

Chapter 19.13. Development Review Processes.

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19.13.01. Purpose.

The purpose of this Chapter is to promote the health, safety, and general welfare of the residents of the City and the efficient and orderly growth of the City by regulating the development of property and establishing procedures for property development. This Chapter contains requirements for the general development processes in Saratoga Springs. Specific regulations governing Site Plan Reviews, Conditional Uses, Subdivisions, and Home Occupations are found in separate chapters of the Land Development Code. These chapters must also be consulted when preparing application materials for submittal to the City.

19.13.02. General Considerations.

1. **Land Use Element of the General Plan.** The City's adopted Land Use Element of the General Plan shall guide the use and future development of all land within the corporate boundaries of the City.
2. **Municipal Code.** The size and design of lots, nature of utilities, design and improvements of streets, types and intensity of land uses, and provisions for any facilities in any subdivision shall conform to the land uses shown and the standards established in the City Code, and other applicable ordinances and policies.
3. **Conservation of Natural Features.** Trees, native land cover, wetlands, natural watercourses, hillsides, and existing topography shall be preserved where possible. Development projects shall be so designed as to prevent excessive grading and scarring of the natural terrain. The design of new projects shall consider and relate to existing and future street widths, alignments, and names.
4. **Community facilities.** Community facilities, such as parks, recreation areas, and transportation facilities, shall be provided in the development project in accordance with the Land Use Element of the General Plan and the City's land use ordinances, particularly Chapter 19.04, Zoning. In order to facilitate the acquisition of land areas

required to establish the creation and expansion of community facilities, the applicant may be required to dedicate, grant easements, or otherwise reserve land for schools, parks, playgrounds, public rights-of-way, utility easements, and other public purposes.

5. **Concurrent Installation of Public Utilities.** The City recognizes the policy of concurrently installing public utilities in relation to any development within the City boundaries. Although the City will work with developers to provide utilities to a developer's project, the City is under no obligation to install utilities in order to accommodate a proposed development. The City reserves the right to approve only those developments wherein all necessary public utilities and infrastructure have been installed.

(Ord. 14-23)

19.13.03. Application Forms.

1. **Application Forms Required.** Applications for permits and other procedures (appeals, Site Plans, subdivisions, variances, Master Development Plans, plat amendments, etc.) established by this ordinance shall be filed on the forms provided by the City.
 - a. Applications shall be accompanied by a Master Development Plan, when required, Concept Plan, Preliminary Plat for proposed subdivisions, Site Plan for commercial or multi-family subdivisions, Condominium Plat for proposed condominiums, Final Plat, and any other applications, maps, plans, drawings, tabulations, calculations, and text needed to demonstrate compliance with the City Code and as described in this Chapter.
 - b. Applicants shall pay the cost to post and mail notices to all property owners as required in this Title prior to consideration by the Land Use Authority.
 - c. An application is not complete until the Planning Director acknowledges in writing that the application is complete.
2. **Application Fees.** Application fees for each type of permit and other procedures established by this ordinance shall be set by resolution of the City Council. Payment of application fees shall always precede review of the application.
3. **Permission to inspect.** The filing of an application constitutes permission for the Mayor, City Council, City Manager, Planning Commission, Hearing Examiner, or City employees to inspect the proposed development site during their consideration of the application. The City may delay consideration of any application when inclement weather or snowpack prevents a useful site inspection.
4. **Application Closure for Inactivity.** When the Planning Director determines an application is inactive, the application shall be closed after giving 30 days written notice to the applicant containing instructions on information needed to move the application forward to the next step in the approval process. An application shall be deemed inactive and subject to closure, on the basis of inactivity if, through the act or omission of the applicant and not the City, one of the following has occurred:
 - a. More than twelve months have passed since the last meeting of staff and the applicant.

- b. More than twelve months have passed since a request for additional information was made by staff, which request has not been complied with, or reasons of noncompliance are not stated or indicated by the applicant.
- c. The applicant is more than 30 days in default of the payment of any fee assessed by ordinance.
- d. The applicant has stated intent to abandon the project.
- e. The applicant has declared bankruptcy or the applicant's property is in the process of foreclosure proceedings.

