

River Heights City

COUNCIL MEETING AGENDA Tuesday, November 16, 2021

Notice is hereby given that the River Heights City Council will hold its regular council meeting beginning at **6:30 p.m.**, anchored from the River Heights City Office Building at 520 S 500 E.

The meeting will be held in person and through Zoom.

Adoption of Previous Minutes and Agenda

Reports and Approval of Payments (Mayor, Council, Staff)

Public Comment

2021 Municipal Election Canvass

Public Hearing to Discuss and Adopt an Ordinance to Adopt Changes to the Residential Planned Unit Development Section of the City Code

Discuss and Adopt an Ordinance to Adopt Proposed Changes to the City Code

Discuss and Adopt the General Plan Land Use Map

Discuss and Adopt an Ordinance Granting an Electric Utility Franchise and General Utility Easement to Rocky Mountain Power

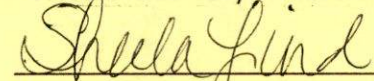
Adjourn

To join the Zoom meeting:

<https://us02web.zoom.us/j/86270411900?pwd=bVgrRCtSbWZHekxzdTTRrUkc5SW13dz09>

Dial: 1 346 248 7799, Meeting ID: 862 7041 1900, Passcode: 785558

Posted this 12th day of November 2021



Sheila Lind, Recorder

Those wishing to provide comments on any of the agenda items can do so by email to office@riverheights.org (by noon on the date of the meeting).

Attachments for this meeting and previous meeting minutes can be found on the State's Public Notice Website (<https://www.utah.gov/pmn/>).

In compliance with the American Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Sheila Lind, (435) 770-2061 at least 24 hours before the meeting.

River Heights City

Council Meeting

November 16, 2021

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7 Present: Mayor Todd Rasmussen
8 Council members: Doug Clausen
9 Sharlie Gallup
10 Nancy Huntly
11 Chris Milbank
12 Blake Wright
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14 Recorder Sheila Lind
15 Public Works Director Clayten Nelson
16 Finance Director Cliff Grover
17 Treasurer Wendy Wilker
18

19 Others Present: See roll
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21

22 The following motions were made during the meeting:
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24 Motion #1

25 Councilmember Clausen moved to “adopt the minutes of the council meeting of November 2,
26 2021, and the evening’s agenda.” Councilmember Huntly seconded the motion, which passed with
27 Clausen, Gallup, Huntly, Milbank, and Wright in favor. No one opposed.
28

29 Motion #2

30 Councilmember Clausen moved to “pay the bills as listed and to move the COVID funds to the
31 water fund.” Councilmember Huntly seconded the motion, which passed with Clausen, Gallup, Huntly,
32 Milbank, and Wright in favor. No one opposed.
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34 Motion #3

35 Councilmember Wright moved to “Adopt Ordinance 7-2021, An Ordinance to Adopt Changes to
36 the Residential Planned Unit Development Section of the City Code of River Heights, Utah, the draft dated
37 November 4, 2021.” Councilmember Huntly seconded the motion, which carried with Clausen, Huntly,
38 Milbank, and Wright in favor. Councilmember Gallup opposed.
39

40 Motion #4

41 Councilmember Wright moved to “Adopt Ordinance 9-2021, An Ordinance to Adopt Changes to
42 the City Code of River Heights, Utah, as presented from the Planning Commission except for the changes
43 suggested for 10-12-1:A.” Councilmember Clausen seconded the motion, which carried with Clausen,
44 Gallup, Huntly, Milbank, and Wright in favor. No one opposed.
45

Proceedings of the Meeting:

The River Heights City Council met at 6:30 p.m. in the Ervin R. Crosbie Council Chambers in the River Heights City Building on Tuesday, November 16, 2021, for their regular council meeting.

Adoption of Previous Minutes and Agenda: Minutes for the November 2, 2021, meeting were reviewed.

Councilmember Clausen moved to “adopt the minutes of the council meeting of November 2, 2021, and the evening’s agenda.” Councilmember Huntly seconded the motion, which passed with Clausen, Gallup, Huntly, Milbank, and Wright in favor. No one opposed.

Reports and Approval of Payments (Mayor, Council, Staff):

Public Works Director Nelson didn’t have anything to report.

Finance Director Grover

- He reviewed the financial summary.
- He recommended a review of the capital project list. There have been changes and they should make the adjustments to match. He informed the list was on the Drive.
- He discussed the Combined Cash Investment Report.
- Councilmember Clausen suggested transferring the COVID funds to the water fund since this is where they will be used. The Council agreed to have Mr. Grover move the funds.
- Bills were discussed. Councilmember Gallup asked that the bill for tree lighting be held for pick up tomorrow.
- Mayor Rasmussen informed that the approved bill to Cache Valley General Contractors for \$32,000 at the last meeting was reduced by \$1,000.

Councilmember Clausen moved to “pay the bills as listed and to move the COVID funds to the water fund.” Councilmember Huntly seconded the motion, which passed with Clausen, Gallup, Huntly, Milbank, and Wright in favor. No one opposed.

Commissioner Huntly didn’t have anything.

Councilmember Milbank

- He met with Dustin, of Design West, to review several concept plans for the city block master plan. They will be presented to the Council at a later meeting.

Councilmember Clausen

- He explained there are four houses south of 700 South at 400 East. Two property owners want to connect to the sewer and two don’t. He’s met with the city attorney, mayor, and PWD Nelson and will schedule a Council discussion about it at the next meeting. He will send some background information prior to the meeting.

Councilmember Gallup

- The Tree Lighting Event will be on November 29th at 6:00pm.

Councilmember Wright didn’t have anything.

Recorder Lind

- Reminded everyone to RSVP to her by November 25 for the City Christmas Party.

Mayor Rasmussen

- CVTD has hired an outside company to do some assessments on the bus system. As a result, the River Heights stop will be removed at some point due to low ridership. CVTD plans to have a call-a-ride system with the use of smaller buses. Mary Barrus added CVTD is in the process of getting an app for the bus service.

90 2021 Municipal Election Canvass: Recorder Lind gave the final results: Jason Thompson as mayor
91 with 439 votes, Janet Humpherys Mathews as councilmember with 276 votes and Tyson Glover as
92 councilmember with 238 votes. There were 1268 registered voters with 575 ballots cast and a 45.35%
93 voter turnout. Recorder Lind was asked to check with the County on why more ballots were sent than the
94 number of registered voters. She handed out the election certification for the council to sign.

95 Public Comment: Heather Lehnig reminded, at the last meeting they asked how they could
96 advertise without the Herald Journal. She suggested getting those triangle signs and post them on certain
97 streets on the day of city meetings.

98 Tyson Glover expressed appreciation for fixing the crosswalk area by the school. His said his wife
99 almost got run over in the crosswalk today as she was crossing school children. He asked if there could be
100 more enforcement. Mayor Rasmussen said he will reach out to the Cache County deputy assigned to
101 River Heights and ask him to spend some extra time near the school.

102 Mandy Blauer (of 500 E 700 S) asked about a possible road going through her property. She is not
103 in favor of this being shown on the future transportation plan. It would take out her home and cause her
104 property value to go down. She was bothered the city was discussing this without her knowledge.

105 Public Hearing to Discuss and Adopt an Ordinance to Adopt Changes to the Residential Planned
106 Unit Development Section of the City Code: Mayor Rasmussen informed that a hearing was held with the
107 Planning Commission, but the city attorney advised to have another one since the changes and
108 discussions have taken a number of months. He asked Councilmember Wright if there were additional
109 changes since the last meeting. Mr. Wright responded, "No." Mayor Rasmussen opened the public
110 hearing.

111 Quentin Gardner was concerned if the city's water and sewer systems could handle additional
112 housing units. He said the Council didn't have the contractor lay his road thick enough and now it
113 crumbles and will cost the city more money in repairs. Councilmember Clausen said they have done
114 studies to make sure the utilities can handle additional connections. Mr. Gardner said he didn't want to
115 pay extra.

116 Engineer Rasmussen said impact fees are used to upgrade infrastructure when you get a choke
117 point. The city has a process for this. He felt the city was doing a good job at keeping up water and sewer
118 lines.

119 Mayor Rasmussen stated that the council and city engineer can disapprove a development that
120 causes too much impact. They can also request the developer do an impact study. The developer can be
121 required to install the upsize of the utilities to make sure the current system can take on the
122 development.

123 Councilmember Clausen explained that over the years the city has done a number of water
124 projects. The sewer lines were inspected recently and found to be in good shape. Mayor Rasmussen said
125 they have lists of the lines and their conditions. PWD Nelson concurred. They also have lists of future
126 projects. Engineer Rasmussen agreed they are keeping an eye on services and the possible impacts of
127 additional connections.

128 Jason Thompson said the Planning Commission opted not to require a 75-foot setback along the
129 river. He was concerned about this and recommended it be included in the PUD ordinance. This would
130 address a lot of concerns about the Riverdale area. Ingress and egress are also big concerns. He knows
131 the city wants to put the transportation burden on the developers, but he would like the city to have
132 more knowledge about this before they adopt the PUD ordinance. He discussed the section on garages.
133 He is very supportive of two car garages in the single-family units but was concerned they are not
134 required in the multi-family units. He would like at least a one car garage to be required. He proposed an

135 additional section of the PUD code on “anticipated outcomes.” He also requested they let the ordinance
136 sit for a week and perhaps have another attorney review it to make sure it is sound.

