a conditional use permit from the City. (5-2-07)

#### 19.13.3 Application Procedure

The applicant for a conditional use permit shall submit a completed application form and a site plan with sufficient information to allow the Planning Commission and City Council to make a well informed decision. The application shall be accompanied by a written explanation of the specific activities associated with the proposed conditional use, elevations or building plans for any new structures, any modifications to existing structures, or any site improvements. The applicant shall also pay a fee in an amount established by resolution. (5-2-07)

#### 19.13.4 Planning Commission Review

The Planning Commission shall review the proposed conditional use considering the criteria and factors set forth in Section 19.13.6. The Planning Commission shall recommend that the application for

a conditional use permit be approved, approved with conditions or denied. The validity of the permit shall be conditioned upon strict compliance with applicable City ordinances, the approved project plan and any additional conditions or requirements imposed by the City Council.

#### 19.13.5 City Council Review

Prior to granting a conditional use permit and after receipt of reports and recommendations of the Planning Commission, the City Council shall hold a public hearing to accept and consider public comment. Required public hearing notice and courtesy notices to landowners shall be in accordance with Section 19.2.7 herein, unless otherwise expressed herein. Courtesy notice is not a legal requirement and failure to do so shall not invalidate any decision made by the City Council if proper legal notice was given. (8-6-14)

Requests to install and maintain transmission lines, pipelines, utility right-of-ways, and other utility services that traverse multiple parcels are required to send courtesy notices to the owner(s) of the affected parcel and the parcels immediately adjacent to the affected parcel for a maximum distance of three hundred (300) feet from the centerline of the utility. (8-6-14)

The City Council shall be the final approving authority for all applications for conditional use permits. The City Council shall review the proposed project plan while considering the criteria and factors set forth in Section 19.13.6. The application for a conditional use permit shall be approved, approved with conditions, or denied. The validity of the permit shall be conditioned upon strict compliance with applicable City ordinances, the approved site plan, project plan and any additional conditions of the City Council. (5-2-07)

#### 19.13.6 Criteria and Factors to be Considered

The following factors shall be weighed and considered when determining whether a conditional use permit application should be approved, approved with conditions or denied:

1. Harmony of the request with the general objectives of the General Plan, Zoning Ordinance, Subdivision Ordinance, any other City ordinance and the particular zone in which the request is located.
2. Harmony of the request with existing uses in the neighborhood.