(Ord. 14-23, Ord. 15-21)

19.13.04. Specific Development Processes and Submittal Requirements.

1. This Section of the Chapter identifies the development processes for each of the major types of developments within the City of Saratoga Springs. The following table is a non-exhaustive summary of these processes, and specifies who acts as the land use authority for each:

Process and Land Use Authority →	Planning Director Approval	Planning Commission Public Hearing	Planning Commission Recommendation	Planning Commission Approval	City Council Approval
Development Type ↓					
Change of Use Permit**	X				
Concept Plan	<i>X - Informal review only</i>				
Conditional Use – New Construction		X	X		X
Conditional Use – Existing Building or Site**	X				
Development Agreement (DA)					X
DA or MDA Amendment – Minor	X				
DA or MDA Amendment – Major					X
Home Occupation*	X				
Lot Line Adjustment	X				
Master Development Agreement (MDA)		X	X		X
Minor Subdivision	X				
Planned Unit Development		X	X		X
Plat, Amendment**	X				
Plat, Condominium and Final	X				
Plat, Preliminary		X	X		X
Site Plan		X	X		X
Site Plan Amendment - Minor	X				
Site Plan Amendment - Major		X		X	
Temporary Use	X				

* May be approved by staff unless staff determines Planning Commission approval is necessary based on the criteria in § 19.08.03.

** May be approved by staff unless Planning Commission or Council approval is required per §19.12 or §19.13.

2. A Neighborhood Meeting, or Neighborhood Canvas at the discretion of the applicant, is required for any multi-family or non-residential development proposal adjacent to developed property in a residential zone.
 - a. Neighborhood Meeting:
 - i. This meeting shall include the developer or applicant and adjacent residents within the subdivision.
 - ii. If a homeowners association exists in the area, the developer or builder shall notify the HOA by mail of the meeting at least ten calendar days before the meeting.
 - iii. The developer or applicant shall provide notice of the meeting by mail to each residential property within 500 feet of the property at least ten calendar days prior to the meeting.
 - iv. The developer or applicant shall be required to determine the noticing area with the advice and consent of Staff.
 - v. The developer or applicant must provide a proposed site plan and building elevations for review and discussion at the meeting.
 - vi. The developer or applicant must provide City staff with a written record of what transpired during the meeting, as well as an attendance roll from the meeting.
 - vii. The Neighborhood Meeting must take place prior to a proposed project being reviewed by the Planning Commission.
 - b. Neighborhood Canvas
 - i. The canvas shall include review of the proposed site plan and building elevations at each home.
 - ii. Signatures, from a minimum of 51% of the property owners, verifying that they viewed the site plan and the building elevations, shall be provided to City Staff at the conclusion of the canvas.
 - iii. The canvas must take place prior to a proposed project being reviewed by the Planning Commission.
3. Submittal of Application.
 - a. The developer or property owner shall file a properly completed development application form, including all required supporting materials and an appropriate application fee, with the Planning Director.
 - b. The Planning Director shall determine whether the application is complete within ten business days after its filing.
 - i. If the application is complete, the Planning Director shall place the application on the next possible agenda taking into consideration public notice requirements and other criteria for placing an item on the agenda found in Title 2 of the City Code.
 - ii. If the application is not complete, the Planning Director shall return it with a written statement explaining what is needed to complete the application.

4. Notice of Public Hearings.
 - a. Notice for items requiring a public hearing shall comply with the requirements of this Section.
 - b. The developer shall incur the entire cost of providing the notice required by this Section.
 - c. Notice of the date, time, and place of the public hearing shall be provided at least 10 calendar days before the public hearing as follows:
 - i. mailed to each affected entity (for ordinance, zoning map, and general plan amendments only);
 - ii. posted:
 1. in at least three public locations in the City; or
 2. on the City's website;
 - iii. published on the Utah Public Notice Website;
 - iv. published in a newspaper of general circulation in the City; and
 - v. mailed to:
 1. property owners directed affected by the proposal; and
 2. property owners of each parcel or lot within 300 feet of the property that is the subject of the public hearing.
5. Decision of Planning Director.
 - a. If designated as the land use authority, the Planning Director shall determine whether the application complies with all applicable requirements of this ordinance or other development ordinances and policies of the City.
 - b. If the Planning Director determines that the proposed development application is complete and is in compliance with the City Code and other ordinances and policies of the City, then the Planning Director may take action to approve the application.
 - c. In proposals where the Planning Director determines that the proposed development is not in compliance with the City Code and other ordinances and policies of the City, the Planning Director may take action to deny the application. If the applicant provides written disagreement with the Planning Director decision within 10 calendar days, a public hearing on the application shall be scheduled with the Planning Commission, and the Planning Commission shall become the land use authority.
6. Decision of Planning Commission.
 - a. If designated as the land use authority, the Planning Commission shall determine whether the development application complies with all applicable requirements of this Title or other ordinances and policies of the City and conduct a public hearing, when required, on the proposed development application. The Planning Commission shall only act as the land use authority for administrative decisions and shall not act as the land use authority for a legislative decision.
 - b. At the hearing, the Planning Commission shall take testimony and, in the case of an administrative decision, determine whether the proposed development complies with all applicable requirements of this ordinance or other development ordinances and policies of the City.