137 Cindy Schaub asked if the PUD zone was its own zone or an overlay. She was answered that it was
138 not an overlay.

139 Mary Seager asked them to please not revisit the 75-foot setback from the river. They don’t want
140 to lose that much square footage of their property. They will not accept this without a fight. She isn’t
141 sure why her family and the Ellis family properties would be treated differently than other residents in the
142 area. She thanked all of those who have worked so hard to come up with the ordinance. She expressed
143 frustration that the lifting of the moratorium wasn’t on the agenda. They have been waiting for 10
144 months. She expressed anger that this was taking so long. Her family has needs going unmet because
145 they still don’t have the money from their property sale.

146 Mayor Rasmussen said a developer can use the river setback as part of the 25 percent open space.
147 Mary Seager said there are other areas that will need to remain open, in addition to the river setback.
148 Mayor Rasmussen said river setbacks will stay in the code, where it is already addressed. Jason
149 Thompson pointed out that it’s currently 30 feet. He urged the council to address raising it prior to
150 adopting the PUD ordinance and lifting the moratorium.

151 Tyson Glover reviewed the intent of the PUD ordinance. He didn’t think they were going against
152 the intent on the 75-foot setback. However, the city wants to encourage diversity. He argued there is not
153 much diversity with 5.5 units/acre. If the intent is to add diversity, why only 5.5?

154 Tyson Glover asked Engineer Rasmussen and PWD Nelson if they had done any homework on
155 requiring individual water meters per unit versus one meter for the development. Councilmember
156 Clausen answered that he was the one who pushed for single meters because the state is pushing for
157 higher water rates to encourage conservation. If there is only one meter for the development, there isn’t
158 as much incentive for individuals to conserve. They would be more incentivized if they had control over
159 their own bill. The city attorney has had experience with residents not paying their bill. Without a
160 separate meter, there is no recourse to get them to pay. He encouraged the city to require individual
161 meters. Mr. Glover suggested a master meter, with sub meters to each dwelling and the HOA would
162 collect utility fees. PWD Nelson said he has put a lot of thought into this, and he has worked with other
163 water systems that have a master meter.

164 Tyson Glover asked what natural features the city was looking for. Could they define them?
165 Engineer Rasmussen said natural features are listed in another area of the code and consists of irrigation
166 ditches, canals, springs, etc.

167 Tyson Glover asked, if an R-1-8 zone allows 5.4 units/acre then why is the city only increasing the
168 PUD to allow a maximum of 5.5 units/acre and how does this allow diversity? Councilmember Wright
169 clarified that an R-1-8 density is 5.4 units/acre, not accounting for roads or infrastructure. If this takes up
170 20%, an R-1-8 would allow 4.3 unites/acre, R-1-12 would allow 2.9 and a PUD would allow 5.5.

171 Diane Poulsen said the area along the river is the last of its kind, once it’s gone, they can’t get it
172 back. She felt it was worthy of preservation. How will it be protected under an HOA? Mayor Rasmussen
173 said there are no guarantees that a single-family homeowner would take care of it. The current homes
174 are built too close to the river, which doesn’t protect the river or allow animals to move freely about. He
175 felt the river area would be better cared for under an HOA.

176 Janet Mathews addressed the word diversity in the PUD ordinance. The majority of residents in
177 Riverdale spoke against higher density. They also noted that those living around the Chugg property also
178 don’t want higher density. She was concerned about not requiring enough setback from the river. Years
179 later there will be consequences for decisions made today. People have built so close to the river in some
180 areas, that the river isn’t able to do what rivers do.

181 Vern Fielding pointed out that the first moratorium was implemented in February. The sellers
182 were told it would be a 3–4-month process. It is now approaching 10 months. It’s time to make a
183 decision and move on.

184 Mayor Rasmussen announced a break from the public hearing and moved to the Rocky Mountain
185 Power agenda item.

186 Discuss and Adopt an Ordinance Granting an Electric Utility Franchise and General Utility
187 Easement to Rocky Mountain Power: Steve Liechty, of Rocky Mountain Power, expressed appreciation for
188 the partnership they share with River Heights. He asked if they had any questions concerning the
189 ordinance. Mayor Rasmussen asked if the document had changed from the last one they signed. Mr.
190 Liechty said the template had changed but the conditions were basically the same. The term has been
191 lengthened to 10-15 years, rather than five. “Relocation of Electric Facilities” includes some changes.
192 Rocky Mountain Power agreed, at the city’s request, to “relocate its electric facilities within the public
193 ways” is a second change. If a developer makes the request, they will stand the cost. The term is up for
194 discussion. Mayor Rasmussen recommended approval, pending review of the city attorney and engineer.

195 Mayor Rasmussen read from Mike Jablonski’s comments which stated how much he has
196 appreciated RMP over the years. They have been very good to work with. Mayor Rasmussen added that
197 the outage locator has been very beneficial.

198 Councilmember Wright suggested they send the ordinance to the attorney and then have it on the
199 agenda for adoption again. Steve Liechty informed the old agreement will expire in March 2022, so it
200 would be okay to take a little time to review it.

201 Public Hearing to Discuss and Adopt an Ordinance to Adopt Changes to the Residential Planned
202 Unit Development Section of the City Code (cont.): Marty McFadden, of Heritage Land Development, said
203 they are looking at developing in River Heights. He commended the council for their work on the PUD
204 ordinance. From what they can tell, they can create a development which falls under it. Their plan is well
205 below high density. The ordinance gives the developer options and chances to preserve open space.
206 They are hoping to avoid an HOA and would like an opportunity to give open space to the city for all
207 residents to use.

208 Shellie Giddings said developers tell everyone what they think people want to hear. It was
209 mentioned that the city needs to release the moratorium and that we can’t make everyone happy. This is
210 true, but those who need the highest consideration should be those who already live in the area. The
211 sellers and developers will make their millions and then be gone.

212 Tyson Glover informed that people are not trusting the city’s infrastructure is adequate. Have we
213 contracted with the city engineer for a water master plan? If so, could we publish it so residents could be
214 at ease. He suggested getting the plans up to date. Engineer Rasmussen said he would be glad to do a
215 master plan, however they are very costly and it’s questionable whether a city the size of River Heights
216 really needs one. Mr. Glover asked the method of instilling confidence to the residents without a model.
217 Engineer Rasmussen explained the State provides guidance, which they follow. They also look at the city’s
218 history. They consider pumping capacity and water storage. The city is in excellent shape in the area of
219 water rights, even in a full build out condition. River Heights is essentially landlocked. Commissioner
220 Cooley has put a lot of the information regarding water resources into the General Plan. Mayor
221 Rasmussen recommended referencing the state standards in the General Plan. PWD Nelson reported that
222 every three years the city gets updated data from the state during the city’s sanitary survey. Spending
223 extra money for a hydraulic study is unnecessary. The General Plan information is sufficient and will cover
224 any potential growth.

225 Mayor Rasmussen closed the public hearing and asked the council about getting a second legal
226 opinion. Councilmember Wright felt that was an insult to our city attorney and engineer. Mayor

227 Rasmussen pointed out that the city's attorney is involved with a number of other cities and HOAs. He
228 trusts the attorney's opinion. Mayor Rasmussen read from Mike Jablonksi and Cindy Johnson's
229 comments. They didn't feel the PUD ordinance should exceed the current density, which is R-1-12.
230 Mayor Rasmussen responded, unfortunately, the Riverdale area is near Main Street and a large complex
231 of high-density housing. Mr. Jablonksi also commented on ingress/egress and not wanting their property
232 labeled as PUD. Mayor Rasmussen asked the council if they had any comments. Councilmember Huntly
233 said the PUD ordinance applies city wide, and not just in Riverdale. Once a developer comes to the city,
234 they will look at all the angles. The council can't tailor the ordinance to Riverdale only. Mayor Rasmussen
235 agreed. A developer will have the burden of designing roads and having them pass inspection of the city
236 engineer to make sure they will work.

237 Councilmember Wright was asked to review the PUD code changes, made at the last meeting,
238 which he did. He asked the council's input on garages. Single family is required to have a 2-car garage
239 while multi-family units are only encouraged to have garages. Councilmember Gallup said garages help
240 residents have a place to store their things. Mayor Rasmussen said the intent was to not have too many
241 restrictions so developers can spare the open space required. Engineer Rasmussen said most developers
242 he has spoken with are inclined to build garages due to the current market. In the last several years
243 developers have gone with garages. Councilmember Wright asked Engineer Rasmussen and Marty
244 McFadden if they would recommend flexibility or require garages. Mr. McFadden liked flexibility,
245 although they plan to have garages in their development. The city can always say something looks
246 horrible and not approve it. Engineer Rasmussen agreed and hoped the city would toe the line and follow
247 their ordinance.

248 Councilmember Wright discussed a descriptive list of natural features. They had a lengthy list
249 earlier in the process. After discussion with the attorney and engineer they were encouraged not to have
250 a list. Sometimes lists tend to leave out something(s). Engineer Rasmussen said the natural features are
251 listed in Chapter 11 of the city code and suggested the PUD section could reference it. PWD Nelson
252 reminded that it's difficult to find all the references when changes are made.

253 Councilmember Wright stated that since the PUD ordinance applies to the whole city, this
254 wouldn't be the place to regulate river setbacks. He suggested the Planning Commission work through
255 this before the moratorium is lifted. Mayor Rasmussen agreed, based on a discussion he had with the
256 attorney. Developers will be able to get started with their plans while this is getting worked out.
257 Councilmember Huntly believed they need to be clear on where the 75 feet is measured from. She also
258 felt the 75 feet coincides with a flood zone, which doesn't apply to Riverdale. The decision isn't being
259 made because they underestimated the flood risk area before. She felt the setback probably should be
260 more than 30 feet. The city could allow options, such as a river preserving setback. High density along
261 rivers is problematic for water quality, which is the main reason they want larger setbacks.

