

ORDINANCE 21-21

AN ORDINANCE REVISING TITLE 21 OF THE SANDY CITY MUNICIPAL CODE CHAPTER 2, “GENERAL PROVISIONS”, TO AUTHORIZE THE PLANNING COMMISSION TO GRANT A SPECIAL EXCEPTION FOR A PROPERTY THAT IS SUBJECT TO A CITY EMINENT DOMAIN PROCEEDING OR NEGOTIATION; ALSO PROVIDING A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a request has been made to revise Title 21 of the Sandy City Municipal Code, Chapter 2, “General Provisions”, to authorize the Planning Commission to grant a special exception for a property that is subject to a City eminent domain proceeding or negotiation;

WHEREAS, the Planning Commission held a public hearing on June 17, 2021, which meeting was preceded by notice posting in Sandy City Hall, the Sandy City Parks & Recreation Building, Salt Lake County Library – Sandy, on the Sandy City Website – <http://www.sandy.utah.gov>, and the Utah Public Notice Website – <http://pmn.utah.gov> on June 2, 2021; and

WHEREAS, following the public hearing before the Planning Commission, the Commission recommended the amendment to the City Council; and

WHEREAS, a public meeting was held by the Sandy City Council on June 29, 2021 to consider adoption of the proposed amendment; and

WHEREAS, the City Council has been given specific authority in Title 10, Chapter 9a, Utah Code Ann. to adopt land use regulations 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 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 reasonable and appropriate to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the forgoing legitimate governmental objectives are achieved by reasonable means, in that any adverse impact on private property value or use has been carefully balanced against the corresponding gain to the public; and the regulations have been calculated, on recommendation of City planning staff to permit property owners to beneficially use their properties for the practical purposes to which the property is reasonably adaptable; and procedures have been established by the Land Development Code and Utah Code Ann. Whereby appeals can be heard and decided if it is alleged that there is legislative or administrative error, or where a special exception or variance to the ordinance is required.

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

Section 1. Amendment. Title 21 is amended as shown on **Exhibit "A"**, which is attached hereto and by this reference made a part hereof.

Section 2. Severable. 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 judgement shall not affect, impair or invalidate the remainder of this ordinances or the application thereof to other persons and circumstances, but shall be confined in 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 of such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. Effective. This ordinance shall become effective up on publication of a summary thereof.

PASSED AND APPROVED this 29 day of June, 2021.

DocuSigned by:
Cyndi Sharkey
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Cyndi Sharkey, Sandy City Council

ATTEST:

DocuSigned by:
Wendy R
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City Recorder

PRESENTED to the Mayor of Sandy City for his approval this 1 day of July, 2021.



APPROVED this 1st day of July, 2021.

DocuSigned by:
Kurt Bradburn
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Kurt Bradburn, Mayor

ATTEST:

DocuSigned by:
Wendy R
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City Recorder

PUBLISHED this 2 day of July, 2021.

Exhibit "A"

Sec. 21-2-23. – Properties Affected by Eminent Domain Proceedings(a) Purpose.

- (1) The purpose and intent of this section is to provide authority, guidelines, criteria, and procedures for the planning commission to review and grant special exceptions in connection with eminent domain proceedings or negotiations.
- (2) At times, it is necessary to acquire properties in whole, or in part, through eminent domain proceedings or negotiations. Properties acquired in part result in remainder parcels that, in some cases, become nonconforming with respect to certain provisions of this title. The creation of new nonconformities or increases in the degree of nonconformity of existing legal nonconformities, can impose hardships on landowners and to remainder parcels. It is deemed a valid public purpose to grant special exceptions, pursuant to the provisions of this section, for nonconformities created by eminent domain proceedings or negotiations.
- (3) Nothing contained in this section shall be construed or interpreted to permit the existence or continuance of violations of the City Code that are determined to be an immediate threat to the public health, safety, or welfare.

(b) Special Exception. In certain cases, the impacts of an eminent domain proceeding or negotiation may be mitigated, either wholly or in part, through planning commission approval of special exceptions, which may be applied for by the property owner or the condemning authority.