- c. If the Planning Commission determines that the proposed development application is complete and is in compliance with the City Code, then the Planning Commission may take action on the application.
 - i. If the Planning Commission is the land use authority, the Planning Commission shall make a decision to approve, approve with conditions or deny the application.
 - ii. If the City Council is the land use authority, the Planning Commission shall make a recommendation to the City Council on the application, unless the development process in 19.13.04 specifies otherwise.
 - iii. The Planning Commission may also table its decision or recommendation if it finds that the application materials are incomplete or if more information or additional research is need to determine if the requirements of the City Code or City ordinances are met.
7. Decision of City Council for Administrative Decisions.
- a. If designated as the land use authority, the City Council shall determine whether the development application complies with all applicable requirements of this Title or other ordinances and policies of the City and conduct a hearing, when required, on the proposed development application.
 - b. At the public hearing, the City Council shall take testimony and determine whether the proposed development complies with all applicable requirements of the City Code or other ordinances and policies of the City.
 - c. If the City Council determines that the development application is complete and is in compliance with the City Code, then the City Council shall approve the application.
8. Decision of City Council for Legislative Decisions.
- a. The City Council is the land use authority for all legislative decisions and shall conduct a public hearing, when required, or a public meeting on the proposed development application.
 - b. At a public hearing, the City Council shall take testimony and decide whether to grant the application. At a public meeting, the City Council shall discuss whether to grant the application.
9. Remand.
- a. Any land use authority may remand an application to a recommending body for further review and recommendation unless a different process is specified in 19.13.04.

(Ord. 15-29, Ord. 14-23).

19.13.05. Concept Plan Process.

- 1. A Concept Plan application shall be submitted before the filing of an application for subdivision or Site Plan approval unless the subdivision was part of a previous Concept Plan application within the last two years and the application does not significantly deviate from the previous Concept Plan.

2. The Concept Plan review involves an informal review of the plan by the City's Development Review Committee; when accompanying a rezone application, the review also involves an informal review of the plan by the Planning Commission and City Council.
3. The developer shall receive comments from the Development Review Committee, and when accompanying a rezone application, by the Planning Commission, and City Council to guide the developer in the preparation of subsequent applications.
 - a. The Development Review Committee, and Planning Commission and City Council when accompanying a rezone shall not take any action on the Concept Plan review.
 - b. The comments of the Development Review Committee, and Planning Commission and City Council when accompanying a rezone shall not be binding, but shall only be used for information in the preparation of the development permit application.
4. The Concept Plan review is intended to provide the developer with an opportunity to receive input on a proposed development prior to incurring the costs associated with further stages of the approval process. This review does not create any vested rights to proceed with development. Developers should anticipate that the City may raise additional issues in further stages not addressed at the Concept Plan stage.
5. The following items shall be submitted with a Concept Plan application:
 - a. A completed application and affidavit, form, and application fee.
 - b. Plat/Parcel Map of the area available at the Utah County Surveyor's Office.
 - c. Legal description of the entire proposed project.
 - d. Proposed changes to existing zone boundaries, if such will be needed.
 - e. Conceptual elevations and floor plans, if available.
 - f. Concept Plan Map: Three full-size 24" x 36" copies of the Concept Plan as required on the application form, drawn to a scale of not more than 1" = 100' and two reductions on 11" x 17" paper, showing the following:
 - i. Proposed name of subdivision, cleared with the County Recorder to ensure the name is not already in use.
 - ii. Name of property if no subdivision name has been chosen. This is commonly the name in which the property is locally known.
 - iii. Locations and widths of existing and proposed streets and right-of-ways.
 - iv. Road centerline data including bearing, distance, and curve radius.
 - v. Configuration of proposed lots with minimum and average lot sizes.
 - vi. Approximate locations, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, including acreages, locations, and percentages of each and conceptual plan of proposed recreational amenities.
 - vii. Those portions of property that qualify as sensitive lands per Section 19.02.02., including acreages, locations, types, and percentages of total project area and of open space.
 - viii. Total acreage of the entire tract proposed for subdivision.
 - ix. General topography shown with 1' or 2' contours and slope arrows with labels.
 - x. North arrow, scale, and date of drawing.
 - xi. Property boundary with dimensions.
 - xii. Data table including total number of lots, dwellings, and buildings, square footage of proposed buildings by floor, number of proposed garage parking spaces, number of proposed surface parking spaces, number of required and