262 Commissioner Cooley reviewed how the river setback was removed from the code changes at the
263 last Planning Commission meeting. There was much discussion, and they couldn't agree. He was the one
264 who made to the motion, which didn't include this verbiage, because there is not a flood plain area in
265 Riverdale. He felt changing it from 30 to 75 didn't fit. He would not recommend going over 50 feet. He
266 also agreed it does not belong in the PUD section of the code.

267 Commissioner Cindy Schaub said the 75 feet was based on sensitivity of the riverbank, not a flood
268 zone. She said Logan has already built right up to the river. Any trees that come down will need to be
269 accessed from the River Heights side.

270 Engineer Rasmussen said there is an advantage in a PUD to have some sort of guidance in the
271 ordinance if they are considering the value of the space. The sensitive area overlay of the code is not
272 really the place to address the value of the property. A PUD provides an opportunity to enhance or

273 improve the quality of the space for the beneficial use of the public. It may be better to incorporate this
274 type of language in the PUD ordinance. The required distance could be established in the sensitive
275 overlay section. The PUD section could offer a reduction if certain conditions are met to improve the
276 value of the area.

277 Councilmember Wright suggested they could list the setback in the lot regulations section of 10-
278 12-2. Councilmember Clausen felt they could be skipping over the Planning Commission's function.
279 Mayor Rasmussen suggested a description in the sensitive land overlay section of how the property can
280 be used. They agreed it might fit best in 10-12, where it would apply to the whole city, not just PUDs.

281 **Councilmember Wright moved to "Adopt Ordinance 7-2021, An Ordinance to Adopt Changes to**
282 **the Residential Planned Unit Development Section of the City Code of River Heights, Utah, the draft**
283 **dated November 4, 2021." Councilmember Huntly seconded the motion, which carried with Clausen,**
284 **Huntly, Milbank, and Wright in favor. Councilmember Gallup opposed.**

285 Councilmember Milbank stated he voted for it because there is a demand across the community
286 of which they represent. Some younger and older people don't want much of a yard. He wanted them to
287 consider housing that's more affordable with less land. The PUD density isn't very high. He commended
288 the Planning Commission for the work they had done. He felt the looks of some PUDs are much better
289 than a line of track housing. It would also provide the city some enterprise funds.

290 Councilmember Gallup said deep down she wished River Heights could stay single family housing.

291 Mayor Rasmussen thanked the residents for being involved with the process and said they have
292 considered their input for many hours. They were aware from the beginning that they would not be able
293 make anyone very happy.

294 Discuss and Adopt an Ordinance to Adopt Proposed Changes to the City Code: Councilmember
295 Wright reviewed the changes passed on from the Planning Commission. Recorder Lind informed that the
296 dog items were initiated by Cache County Animal Control to aid in enforcement. Needed clarification was
297 discussed on the auto repair item. They discussed the number of cars allowed. Councilmember Cooley
298 said the Planning Commission wanted to avoid a commercial zone in a residential area. Mr. Wright
299 thought it needed to be reworded and brought back at another meeting, rather than trying to craft
300 something tonight. Others agreed.

301 Councilmember Wright asked Engineer Rasmussen to discuss the irrevocable letter of credit. Mr.
302 Rasmussen clarified by saying institutions will only issue a letter of credit for up to 1 ½ years. Often
303 developments take longer than this. Letters of credit expire and can leave the city without recourse. He
304 recommended getting rid of letters of credit and explained other options. Escrow accounts are the
305 easiest way for the city to call in funding to finish up unfinished work. Another way is for the city to not
306 record the final plat until all the work has been finished. He recommended taking out the letter of credit
307 options and leave the others.

308 **Councilmember Wright moved to "Adopt Ordinance 9-2021, An Ordinance to Adopt Changes to**
309 **the City Code of River Heights, Utah, as presented from the Planning Commission except for the**
310 **changes suggested for 10-12-1:A." Councilmember Clausen seconded the motion, which carried with**
311 **Clausen, Gallup, Huntly, Milbank, and Wright in favor. No one opposed.**

312 Discuss and Adopt the General Plan Land Use Map: Councilmember Wright reminded that the
313 General Plan map shows what the properties can be zoned, if requested. He understands that if an area is
314 designated as a specific zone, then a developer can request that zone without a problem. He felt
315 someone could request something less dense. Engineer Rasmussen didn't think there was a legal
316 requirement to change the general plan map and agreed a property owner could probably request less
317 dense.

318 Mayor Rasmussen read comments from Mike Jablonski and Cindy Johnson, in which they
319 requested their property be left in the R-1-12 zone.

320 Commissioner Cooley informed that the Planning Commission felt the whole Riverdale area
321 should be labeled as PUD because they don't know the future owners' plans. The property would always
322 be able to stay as R-1-12. It wouldn't go to PUD unless the property owner requested it.

323 Councilmember Wright hadn't heard from Mary Barrus or Kathy Ruggeri on what they would like
324 their property to be in the future. Kathy Ruggeri answered, she would like her property zone to stay R-1-
325 12. It didn't matter to her what the General Plan map designation was.

326 Councilmember Milbank brought up a proposed road, drawn through Mandy Blauer's house,
327 which could affect her property value. If the city is going to allow citizens to say what they desire for the
328 future use of their property, then the same consideration should be given to all property owners.
329 Councilmember Huntly agreed that citizens should have a say. The city shouldn't put aspirational designs
330 on people's properties.

331 Engineer Rasmussen said General Plan maps are planning tools that have some legal bearing. He
332 gave an example of a city not being able to get what was best for their future because it wasn't in their
333 General Plan. He said there is also funding available, which is based on the General Plan. He feels its
334 short sighted to go with what a current property owner wants. No one is claiming eminent domain. It is a
335 strategic planning process. Compensation is at current market value.

336 Councilmember Wright felt fine about leaving the Jablonski property out of the PUD.
337 Councilmember Huntly pointed out they have been actively working to preserve their land.
338 Councilmember Clausen wanted to leave their property out of the PUD. Engineer Rasmussen brought up
339 spot zoning and said this could fall under that.

340 Commissioner Cooley felt Councilmember Milbank had a valid point. The transportation map will
341 be decided in a few weeks, which has designated future possibilities for roads that go through a few
342 properties. Will the city allow an exception for these property owners as well since they don't like it? He
343 asked, when the concept for a PUD is submitted, how will the city force the developer to pay for
344 improvements which are not designated in the General Plan? He recommends having all the Riverdale
345 area be labeled as future PUD. Engineer Rasmussen said this would not prohibit Jablonski/Johnson from a
346 conservation easement.

347 Councilmember Huntly pointed out the Riverdale area is a challenging location for higher density
348 housing. More dense development near a river can easily compromise the river attributes.

349 Engineer Rasmussen said it's best to transition zones throughout the city. Labeling Riverdale as
350 PUD is a transition. Mayor Rasmussen said spot zoning gets the city in trouble because it looks like they
351 are doing favors for property owners.

352 Councilmember Wright wondered if they removed the future parks and recreation (PR) zone if
353 they could potentially expose themselves to not satisfying the city requirement for open space. If they
354 can negotiate open space in a PUD zone, he wouldn't worry about removing the PR designations on the
355 Ruggeri and Barrus properties. If it's not PUD, they may not get a park. Perhaps they should label other
356 properties as potential PR.

357 Jason Thompson said his long-term plan is to preserve his land. Property owners in Riverdale view
358 PUD designations as a potential to ruin their future plans. It completely contradicts what Jablonski and
359 Johnson have worked for since 1988.

360 Councilmember Milbank suggested labeling property east of Conservice as future commercial.

361 Councilmember Wright supports identifying the rest of the city block as parks and recreation, as
362 well as the grassy park areas in Saddlerock. He also supported the area east and north of the church as
363 PUD.

364 Councilmember Wright explained the Westons don't have any plans on their property (on 600
365 South) and would support what the city felt best.

366 More discussion was held on zoning in Riverdale.

367 They decided to check with the city attorney about the parks and rec zones. They will also ask him
368 if not labeling the Jablonski/Johnson properties R-PUD would be considered spot zoning and potentially
369 get the city in trouble. Mayor Rasmussen felt they should label it all as PUD or none. They need to
370 decide based on what is best for the future of the city. Property owners can still do what they want on
371 their own property.

372 Councilmember Huntly informed she was not favoring people; she was favoring environment
373 protection. Engineer Rasmussen said a PUD would give the city more control over preservation than
374 single family properties.

375 Councilmember Wright suggested they get the opinion of the Planning Commission about adding
376 commercial area labels.

377 Councilmember Gallup didn't think the southeast Ellis property should be considered for PUD
378 because it's not enough acreage and it's not contiguous to their other property because of the road.
379 Engineer Rasmussen said the road could be part of their development.

380 They agreed to get some input from the attorney. They will also check with the Planning
381 Commission to see what they recommend for future commercial zones and adding future labels to the
382 agricultural area along 800 South.