- (1) Subject to this section, Planning Commission may grant special exceptions for provisions of this title, including but not limited to lot area, lot depth, lot width, setbacks, parking, open space, landscaping, signage, ~~residential density~~, etc.
- (2) Special exception submittal requirements are as follows (as applicable):
 - a. Survey of the affected property.
 - b. A scaled site plan showing proposed modifications with dimensions relative to, but not limited to, the following: building and sign setbacks, number of parking spaces, typical parking space dimensions, landscape buffer width, sign locations, sign area and height.
 - c. A table that compares: (i) pre-condemnation conditions; (ii) post-condemnation conditions without the proposed special exceptions; and (iii) post-condemnation conditions with the proposed special exceptions. At a minimum, the following shall be included: lot area, lot width, lot depth; setbacks; building square footage; percent of open space; sign face area and setback; number and type of signs; number of parking spaces and typical parking space and drive aisle dimensions; and landscape buffer width and percent of interior parking lot landscaping.

(c) Special Exception Review Criteria. The planning commission shall review special exceptions. In granting the special exception, the planning commission shall make findings and reach affirmative conclusions as to the following criteria:

- (1) Granting the special exception does not adversely affect the health, safety, and welfare of the public.
- (2) Granting the special exception is the minimum necessary for the reasonable use of land and improvements.
- (3) Granting the special exception does not have a materially detrimental impact on the rights or enjoyment of property of adjacent property owners.
- (4) The special exception is the result of a hardship imposed by eminent domain proceedings or negotiations.
- (5) City staff has provided a recommendation to the planning commission describing whether the proposed changes that would be authorized by the special exception are necessary and appropriate for the changes in the property caused by the eminent domain proceedings or negotiations.

Exhibit "A"

(d) *Approval Authority.* The planning commission may deny, approve, or approve with conditions any special exception requested pursuant to this section.

(e) *Appeal.* The decision of the planning commission may be appealed as set forth in this title.

(f) *Term of the Special Exception.*

(1) Except as set forth in this section, the granting of a special exception is valid until, and shall terminate at, such time as the property is rezoned, developed or subject to a change of use.

(2) Provided that future improvements comply with the City Code in place at the time of application for the improvements and plans submitted for development or change of use for the site meet all City Code requirements in effect at the time of the new application, the special exception shall remain valid and shall not terminate upon City approval of the following:

(i) interior finishes to existing structures;

(ii) exterior improvements to existing structures that have a value of less than 50% of the value of the structure;

(iii) accessory structures;

(iv) ancillary uses;

(v) detached single-family property that is not being rezoned, subdivided or subject to change of use;

(vi) construction related to implementation of the special exception.

Sec. 21-2-~~23~~24. Water Drainage.

Drainage shall not be allowed to flow onto adjoining lots unless an easement for such purpose has been granted by the owner of the lot on which the water flows.

(LDC 2008, § 15A-02-23; Ord. No. 16-33, 10-29-2016)

Sec. 21-2-~~24~~25. Sandy City Standard Specifications and Details for Municipal Construction.

(a) *Adoption of Standard Specifications and Details.* The City Council, after receiving a recommendation from the Planning Commission, shall adopt, by ordinance, Standard Specifications and Details for Municipal Construction not inconsistent with the provisions of this title. The Standard Specifications and Details for Municipal Construction may be temporarily changed, altered or amended from time to time by the City Engineer as necessary, provided that such change, alteration or amendment does not materially:

(1) Increase a land use applicant's cost of development compared to the existing specifications; or

(2) Impact a land use applicant's use of land.

(b) *Adoption of Temporary Specifications.* The City Engineer shall present temporary changes, alterations and amendments of the Standard Specifications and Details for Municipal Construction to the Planning Commission and City Council for review, consideration and adoption on an annual basis. Adoption of such amendments shall comply with the requirements set forth in this title.

(c) *Notice and Hearing.* Notice and hearing requirements shall be the same as required for proposed land use regulations in accordance with this title and applicable state laws.

(d) *Compliance with the Standard Specifications and Details for Municipal Construction.* Compliance with the Standard Specifications and Details for Municipal Construction, as amended, shall be required as a condition of development approval, issuance of a building permit, and issuance of related permits and approvals.

(Ord. No. 18-01 , § 1, 2-4-2018)