- proposed ADA compliant parking spaces, percentage of buildable land, percentage and amount of open space or landscaping, and net density of dwellings by acre.
- xiii. Existing conditions and features within and adjacent to the project area including roads, structures, drainages, wells, septic systems, buildings, and utilities.
 - xiv. Conceptual utility schematic with existing and proposed utility alignments and sizes sufficient to show how property will be served including drainage, sewer, culinary and secondary water connections and any other existing or proposed utilities needed to service the proposed development or that will need to be removed or relocated as part of the project.
- g. A schematic drawing of the proposed project that depicts the existing proposed transportation corridors within two miles, and the general relationship of the proposed project to the Transportation and Land Use Element of the General Plan and the surrounding area.
 - h. File of all submitted plans in pdf format.

(Ord. 14-23)

19.13.07. Change of Use Permit.

1. **In General.** This section is intended to provide a process for reviewing the conversion of an existing structure or site from its current or previous use to a substantially different type of activity or use.
2. A substantially different type of activity or use is a use that falls under a different category in the use tables in 19.04.
3. **Standards.** Any change of use shall meet the following criteria:
 - a. The new use is an allowed use in the zone; if the new use is a conditional use in the zone, the conditional use process shall be followed.
 - b. Signage and parking for the new use shall comply with all standards in place at time of conversion.
 - i. If the existing use is a nonconforming use, a new use of the same type or of a type which has a lower parking requirement may be placed without additional conditions. If the new use is of a different type and has a higher parking requirement, the new parking requirements shall be met.
 - c. Increased parking requirements or external changes to the site or structure for the new use shall require a site plan amendment.
4. The Planning Director shall follow the process outlined in 19.13 for decisions of the Planning Director.

(Ord. 14-23)

19.13.08 Development Agreements.

1. **In General.** Each development request, except for Home Occupations, major grading permits, and minor subdivisions, must have a development agreement and bond agreement approved by the City Attorney and City staff. The City Council may determine that a development agreement is not required, but in all cases a bond agreement shall be required. A development agreement is not required when conditions, requirements, findings, and recommendations are all consistent with Title 19 requirements unless the City Council, in exercising its legislative authority pursuant to Utah Code § 10-9a-102, determines that a development agreement is necessary to further the public health, safety, or welfare or any other legitimate purpose outlined in Utah Code § 10-9a-102(1). The City Attorney may provide a standard form for a development agreement that includes many of the most common provisions to facilitate efficiency in the preparation and execution of development agreements.

2. **Contents of Development Agreements.** Development agreements shall, at a minimum, include the following:
 - a. any condition, requirement, and finding made by the Planning Commission and City Council, including required improvements of each phase of development;
 - b. a copy of the Final Plat document, record of survey or legal description, Preliminary Plat and phasing plan, or Site Plan as applicable;
 - c. a description of all required improvements, including parks and trails, and an estimate by the City Engineer of their cost, unless only a bond agreement is required per Sections 19.12.05 and subsection (1) above;
 - d. the following unless contained in a bond agreement under Section 19.12.05:
 - i. a schedule for completion of the required improvements;
 - ii. a process by which the City may, if necessary, complete required improvements using the guarantee provided;
 - e. provisions defining required maintenance activities which include, but are not limited to, general upkeep of landscaping, sidewalks, streets, parks, and utility infrastructure, as well as the repair of such facilities as needed and as may be required by the City during or near the end of the maintenance period. These activities may also be specifically defined in the development agreement;
 - f. a process by which the development agreement may be transferred, with City approval, to the developer's successors;
 - g. a statement that provides that the development agreement and the vested rights it confers shall be void if the developer breaches the agreement.
 - h. a statement that provides that in the event the developer fails to comply with the terms of the agreement, the City may withhold approval of building permits within the project;
 - i. a statement that provides for dedication to the City of right-of-ways to adjacent properties and construction of temporary cul-de-sacs as needed to ensure adequate egress from stub streets;
 - j. declaration of covenants and restrictions, declaration of condominium;
 - k. applicable Architectural elevation plans;