383 The meeting adjourned at 10:40 p.m.

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Sheila Lind, Recorder

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Todd A. Rasmussen, Mayor

River Heights City Bills To Be Paid

November 16, 2021

	Payee	Description	Admin.	P&Z	Parks/Rec	Pub. Safety	Com. Aff.	Roads	Water	Sewer	Total
1	Bear River Health Department	Water Coliform Testing							\$40.00		\$40.00
2	Bright Stripes & Sweeping, LLC	Painting Crosswalks						\$3,150.00			\$3,150.00
3	Cache Valley General Contractors	Cut & Pour Curb						\$9,800.00			\$9,800.00
4	Cache Valley Publishing	Planning Public Notice		\$44.04							\$44.04
5	Caselle, Inc.	Monthly Service Contract	\$91.69						\$91.66	\$91.65	\$275.00
6	Daines & Jenkins	Legal Fees	\$2,025.00								\$2,025.00
7	Denny's Business	Office Supplies	\$19.43								\$19.43
8	Forsgren & Associates, Inc.	General Consulting, Stewart Hill, Lower V	\$1,712.50		\$902.50				\$3,533.75		\$6,148.75
9	Freedom Mailing	Bill Processing	\$165.49						\$55.16	\$55.16	\$275.81
10	Ipaco	Shop Fix Parts			\$4.14			\$4.13	\$4.13	\$4.13	\$16.53
11	Logan City	Water Consumption							\$159.21		\$159.21
12	Rocky Mountain Power	Electricity	\$268.21		\$56.73	\$24.26		\$1,174.59	\$2,751.82	\$23.17	\$4,298.78
13	Senske Services	Christmas Lighting					\$1,940.00				\$1,940.00
14	Square One Printing	Christmas Dinner Invites	\$67.94								\$67.94
15	Xerox Corporation	Office Monthly Copier	\$361.96								\$361.96
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24											
25											
26											
27	VISA \$2,189.59 Paid 11/16/2021										
28	Microsoft MS Billing	Credit	-\$62.09								-\$62.09
29	Adobe Acropro	Monthly Billing	\$16.04								\$16.04
30	Maverick	Fuel for City Vehicles			\$49.91			\$49.91	\$49.91	\$49.91	\$199.64
31	Google Suite	Monthly Billing	\$72.00								\$72.00
32	DEQ DW	Water Operator Renewal							\$125.00		\$125.00
33	DEQ DW	Water Operator Renewal							\$150.00		\$150.00
34	Maddox Air	Compressor Pump	\$1,689.00								\$1,689.00
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Page 1 SubTotals			\$6,427.17	\$44.04	\$1,013.28	\$24.26	\$1,940.00	\$14,178.63	\$6,960.64	\$224.02	\$30,812.04

River Heights City
General Election Canvass Results
November 16, 2021

The Board of Canvassers for River Heights City have prepared a report of the elections results for the municipal election, held on November 2, 2021.

Final Results:

Mayor	Jason Thompson
Council Seat 1	Janet Humpherys Mathews
Council Seat 2	Tyson Glover

A full copy of the report can be found at:

- www.riverheights.org
- The River Heights City Office, 520 S 500 E, River Heights, UT 84321,
- 435-752-2646

We, the Board of Canvassers, certify the information contained in the report is accurate.

Todd Rasmussen, Mayor

Blake Wright, Councilmember

Sharlie Gallup, Councilmember

Doug Clausen, Councilmember

Nancy Huntly, Councilmember

Chris Milbank, Councilmember

Sheila Lind, Election Officer

Ordinance 7-2021

AN ORDINANCE TO ADOPT CHANGES TO THE RESIDENTIAL PLANNED UNIT DEVELOPMENT SECTION OF THE CITY CODE OF RIVER HEIGHTS, UTAH

Whereas it was determined that the Residential Planned Unit Development section of the River Heights City Code needed to be updated and,

Whereas the River Heights City Council held a duly noticed public hearing on Tuesday, November 16, 2021.

Be it ordained by the River Heights City Council that the attached document replace the current 10-10 Section of the River Heights City Code.

Adopted this 16th day of November 2021 and effective upon publication.

Todd Rasmussen, Mayor

ATTEST

Sheila Lind, Recorder

TITLE 10

CHAPTER 10

RESIDENTIAL PLANNED UNIT DEVELOPMENT ZONE

SECTION:

- 10-10-1: Intent
- 10-10-2: Regulations
- 10-10-3: Procedure
- 10-10-4: Requirements
- 10-10-5: Open Space
- 10-10-6: In Lieu Substitutions for Open Space Requirements
- 10-10-7: Development Agreement
- 10-10-8: Water, Sewer and Road Requirements
- 10-10-9: Failure to Comply with Regulations

10-10-1: INTENT

The intent of this zone is to encourage efficient utilization of land that is suitable in size, location, and character, to develop a sense of community, and to ensure compatibility within the surrounding neighborhoods and environment. This is accomplished by allowing greater diversity of lot design, flexibility in the placement of buildings, clustering of dwelling units, amenities, well-planned circulation, the creation and consolidation of open spaces, and attractive entrances. These provisions are intended to create more attractive and desirable environments within River Heights City while ensuring compliance with the intent, objectives and purposes of this title and the city's general plan.

10-10-2: REGULATIONS

- A. The following uses are permitted in the Residential Planned Unit Development (R-PUD) zone:
 - 1. Single-family detached (SFD) housing
 - 2. Single-family duplex housing
 - 3. Single-family attached housing
 - 4. Multiple family attached housing (shall not exceed five (5) units per building)
 - 5. Parks and Recreation
- B. A minimum of 65% of all dwelling units in a R-PUD shall be single-family detached housing. If a R-PUD is designated for those over 55 years of age, single-family attached housing units may count toward one half (1/2) of the minimum 65% requirement.

C. All buildings shall be limited in height to two (2) stories above grade.

D. Lot Regulations:

Minimum Project Size	3.5 acres
Maximum Density	5.5 dwelling units per gross acre
Maximum Structure Height	35 feet
Off-Street Parking	
Single-Family Detached	4 per dwelling unit
Single-Family Attached	2 per dwelling unit + 0.5 guest/unit
Duplex	2 per dwelling unit + 0.5 guest/unit
Multiple Family (2+ bedrooms)	2 per dwelling unit + 0.5 guest/unit

The following regulations apply when a building is to be sold with property **immediately adjacent** to the building footprint, i.e., front, side, and rear yards.

Minimum Lot Area	
Single-Family Detached	5,000 sq ft
Single-Family Attached (street garage access)	9,167 sq ft
Single-Family Attached (alley garage access)	8,334 sq ft
Duplex	7,500 sq ft
Multiple Family ²	Varies depending on number of units
Minimum Lot Width	
Single-Family Detached	60 feet
Single-Family Attached (street garage access)	55 feet
Single-Family Attached (alley garage access)	50 feet
Duplex	100 feet
Multiple Family	
Three-unit building	95 feet
Four-unit building	120 feet
Five-unit building	145 feet
Setbacks	
Front Yard (street garage access)	20 feet minimum
Front Yard (alley garage access)	10 feet minimum
Rear Yard (street garage access)	10 feet minimum
Rear Yard (alley garage access)	20 feet minimum
Side Yard (single family detached, duplex)	7.5 feet minimum
Side Yard (single family attached, multi-family)	10 feet minimum
Side Yard on a Street	15 feet minimum adjacent to street

² Multiple Family dwelling unit main floor area including garage is to be 1,150 sq. ft. minimum.

When a building is to be sold with no additional land outside of the building footprint, minimum lot areas and minimum lot widths need not apply. The following regulations will apply in these circumstances.

Setbacks	
Front Yard (street garage access)	20 feet minimum
Front Yard (alley garage access)	10 feet minimum
Rear Yard (alley garage access)	20 feet minimum
Side Yard on a Street	15 feet minimum adjacent to street
Building Separation (Distance Between Buildings)	
Side Yard (single family detached, duplex)	15 feet
Side Yard (single family attached, multi-family)	20 feet

10-10-3: PROCEDURE

- A. The application, review and approval procedures for a R-PUD development are described in Title 11, Chapter 4 (Review and Plat Requirements) of this code. Additional requirements are described in this Chapter.
- B. If the final plat of a R-PUD is not recorded within nine (9) months following approval of the development, the approval is void and the developer must begin the application, review, and approval procedures over.

10-10-4: REQUIREMENTS

- A. In addition to items required for the site analysis (11-4-1 C.), the developer shall provide a written statement that describes the impact the development will have on natural features of the area. Include any measures taken to mitigate negative conditions that occur as a result of the project.
- B. In addition to items required for the sketch plan submission (11-4-1 F.), the conceptual site plan shall show approximate building locations, proposed road layouts, general parking layouts, proposed open spaces, anticipated public and private amenities and their locations.
- C. In addition to items required for the preliminary plat submission (11-4-2 B.), the developer shall include dimensions and locations of areas to be reserved for vehicular and pedestrian circulation, proposed parking, ingress, and egress. Proposed circulation patterns including private driveways, public and private streets, and pedestrian and bicycle paths shall also be included. Description and placement of fences, walls and solid waste enclosures shall be shown.
- D. In addition to items required for the preliminary plat submission (11-4-2 B.), the developer shall submit preliminary architectural plans and landscape plans. The architectural plans shall comply with the architectural standards described below. The preliminary landscape plan shall show general location and types of plants to be installed as well as preliminary calculations demonstrating that landscape requirements have been met.
- E. The final plat submittal shall include fully designed and engineered drawings for the

site plan, architectural plans, landscape plan and parking plan, with these plans meeting all the requirements outlined herein and which may be added as a condition of the sketch plan (conceptual) or preliminary plat approval. This is in addition to any plat and construction drawings which are required as part of the subdivision of property described in Title 11, Chapter 4.