- l. special conditions relating to the timing of certain improvements, lot design, performance standards, necessary off-site conditions or improvements, conditions relating to shared open space or parks, special circumstances due to location of utilities, physical characteristics of the subject property, or other conditions identified within the development agreement; and
 - m. any additional requirement that the City Council deems necessary to meet the requirements of this Title and to further the purposes in Utah Code § 10-9a-102(1).

3. **Effect of Development Agreement.** The effect of a development agreement is to create vested rights as described in said agreement and to specify the requirements of the development. Subject to constitutional limitations, development agreements do not insulate developments from changes in local, state, or federal law including applicable fire and building codes.

4. **Expiration.** A Development Agreement shall require Final Plat approval of all subdivisions within ten years, except as otherwise specified by the City Council.

5. **Amendment.** A Development Agreement may be amended upon agreement of all parties.
 - a. Minor amendment: a minor amendment is an amendment that does not alter the density, intensity of use, amount of open space, or unit type, and may be approved by the City Manager after consultation with the DRC.
 - b. Major amendment: a major amendment is an amendment that alters the density, intensity of use, amount of open space, or unit type, and may be approved by the City Council.

6. **Reserved Legislative Powers.** Except for the developer's vested rights, development agreements shall not limit the future exercise of the police powers of the City in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation, and other land use plans, policies, ordinances, and regulations after the date of the agreement. However, the developer's vested rights may be affected under facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1988), or successor case law or statute. Any such proposed change affecting developers' vested rights shall be of general applicability to all development activity in City. Unless the City declares an emergency, the developer shall be given prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the property.

(Ord. 14-23)

19.13.09. Improvements Required.

1. For the purposes of this Chapter, required improvements for all developments shall include (when applicable), but are not limited to, the following:

- a. runoff and erosion control measures, including both structures and plantings, required to implement an approved runoff and erosion control plan;
- b. landscaped buffers, screening fences or walls, and similar improvements required to mitigate potential nuisances;
- c. water and sewer improvements;
- d. storm drainage improvements;
- e. off-street parking and loading areas, including any required landscaping;
- f. roads and related improvements, including bridges, culverts, traffic control signs, streetlights and signs, and street trees;
- g. sidewalks and trails;
- h. neighborhood parks and squares as outlined in the City's adopted Parks, Trails, and Open Space Master Plan or neighborhood parks as required in the preliminary approval of the project;
- i. the provision of water rights and facilities as required by the City of Saratoga Springs water utility ordinance and other ordinances, regulations, and standards;
- j. utilities such as telecommunications, cable TV, electric power, and natural gas;
- k. improvements required by the Wildland-Urban Interface Code;
- l. street lighting; and
- m. improvements required by other sections of the City Code or required by agreement between the City and the applicant.

2. Installation at Developer's Expense.

- a. The installation of required improvements shall be at the developer's expense. However, the City may choose to participate in the cost of certain improvements in order to correct deficiencies in areas outside the development, or to provide capacity for future development in accordance with any applicable capital facilities plan, any applicable impact fee facilities plan, or Land Use Element of the General Plan.
- b. Where off-site improvements that exceed the developer's lawful obligation are constructed at the developer's expense, a reimbursement agreement may be signed containing provisions or allowing for reimbursement by landowners whose property subsequently benefits from the improvements using mechanisms mutually agreed upon by the City and the developer. The duration of these agreements may not exceed 10 years.

3. Improvement Standards. Required improvements shall be installed in compliance with this Title, capital facilities plans, impact fee facilities plans, and standards, regulations, and ordinances passed by the City.

4. Continuing Maintenance Required. The continuing maintenance of any improvement required for compliance with applicable City ordinances, regulations, and standards shall be required for a period specified in any applicable development agreement or bond agreement. Failure to maintain any required improvement shall be a violation of these regulations.

5. Maintenance Mechanism. Any development that includes any property or facilities that are not dedicated to or accepted by the City of Saratoga Springs shall create a community

association for the purpose of carrying out maintenance activities for such property or facilities. In the event maintenance obligations are not promptly assigned to the community association, the developer may be required to post a maintenance bond to ensure that the improvements are maintained until such time as the community association assumes maintenance obligations.

6. **Project Documents.** The developer shall submit the proposed declaration of covenants, conditions, and restrictions, condominium declarations, articles of incorporation, and by-laws for the community association for review and approval by the City attorney, and those documents shall be recorded before or concurrent with the recording of the Final Plat.
7. **Developed and Landscaped Open Space Maintenance.** The maintenance of any developed or landscaped open space required for compliance with this ordinance shall include, but not be limited to: upkeep of landscaping, parks, trails, and fencing, where required; control of noxious weeds; litter removal; and wildfire suppression. All open space shall be maintained by a homeowner's association (see Section 19.13.06) if such open space is not a part of the City's capital facilities plan or impact fee facilities plan.
8. **Maintenance of Landscaping.** Maintenance of landscaped areas includes the installation and maintenance of an irrigation system, timely irrigation, weed and pest control, and all other activities required to maintain the function and, as much as reasonably possible, original appearance of the landscaped area. Sufficient water rights for the maintenance of landscaped areas shall be dedicated to or purchased from the City.
9. **Phasing Improvements.** If the construction of various portions of the project is proposed to occur in stages, then the following standards shall be met.
 - a. A Phasing Plan, including size and order of each phase and schedule of improvements to be installed, shall be approved by the Planning Director.
 - b. Open Space improvements shall be installed with a value or acreage in proportion to the acreage developed with any given phase. The Developer may install open space in excess of the proportionate amount for each phase and bank open space credits towards later phases; however the open space installed must be a part of the open space shown in the Phasing Plan.
 - c. A perpetual instrument running with the land shall be recorded against the entire project prior to or concurrently with the recordation of the first plat, that includes the standards, location, funding mechanism, values, and timing for all open space, recreational facilities, amenities, open space easements, and other improvements. An open space plat, conservation easement, development agreement, or other perpetual instrument may qualify as determined by the City Attorney.

(Ord. 14-23)

19.13.10. Master Development Agreements.

1. **Purpose of Master Development Agreement Process.**

- a. The Master Development Agreement process is established to provide a mechanism for the following:
 - i. approval of a land use and zoning plan for a specified geographic area that is proposed for development;
 - ii. identification of utilities and other public infrastructure that will be required to be installed in order to service the proposed development; and
 - iii. creation of a development agreement that identifies general land uses, residential densities, size of non-residential developments, obligations for construction of public infrastructure, and general phasing of the development.
2. **When Required.** A Master Development Agreement shall be required of any development that is in excess of twenty acres in size if non-residential or in excess of 160 acres in size if residential. Mixed-use developments in excess of twenty acres shall be required to submit a Master Development Plan.
3. **Master Development Applications.** Master Development Agreements may be accompanied by an application to amend the City's General Land Use Plan Map and rezone the subject property. If so, then the General Plan amendment or rezone shall not occur until the Master Development Agreement is executed by the City and developer. Master Development Agreement applications shall contain, at a minimum, the following information:
 - a. a complete application that is duly signed by the property owner or the owner's representative;
 - b. a legal description of the property;
 - c. a vicinity map showing the approximate location of the subject parcel with relation to the other major areas of the City;
 - d. a general description of the proposed development together with a map indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, trails, and any other important element of the project;
 - e. a data table including total number of lots, dwellings, and buildings, square footage of proposed buildings by floor, number of proposed garage parking spaces, number of proposed surface parking spaces, percentage of buildable land, percentage of open space or landscaping, and net density of dwellings by acre;
 - f. existing and proposed infrastructure including proposed roadways, utility locations, and capacities;
 - g. estimated impacts of the proposed Master Development Agreement on all public utilities including potable water, irrigation water, wastewater, transportation, storm drainage, fire protection, and solid waste;
 - h. parks and recreation demands of the proposed project;
 - i. an estimate of the cost to provide off-site utilities and other public infrastructure facilities to the site;
 - j. existing physical characteristics of the site including waterways, geological information, fault lines, general soils data, and contour data (two-foot intervals);
 - k. identification of environmental issues, if any, and how such will be protected or mitigated (e.g., wetlands, historical sites, endangered plants, etc.);
 - l. information relating to storm drainage including: 100-year 24-hour drainage flows, 10-year 24-hour storm water flows, and proposed storm drainage facilities;