- F. The developer's engineer shall prepare, as part of the construction documents, an estimate of the cost of construction of all the public improvements. The city engineer shall review the estimate of the cost of construction for the purpose of determining the amount required as security of performance. The security of performance required is to assure the city that all improvements are constructed in conformance with all relevant city ordinances, regulations, and standards, and to assure the city that all expenses incurred for labor and materials used in the construction of the same are paid for by the developer. The amount of the security of performance shall be equal to at least one and one-half (1-1/2) times the reasonable value of the improvements required, as determined by the developer's engineer, and approved by the city engineer. The security of performance will be placed in an escrow account. The city may hold five percent (5%) of the security of performance provided by the subdivider until one year following the final inspection by the city engineer, or for such other period of time less than one year as the city deems necessary to ensure compliance as set forth in this Chapter and Title 11.
- G. The city shall require the applicant to submit for recording covenants, conditions and restrictions which will provide adequate guarantees for the permanent retention and maintenance of open space area, landscaping, natural features, private streets, other privately owned infrastructure, and architectural design standards. The covenants, conditions and restrictions shall include, at a minimum, provisions for:
1. The establishment of a perpetual, irrevocable homeowners' association;
 2. A notice to subsequent owners of the need to obtain city approval of changes to the R-PUD, which may require either an amendment to the final development plan or a conditional use permit;
 3. A provision granting the city the consent of the homeowners' association and each of its members, after providing notice to each property owner and holding a public hearing, to create a special assessment area comprised of all homes and lots within the R-PUD, to finance the cost of reasonably necessary maintenance, repair, or replacement of commonly owned essential public infrastructure such as streets, sidewalks, street lighting, water systems, etc., in the event of dissolution or default by the homeowners' association;
 4. A provision defining "default" by the homeowners' association which shall include, at minimum, the failure of the homeowners' association, after receiving six (6) months' notice of default from the city, to take reasonable steps to remedy its failure to levy, collect and budget assessments sufficient to provide for reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure which has become unsafe, unsound or functionally obsolete as determined by the city engineer.
- H. Modifications and Conditions May be Imposed. The planning commission and city

council may impose modifications and conditions including, but not limited to, street capacities of the area, ingress and egress to adjoining streets, internal traffic, signs, lighting, building bulk, architectural style and location, and open space characteristics, as stated in the River Heights Subdivision Ordinance.

- I. The development must be planned as one coordinated land use rather than as an aggregation of individual and unrelated buildings and uses.
- J. Proposed R-PUDs adjacent to existing single-family homes must place single-family homes adjacent to the existing homes unless otherwise buffered by a 100-foot-wide open space and landscaped buffer. If a road is installed in the 100-foot-wide buffer, a minimum landscaped area of 25 feet shall be maintained on each side of the road.
- K. Architectural Design Standards (for all housing except single-family detached)
 - 1. All new buildings must incorporate a defined architectural style recognized by design professionals as having basis in classical, historical, or academic architectural design styles. The following elements shall be incorporated into the design of each building.
 - a. Exterior Materials. Buildings within a development shall have a mix of complementary exterior materials to avoid all buildings looking the same. Either the city council will appoint a design review committee, or the planning commission and city council will approve all exterior building materials and building elevations. All exterior materials shall be suitable for the climate and exposure in which the development is located and shall, to the greatest extent possible, be maintenance free. Primarily durable materials including stucco, brick, fiber cement, decorative block or other high-grade materials as approved by the city, shall be used. River Heights City reserves the right to reject any proposed building material it feels is not in harmony with this requirement.
 - b. Elevations. For buildings over one story, elements to differentiate levels may be appropriate. These may include change of materials, dormers, cornices, or other elements, as approved by the city. Architectural wall variations between units to differentiate dwellings may also be appropriate and may be required by the city. These may include vertical articulation, variation of materials or other elements, as approved by the city. Trim and/or shutters is required on all windows unless the design of the building is such that trim and/or shutters is not compatible with the overall architectural style.
 - c. Roofs. Pitched roofs are encouraged.
 - d. Garages
 - (1) Each single-family detached unit, single-family duplex unit and single-family attached unit is required to have a minimum two-car garage which shall be attached to the main structure and shall be of the same or complimentary architectural materials as the primary residence.
 - (2) Multiple family units are encouraged to have garages, but garages are not

required provided that at least one (1) covered parking space is provided for each dwelling unit. Garages may be attached or detached from the primary structure, but the use of attached, recessed garages is strongly encouraged. Front-loaded garages may not protrude beyond the front plane of the main building façade by more than ten (10) feet.

2. **Accessory Buildings.** Accessory buildings privately owned by individual homeowners shall not be permitted in any commonly held area.
3. **Porches, Decks and Overhangs.** To provide architectural variety to the development, the use of covered porches, decks and overhangs is encouraged. Such porches, decks and overhangs shall be integrated into the design of the structure to avoid the appearance of "add-on" elements.
4. **Solid Waste.** Each dwelling unit shall have a solid waste container. Dumpsters or large solid waste containers shall be provided for required open space areas. Solid waste containers and dumpsters shall be shielded or screened with a proper enclosure. Enclosures shall be approved by the city. Solid waste collection shall comply with Logan City Environmental Standards.

L. Landscape Plan

1. The developer shall submit a landscape documentation package, which shall be prepared by a licensed landscape architect. The package shall include planting and irrigation plans for the entire site (except for single-family detached, privately-owned lots), specifically those areas which will be held in common ownership. The landscape documentation package shall be submitted to and approved by the city as part of the construction documents submission. The documentation package shall consist of the following:
 - a. **Landscaping Plan.** A detailed landscaping plan shall be drawn at a scale that clearly identifies the following:
 - (1) Location of all plant materials, a legend with botanical and common names, and size of plant materials;
 - (2) Property lines and street names;
 - (3) Existing and proposed buildings, walls; fences, utilities, paved areas and other site improvements;
 - (4) Existing trees and plant materials to be removed and retained;
 - (5) Designation of landscape zones; and
 - (6) Details and specification for tree staking (trees less than a two-inch caliper must be double staked until the trees mature to two-inch caliper), soil preparation, and other planting work.
 - b. **Irrigation Plan.** A detailed irrigation plan shall be drawn at the same scale as the planting plan and shall contain the following information:

- (1) Layout of the irrigation system and a legend summarizing the type and size of all components of the system, including the point of connection components, backflow preventer, meter, etc.;
 - (2) Static water pressure in pounds per square inch (psi) at the point of connection to the public water supply;
 - (3) Flow rate in gallons per minute and design operating pressure in psi for each valve and precipitation rate in inches per hour for each valve with sprinklers; and
 - (4) Installation details for irrigation components.
- c. Landscape Grading Plan. In addition to grading plans required by the subdivision ordinance, a landscape grading plan shall be drawn at the same scale as the planting plan and shall contain the following information:
- (1) Property lines and street names, existing and proposed buildings, walls, fences, utilities, paved areas, and other site improvements;
 - (2) Existing and finished contour lines and spot elevations as necessary to illustrate proposed landscape forms and related site improvements;
 - (3) Grades shall slope away from the structures as required by the International Building Code.

M. Landscaping Standards

1. All required landscaping shall be installed prior to the city issuing any certificate(s) of occupancy for structures in the development, unless seasonal conditions make installation unfeasible, in which case the applicant shall provide cash security or its approved alternative for all landscaping, which landscaping shall be installed by the following May 31st. The cash security or approved alternative is in addition to the security of performance for the overall development.
 - a. Applicability. This section applies to all front, side, and rear yard landscaping as well as any required open space and common area landscaping which is referenced herein.
 - b. Materials. Landscaping shall be planted with substantial live plant material including plants, shrubs, trees, sod, etc., for the purpose of buffering, screening, and improving the visual quality of the site. Wherever possible on the project, developers are encouraged to use Low-Impact Development (LID) techniques and materials.
 - (1) Plant Selection. Plants selected for landscape areas shall be well suited to the climate and soil conditions at the project site. Plants with similar water needs shall be grouped together as much as possible. Drought tolerant plants are encouraged. Areas with slopes greater than twenty-five

percent (25%) shall be landscaped with deep-rooting, water-conserving plants for erosion control and soil stabilization.

- (2) Mulch. After completion of all planting, all irrigated non-turf areas shall be covered with a minimum four-inch layer of mulch to retain water, inhibit weed growth, and moderate soil temperature.
- (3) Size of Trees. The following standards apply to trees used in the required landscaping of the development.
 - (A) Deciduous trees shall have a minimum caliper size of two inches (2").
 - (B) Ornamental trees shall have a minimum caliper size of one and one-half inches (1.5").
 - (C) Evergreen trees shall have a minimum height of six feet (6').
- (4) Xeriscaping. The developer is encouraged to use xeriscaping for a portion of the required landscaping.
- (5) Vegetation Protection. The property owner must protect existing significant vegetation during any development activity. Development plans must show all significant vegetation within twenty feet of a proposed development.
- (6) Removal. No landscaping may be removed without replacement of equal quality. This shall include the installation of healthy plant materials as well as a tree for tree replacement as governed by this ordinance. Utility contractors and others that disturb landscaped areas shall restore disturbed landscaping to previous condition.

N. Mailboxes. The developer shall coordinate placement of clustered mailboxes with the United States Postal Service.

O. Miscellaneous Site Development Standards

1. Walkways and Paths. Each development shall include common area pedestrian-friendly walkways and paths. Where possible, such walkways and paths shall connect to a larger trail system. The general location and design of such walkways and paths shall be presented as part of the preliminary site plan. The construction type, size and exact location shall be part of the final development of each phase. All walkways and paths shall be provided with adequate safety lighting.
2. Fixtures and Appurtenances. The type and location of any fixtures or appurtenances (lighting, benches, bike racks, etc.) shall be submitted as part of the final development plan of each phase and shall be approved by the city.
3. Public Infrastructure. All public infrastructure improvements shall be constructed according to the River Heights City design standards and specifications.

4. **Lighting.** To maintain the residential character and to shield the lighting from shining on to another residence or lot, all lighting within a development governed by these Standards shall be Dark Sky compliant and comply with the Outdoor Lighting Ordinance, Title 9, Chapter 3.
5. **Signage.** All signage shall comply with the River Heights City sign ordinance.

10-10-5: OPEN SPACE

- A. R-PUDs shall provide a minimum open area ("required open space"). Required open space shall be land areas that are not occupied by buildings, structures, parking areas (including private driveways), streets or alleys. Said required open space shall be devoted to landscaping, preservation of natural features, open pavilions, and recreational areas. Required open space areas shall be contiguous, not a collection of remnants, nor the area immediately surrounding housing units ("common area").
- B. The required open space requirement for a R-PUD is twenty-five percent (25%) of the gross acreage of the development.
- C. The required open space should be large enough for the use of all residents of the development or the general public, if deeded to the city. Such spaces should include improvements such as playgrounds, pathways, pavilions, play courts, and areas of significant native vegetation. Specific improvements shall be approved by the city.
- D. Areas with natural features worthy of preservation, which are on the development property and not buildable, shall be preserved and may be considered part of the required open space calculation if contiguous to the rest of the development's required open space.
- E. Trails are required in R-PUDs. Location of trails shall conform to the city's Trail and Park Master Plan and the Cache County Trail Master Plan.
- F. **Required Open Space Amenities.** An R-PUD with 40-100 dwelling units must provide a playground. An R-PUD with more than 100 dwelling units must provide a playground and pavilion. Alternate amenities of equal value and utility may be provided, if approved by the city.
- G. **Playground.** A playground area shall be provided for children twelve years old and younger. Each playground must include features that appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of six (6) features.
- H. **Type of Ownership Allowed for Required Open Space**
 1. **General.** Required Open Space in the R-PUD zone shall remain undivided and may be owned and managed by a homeowners' association at the election of the city. The city reserves the option to own and maintain the required open space but is not required to do so. If the city allows a homeowners' association to own and manage the required open space, a narrative describing ownership, use and

maintenance responsibilities shall be submitted for all common and public improvements, and utilities of the required open space. If, at any time, the ownership of required open space is changed to another form of ownership allowed herein, the ownership change must be approved by the city and the city must be provided the first right to accept or acquire the required open space.

2. Ownership Standards. Required open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the city.
 - a. Offer of Dedication: The city shall have the first and last offer of dedication of required open space. Dedication shall take the form of a fee simple ownership. The city may, but shall not be required to, accept required open space.
 - b. Homeowners' Association (HOA). The required open space and associated facilities as well as lands immediately surrounding housing units or buildings (known as "common area") may be held in common ownership by a homeowners' association.
 - (1) The developer of the subdivision shall provide documentation showing a proforma, articles of organization and by-laws of the intended HOA, prior to the formation of the HOA.
 - (2) The developer of the subdivision shall endow the newly formed HOA with funds equivalent to ten percent (10%) of the development cost for all common improvements which shall be used by the HOA to operate, maintain, and ensure the HOA for the first year that the association begins to operate independently of the developer. Funds shall be deposited in the checking account in the name of the HOA within ten (10) days after the day which the HOA begins to operate independently of the developer.
 - (3) The HOA shall be responsible for maintenance of insurance and taxes, enforceable by liens placed by the city.
 - (4) In the event of a proposed transfer of required open space by the HOA to the city, notice of such action shall be given to all property owners within the development.
 - (5) All improvements to the required open space held in common or intended to be held in common by the HOA shall be approved by the city, installed, completed, and accepted prior to the beginning of the second phase of construction, or if the project is not phased, prior to sale of all lots. If phasing of the improvements to the required open space is required by the developer, all incomplete improvements for the required open space shall be secured through a security of performance posted by the developer. A development plan shall be submitted by the developer that identifies the timeline and completion of amenities. The city engineer is hereby authorized to set the security of performance in an amount that ensures the completion of said amenities.
 - c. The HOA shall have or hire adequate staff to administer common facilities and

properly and continually maintain the required open space.

3. Maintenance Standards

- a. The owner of the required open space shall be responsible for maintenance and the raising of all monies required for operations, maintenance, and physical improvements to the required open space through annual dues, special assessments, etc. The maintenance organization shall be authorized, under its bylaws, to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.
- b. In the event the maintenance organization, or any successor organization, shall, at any time after establishment of a development containing required open space, fail to maintain the required open space in reasonable order and condition in accordance with the development plan, the city may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the required open space in reasonable condition.
- c. Failure to adequately maintain the required open space in reasonable order and condition constitutes a violation of this title. The city is hereby authorized to give notice, by personal delivery or by United States postal service, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same. Further, the city shall be authorized to correct the maintenance violation of the required open space and bill the owner or occupant.
- d. Should any city bill for maintenance of the required open space be unpaid by January 1 of each year, a lien shall be filed against the premises in the same manner as other municipal claims. A late fee of fifteen percent (15%) annually shall be added to such bills, and the city shall be entitled to recover any costs and attorney fees incurred collecting or recovering any such amounts due to the city.
- e. The following shall be fulfilled and shall be recorded on the face of the final plat:

"If, at any time, the ownership of required open space is changed to another form of ownership allowed by River Heights City in its Residential Planned Unit Development ordinance, the ownership change must be approved by the city and the city must be provided the first right to accept or acquire the required open space."

10-10-6: IN LIEU SUBSTITUTIONS FOR OPEN SPACE REQUIREMENTS

- A. Cash in Lieu. The city may, at its sole discretion, accept cash in lieu of open space or amenity requirements where such funds can be more effectively used to acquire land at a more appropriate or significant location consistent with the general plan and the parks and recreation master plan. Cash in lieu payments shall not be accepted until a qualified appraisal is provided by the city, at the cost of the applicant, identifying the value of the original land for which the in-lieu substitution is proposed, based on the use that will be permitted if the open space requirement is removed, and for which cash in lieu shall be offered.

- B. Approval Required Prior to Recordation. Recordation of a final plat for a R-PUD utilizing a cash in-lieu substitution may not occur until the in-lieu substitution is approved and finalized.

10-10-7: DEVELOPMENT AGREEMENT

The developer and the city shall enter into a development agreement, approved by the city attorney, that includes the following:

- A. The developer shall construct and complete the project in accordance with the approved plans and in accordance with city ordinances. The terms of the contract shall be binding upon all successors of the R-PUD.
- B. A clause stating that if the final plat is not recorded with nine (9) months following approval of the development, said development approval is void and the developer must begin the application, review and approval procedures over again.
- C. Acknowledgment that the landscape documentation package shall be provided to the city, approved, and installed as part of the project before occupancy permits are issued. Also include a description of the landscaping cash security or approved alternative, if required.
- D. Acknowledgement of provisions required in 10-10-4 G. of this chapter including:
 - 1. Establishment of a perpetual, irrevocable homeowner's association (HOA) prior to any occupancy permits are issued. The owner/developer shall constitute a pseudo-HOA until sufficient occupants are available to establish an association according to covenants, conditions, and restrictions.
 - 2. The developer will provide to the city covenants, conditions, and restrictions (CC&Rs) of the HOA, including its bylaws, articles of incorporation and methods for permanent retention and maintenance of required open space and common areas, landscaping, natural features, private streets, other privately-owned infrastructure and that architectural design standards will be followed. The CC&Rs shall be reviewed and approved in content and form by the city. Acceptance of the CC&Rs by the city will be contingent upon meeting the intent and conditions required by this code. The CC&Rs will be approved by the city prior to recording the final plat. The CC&Rs will be recorded by the city attorney at the county recorder's office at the time of the filing of the final plat.
 - 3. A notice to subsequent owners of the need to obtain city approval of changes to the P-RUD, which may require either an amendment to the final development plan or a conditional use permit;
 - 4. Acknowledgement that a special assessment area will be created to finance the cost of reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure in the event of dissolution or default by the HOA;
 - 5. A provision defining "default" by the HOA.

- E. Acknowledgement that the HOA shall be organized by the developer and be operated with financial subsidization by the developer, before the sale of any lots within the development.
- F. Acknowledgement that membership in the HOA is automatic (mandatory) for all purchasers of residences or lots therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified in the CC&Rs.
- G. Acknowledgement that the HOA shall be responsible for the following:
 - 1. Maintenance of all secondary water systems in the R-PUD.
 - 2. Maintenance of grounds, plants, trees, shrubs, sod, etc. in accordance with the landscaping plan.
 - 3. Maintenance of private streets, parking lots, sidewalks, playgrounds and other items described in the CC&Rs.
- H. Acknowledgement that city utility billings, and any other city-issued billings, will be paid by residents of individual units or the HOA for the required open space and common areas, as designated by the CC&R declaration of management policies, covenants and restrictions setting forth the responsibilities and duties of the owners, renters, or occupants within the R-PUD.
- I. Acknowledgement that all applicable fees will be charged by the city in accordance with a fee schedule set by the city council.
- J. A description of the required security of performance.
- K. Details of the development plan identifying the timeline and completion of required open space amenities. Information regarding the security of performance set by the city engineer ensuring the completion of said amenities shall also be included.
- L. Other documents that the city deems necessary to carry out the intent of this title.

10-10-8: WATER, SEWER AND ROAD REQUIREMENTS

The design and construction of improvements in a R-PUD shall comply with the design standards in Title 11, Chapter 6 as well as the following.

- A. Water Systems
 - 1. Culinary Water System
 - a. The culinary water system shall provide service to each dwelling unit. Each dwelling shall have a water meter.
 - b. All master meters for common areas and required open space shall be set in the public right-of-way.

- c. All dwelling units shall be individually protected by an approved backflow prevention device.
- d. All water lines shall be located, maintained, repaired, and governed by approved CC&Rs from the service side of the meter to the shutoff valve in the dwelling unit.
- e. All units will comply with the adopted plumbing code.

2. Sprinkler System for Outside Irrigation

- a. The outdoor sprinkler system shall be approved by the city.
- b. Each system shall be serviced by a separate meter.
- c. Each system shall be serviced by an approved backflow prevention assembly designed for sprinkler systems.
- d. Each backflow protection unit shall be registered with the city and have a certified test submitted to the city annually prior to the start of the irrigation season.
- e. Each sprinkler system shall be sized in accordance with the adopted plumbing code.
- f. Sprinkler systems that have the option of being connected to a non-potable water supply must be approved by the city.

3. Storm Water System

- a. Storm water systems shall meet the requirements of the subdivision ordinance, and city and state standards.
- b. The HOA shall be responsible for repairs and maintenance of all privately-owned storm water infrastructure.

B. Sewer Systems

- 1. A sewer system will be installed to service a R-PUD in accordance with city standards.
- 2. No R-PUD shall be approved without connecting to the River Heights City public sewer system. All units must be connected to the system.
- 3. In addition to the city sewer ordinance, this section will provide specific requirements:
 - a. Each dwelling unit shall be serviced with a building sewer line which will not be less than four (4) inches in diameter.
 - b. A dwelling unit drain/sewer shall go directly to the common area and will not

pass through, under or over any other dwelling unit or building.

- c. A dwelling unit sewer shall be serviced by a common sewer. The common sewer may service more than one dwelling unit; however, the common sewer will be sized according to the presently adopted plumbing code.
- d. A dwelling unit clean out shall be provided as per the adopted plumbing code. Clean outs for the common sewer shall also be according to the plumbing code with the addition of a clean out with a brass cap at the property line. There will also be a clean out at the farthest upstream end of the pipe. This clean out shall be in the commons area and shall also have a brass cap or manhole cover. Additional clean outs may be required based on length and bends as per the plumbing code.

C. Monthly Billing for Services

1. Monthly Billing for Utilities and Other Services.

- a. Each dwelling unit will be billed by the city at the established rates.
 - b. Any structure other than a dwelling unit, as well as common areas and required open space, will be billed to the HOA at established rates.
 - c. Fees for the outdoor sprinkler systems of common area and required open space areas will be billed to and paid by the HOA.
 - d. Each dwelling unit will have a solid waste container and will be billed at established rates. Dumpsters or large solid waste containers shall be provided for required open space areas and will be billed at established rates.
2. Monthly Billing for Storm Water. Storm water fees will be based on the current rate schedule and will be included on the monthly utility billing to each dwelling unit or the HOA where applicable.

D. Right-of-Way (ROW): Public and Private

1. All ROWs will be designed and constructed in accordance with city specifications.
2. A R-PUD must provide for pedestrian traffic, either in connection with the ROW or in another suitable location within the R-PUD.
3. A R-PUD must plan for storm water generated by ROWs.
4. Public ROW. Main roads (collector, minor and local streets) will be installed by the developer at the developer's expense and deeded to the city.
5. Private ROW. Private ROWs may be allowed in a R-PUD subject to the following requirements:
 - a. All private ROWs must meet city specifications.

- b. Private ROWs will be accessed from main roads (public ROWs.)
- c. Locations of private ROWs will be negotiated with the city during the development review and approval process.

10-10-9: FAILURE TO COMPLY WITH REGULATIONS

In case of failure or neglect to comply with any and all conditions as established by law and the supporting documents of the R-PUD, the city, in addition to other available remedies, may refuse to issue additional building permits and stop construction until violations or noncompliant conditions have been eliminated.

Ordinance 9-2021

AN ORDINANCE TO ADOPT CHANGES TO THE
CITY CODE OF RIVER HEIGHTS, UTAH

Whereas it was determined a few changes needed to be made to the River Heights City Code and,

Whereas the River Heights City Planning Commission held a duly noticed public hearing on Tuesday, November 9, 2021.

Be it ordained by the River Heights City Council that the following changes are made to the River Heights City Code:

5-2-5

- ~~D. No Dogs Allowed in Parks: Dogs are not allowed in River Heights City parks, except the Stewart Hill Drive Park. This shall not apply to City sponsored events that include animals.~~
- ~~E. Places Prohibited to Dogs: It shall be unlawful for any person keeping, harboring or having charge or control of any dog to allow said dog to be within any watershed area so designated by ordinance or otherwise legally appointed, either now existing or to be defined in the future, or on any construction site of a building, building improvement, road, utility, or other construction site during any time when actual construction or excavation activity is taking place. This subsection shall not apply to dogs provided for in subsection 5-2-3 C.2. of this chapter.~~

5-2-5

D. Responsibility for Animal Waste

1. No person shall create or maintain any condition or keep any animal, fowl, household pet, or insect under his/her jurisdiction in such a way that such condition or operation is likely to cause the transmission of any diseases.
2. No owner, keeper, caretaker, or attendant of an animal, shall allow an animal to defecate on public property, including but not limited to sidewalks, streets, planting strips, parking lots, parks, trails and recreational areas or on private property not in the ownership or control of the person having control or purporting to have control over or charge of such animal. If such animal does defecate upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.
3. Anyone walking, driving, or riding an animal on public or private property other than his/her own must carry with him/her visible means of cleaning up any fecal matter left by the animal. Animals used during parades or used in law enforcement are exempt from this section.
4. No vehicle, trailer or other conveyance used to transport animals shall be cleaned out and the fecal matter deposited upon any public property.

5. No animals are allowed in City parks unless the area is designated for animals. This shall not apply if a City sponsored event includes animals to be allowed for the event.
6. Any person violating the foregoing subsections shall be guilty of an infraction and shall be subject to a fine of not more than fifty dollars (\$50).

10-3-9:B

"... publish a notice in the following places: ~~a newspaper of general circulation, the state's . . .~~"

~~10-12-1:A Land Use Description Chart~~

~~83. Auto Repair: "C" in Residential and Agricultural zones, "P" in Commercial zone~~

~~Add subscript 2:~~

~~Maximum 2 vehicles within an enclosed building. Proper containment and disposal of all hazardous materials according to state regulations.~~

~~Change * to subscript 1~~

10-12-2:A. Accessory Uses

~~Natural Waterways~~

10-12-2:B. Nonresidential Uses

~~Natural Waterways~~

10-15-3 EXEMPTION

~~C. Detached single family dwellings on individual lots, unless required to install landscaping as a condition of a project or planned development approval.~~

11-5-1:B.2

- c. By providing the city with an irrevocable letter of credit issued by an acceptable financial institution naming the city as the sole beneficiary with a maturity date of at least ~~two (2) years and three (3) months~~ three (3) years from the date of recording the final plat.

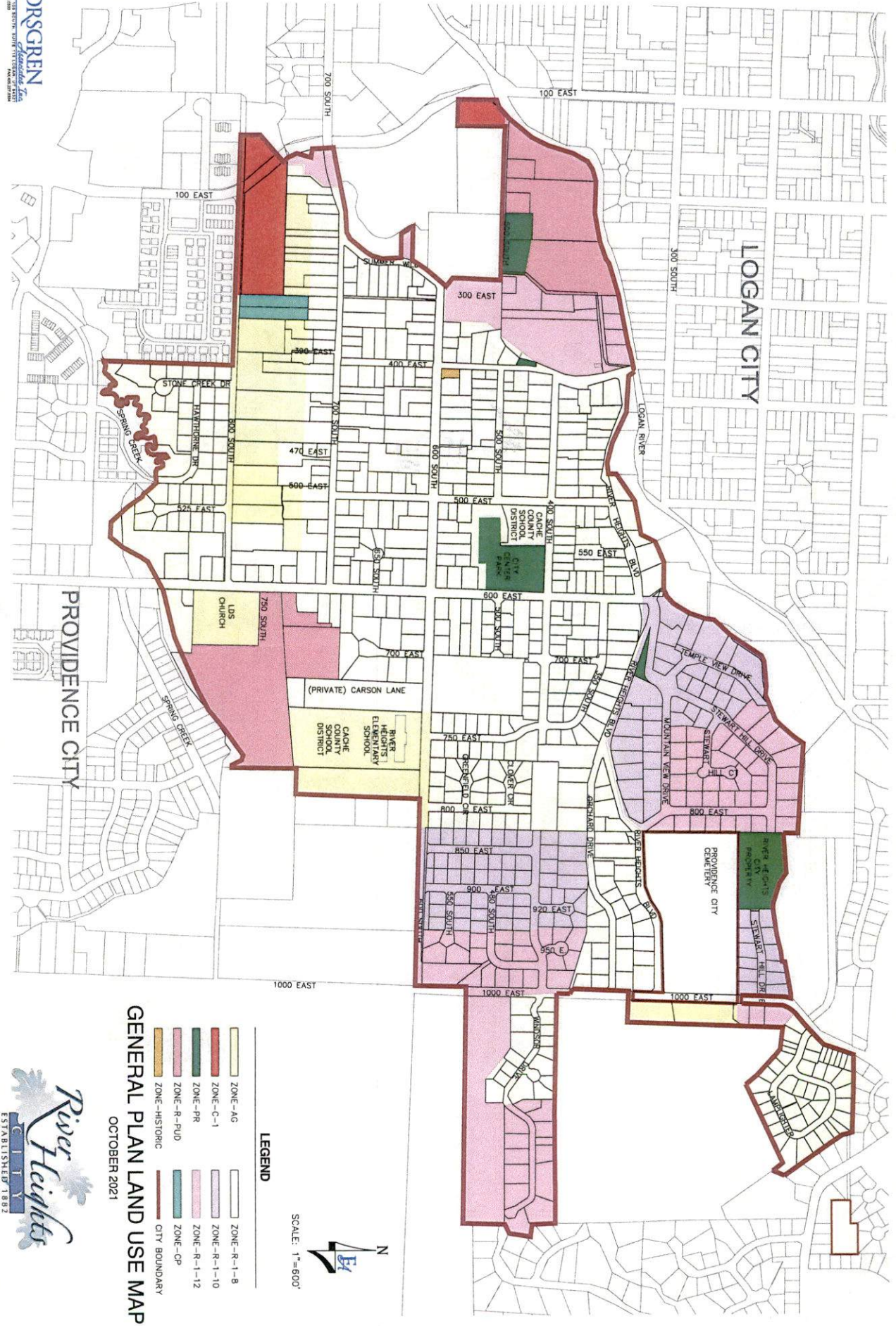
Adopted this 16th day of November 2021 and effective upon publication.

Todd Rasmussen, Mayor

ATTEST

Sheila Lind, Recorder

LOGAN MAIN STREET



- LEGEND**
- ZONE-AG
 - ZONE-C-1
 - ZONE-PR
 - ZONE-R-PUD
 - ZONE-HISTORIC
 - ZONE-R-1-8
 - ZONE-R-1-10
 - ZONE-R-1-12
 - ZONE-CP
 - CITY BOUNDARY

GENERAL PLAN LAND USE MAP
 OCTOBER 2021



Ordinance 8-2021

**AN ORDINANCE GRANTING AN ELECTRIC UTILITY FRANCHISE
AND GENERAL UTILITY EASEMENT
TO
ROCKY MOUNTAIN POWER**

WHEREAS, Rocky Mountain Power, is a regulated public utility that provides electric power and energy to the citizens of River Heights City (the "City") and other surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the City;

WHEREAS, the City, pursuant to the provisions of Utah Code Ann. § 10-8-21 has the authority to regulate power line facilities within public ways and to grant to Rocky Mountain Power a general utility easement for the use thereof;

WHEREAS, the City desires to set forth the terms and conditions by which Rocky Mountain Power shall use the public ways of the City;

NOW, THEREFORE, be it ordained by the City:

SECTION 1. Grant of Franchise and General Utility Easement. The City hereby grants to Rocky Mountain Power the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in, under, along, over and across the present and future streets, alleys, and rights-of-way, not including City parks, buildings or other spaces not associated with City-owned rights-of-way (collectively referred to herein as "Public Ways") within the City, for the purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof.

SECTION 2. Term. The term of this Franchise and General Utility Easement is for 15 (Fifteen) years commencing on the date of acceptance by the Company as set forth in Section 3 below.

SECTION 3. Acceptance by Company. Within sixty (60) days after the passage of this ordinance by the City, Rocky Mountain Power shall file an unqualified written acceptance thereof, with the City Recorder otherwise the ordinance and the rights granted herein shall be null and void.

SECTION 4. Non-Exclusive Franchise. The right to use and occupy the Public Ways of the City shall be nonexclusive and the City reserves the right to use the Public Ways for itself or any

other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with Rocky Mountain Power's Electric Facilities or Rocky Mountain Power's rights as granted herein.

SECTION 5. City Regulatory Authority. In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Utah, the laws of Utah or City Ordinance.

SECTION 6. Indemnification. The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation or maintenance by Rocky Mountain Power of its Electric Facilities. Rocky Mountain Power shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of Rocky Mountain Power's use of the Public Ways within the City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The City shall: (a) give prompt written notice to Rocky Mountain Power of any claim, demand or lien with respect to which the City seeks indemnification hereunder; and (b) permit Rocky Mountain Power to assume the defense of such claim, demand, or lien. If such defense is not assumed by Rocky Mountain Power, Rocky Mountain Power shall not be subject to liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, Rocky Mountain Power shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the City or any of its officers or employees.

SECTION 7. Annexation.

7.1 Extension of City Limits. Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electrical Facilities owned, maintained, or operated by Rocky Mountain Power located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

7.2 Notice of Annexation. When any territory is approved for annexation to the City, the City shall, not later than ten (10) working days after passage of an ordinance approving the proposed annexation, provide by certified mail to Rocky Mountain Power: (a) each site address to be annexed as recorded on county assessment and tax rolls; (b) a legal description of the proposed boundary change; and (c) a copy of the City's ordinance approving the proposed annexation. The notice shall be mailed to:

Rocky Mountain Power Customer Contact Center
Attn: Annexations
P.O. Box 400
Portland, Oregon 97207-0400

With a copy to:

Rocky Mountain Power
Attn: Office of the General Counsel
1407 West North Temple, Room 320
Salt Lake City, UT 84116

SECTION 8. Plan, Design, Construction and Installation of Company Facilities.

8.1 All Electrical Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and city laws, codes and regulations.

8.2 Except in the case of an emergency, Rocky Mountain Power shall, prior to commencing new construction or major reconstruction work in the Public Ways, apply for any permit from the City as may be required by the City's ordinances, which permit shall not be unreasonably withheld, conditioned, or delayed. Rocky Mountain Power will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance. Notwithstanding the foregoing, Rocky Mountain Power shall not be obligated to obtain a permit to perform emergency repairs.

8.3 All Electric Facilities shall be located so as to cause minimum interference with the Public Ways of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City.

8.4 If, during the course of work on its Electrical Facilities, Rocky Mountain Power causes damage to or alters the Public Way or public property, Rocky Mountain Power shall (at its own cost and expense and in a manner reasonably approved by the City) replace and restore it in as good a condition as existed before the work commenced.

8.5 In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, Rocky Mountain Power shall, upon payment of all charges provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance.

8.6 The City shall have the right without cost to use all poles and suitable overhead structures owned by Rocky Mountain Power within Public Ways for City wires used in connection with its fire alarms, police signal systems, or other public safety communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that Rocky Mountain Power shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with Rocky Mountain Power's use of same. Nothing herein shall be construed to require Rocky Mountain Power to increase pole size, or alter the

manner in which Rocky Mountain Power attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of Rocky Mountain Power and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by Rocky Mountain Power in conjunction with Rocky Mountain Power's standard pole attachment application process. Rocky Mountain Power shall have the right to inspect, at the City's expense, such attachments to ensure compliance with this Section 8.6 and to require the City to remedy any defective attachments.

8.7 Rocky Mountain Power shall have the right to excavate the Public Rights of Ways subject to reasonable conditions and requirements of the City. Before installing new underground conduits or replacing existing underground conduits, Rocky Mountain Power shall first notify the City of such work by written notice and shall allow the City, at its own expense, (to include a pro rata share of the trenching costs), to share the trench of Rocky Mountain Power to lay its own conduit therein, provided that such action by the City will not unreasonably interfere with Rocky Mountain Power's Electrical Facilities or delay project completion.

8.8 Before commencing any street improvements or other work within a Public Way that may affect Rocky Mountain Power's Electric Facilities, the City shall give written notice to Rocky Mountain Power.

SECTION 9. Relocations of Electric Facilities.

9.1 The City reserves the right to require Rocky Mountain Power to relocate its Electric Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the City. Within a reasonable period of time after written notice, Rocky Mountain Power shall promptly commence the relocation of its Electrical Facilities. Before requiring a relocation of Electric Facilities, the City shall, with the assistance and consent of Rocky Mountain Power, identify a reasonable alignment for the relocated Electric Facilities within the Public Ways of the City.

The City shall assign or otherwise transfer to Company all right it may have to recover the cost for the relocation work and shall support the efforts of Rocky Mountain Power to obtain reimbursement.

9.2 Rocky Mountain Power shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, Rocky Mountain Power may charge the expense of removal or relocation to the developer or customer. For example, Rocky Mountain Power shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of or caused by a private development.

SECTION 10. Subdivision Plat Notification. Before the City approves any new subdivision and before recordation of the plat, the City shall obtain Rocky Mountain Power's approval of Electrical Facilities, including underground facilities to be installed by the developer, and

associated rights of way depicted on the plat. A copy of the plat shall be mailed for approval to Rocky Mountain Power:

Rocky Mountain Power
Attn: Estimating Department
789 N Main
Smithfield UT 84335

SECTION 11. Vegetation Management. Rocky Mountain Power or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways to prevent the branches or limbs or other part of such trees or vegetation from interfering with Rocky Mountain Power's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent Rocky Mountain Power, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

SECTION 12. Renewal. At least 120 days prior to the expiration of this Franchise, Rocky Mountain Power and the City either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. Rocky Mountain Power shall have the continued right to use the Public Ways of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

SECTION 13. No Waiver. Neither the City nor Rocky Mountain Power shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

SECTION 14. Transfer of Franchise. Rocky Mountain Power shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, or to affiliates, parents or subsidiaries of Rocky Mountain Power which assume all of Rocky Mountain Power's obligations hereunder, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, Rocky Mountain Power may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Franchise to any financing entity, or agent on behalf of any financing entity to whom Rocky Mountain Power (1) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

SECTION 15. Amendment. At any time during the term of this Franchise, the City through its City Council, or Rocky Mountain Power may propose amendments to this Franchise by giving thirty (30) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable

time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and Rocky Mountain Power and formally adopted as an ordinance amendment, which is accepted in writing by Rocky Mountain Power.

SECTION 16. Notices. Unless otherwise specified herein, all notices from Rocky Mountain Power to the City pursuant to or concerning this Franchise shall be delivered to the City Recorder's Office. Unless otherwise specified herein, all notices from the City to Rocky Mountain Power pursuant to or concerning this Franchise shall be delivered to the Regional Business Management Director, Rocky Mountain Power, 1438 West 2550 South, Ogden, Utah, 84401, and such other office as Rocky Mountain Power may advise the City of by written notice.

SECTION 17. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

SECTION 18. Waiver of Jury Trial. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

PASSED by the City Council of the City of River Heights, Utah this 16th day of November 2021.

MAYOR

Todd Rasmussen

ATTEST:

Sheila Lind, Recorder