- m. major street layout with detailed traffic study prepared by a traffic Engineer;
 - n. statements of how the proposed development is compatible with surrounding land uses and other areas of the City and how internal compatibility will be maintained;
 - o. statements or maps indicating how the proposed master plan will comply with the City's open space and parks and recreation regulations; and
 - p. file of all submitted plans in pdf or AutoCAD 2000 format.
4. **Open Space Requirements.** The amount of open space required with any Master Development Agreement application will be established in accordance with the provisions of the applicable zoning designation as set forth in Chapter 19.04 of this code.
5. **Planning Commission Action.** Upon receipt of a complete Master Development Agreement application, the Planning Director shall schedule the application for a public hearing before the Planning Commission.
- a. The Planning Commission shall conduct a public hearing and shall thereafter recommend to the City Council approval, approval with conditions, or denial of the Master Development Agreement application.
 - b. The Planning Commission may also recommend modifications to a Master Development Agreement application or may table its action if the application is incomplete or if the Planning Commission determines that more information should be provided prior to making a recommendation.
6. **City Council Action.**
- a. The City Council, after a receiving a recommendation from the Planning Commission, shall review the application and shall approve, approve with conditions, or deny the application.
 - b. The City Council may modify the application or table their action if the application is incomplete or if the Planning Commission determines that more information should be provided prior to taking final action.
 - c. The Master Development Agreement must be executed by the parties before a rezone or General Plan amendment is granted or takes effect.
7. **Effect of the Master Development Agreement.** The Master Development Agreement, as approved, will constitute the applicant's right to develop the property in essentially the same manner as outlined in the Master Development Agreement.
- a. Generally, the Master Development Agreement shall include a request to amend the City's Land Use Element of the General Plan and Zoning Map, if necessary.
 - b. The Master Development Agreement shall not grant the applicant the right to circumvent any City ordinances, policies, City Council directives, or any other procedure that is approved and practiced by the City.
 - c. The applicant shall still be required to apply for subdivision approval, Site Plan review, Conditional Use approval, or other appropriate procedures as required by this Code.

8. **Additional Requirements.** A Master Development Agreement shall generally conform to the requirements found in this Chapter pertaining to the contents of a development agreement, as appropriate, as well as the following requirements:
 - a. The Master Development Agreement shall establish the general land uses in the project, the total number of residential dwellings, the estimated square footage of structures used for non-residential purposes, the general off-site utility and public infrastructure required, and any general phasing for the development of the Master Development Plan area.
 - b. The Master Development Agreement shall include provisions for phasing of improvements and the timing of the construction of public infrastructure.
 - c. The City may enter into performance-based reimbursement arrangements, shared funding mechanisms, or other methods if and when the City's long-term capital facility needs are served by such methods in accordance with the requirements of Section 19.13.07.
9. **Amendment.** A Master Development Agreement may be amended upon agreement of all parties.
 - a. **Minor amendment:** a minor amendment is an amendment that does not alter the density, intensity of use, amount of open space, or unit type, and may be approved by the Planning Director.
 - b. **Major amendment:** a major amendment is an amendment that alters the density, intensity of use, amount of open space or unit type, and shall be approved by the City Council.

(Ord. 14-23)

19.13.10. Payment in Lieu of Open Space.

1. **Purpose.** In order to meet the City's recreational needs and to create a more attractive community, Open Space shall be dedicated to the City of Saratoga Springs in accordance with the standards provided in Chapters 19.04 and 19.07 of the Land Development Code. In cases where the City Council finds that a voluntary payment to the City in lieu of providing all of the open space required by the City's Land Development Code will better meet the City's recreational needs, the City Council may allow a developer to utilize the City's Payment in Lieu of Open Space Program as described in this Section.
2. **Payment in Lieu of Open Space Program.** The City's Payment in Lieu of Open Space Program may be utilized for developments in the R-2, R-3, and R-4 zones, or any other development in any zone containing equal to or less than four units per acre.. The percentage of open space that may be satisfied with a Payment in Lieu of Open Space shall be determined by the City Council taking into account the following:
 - a. The proximity of regional parks;
 - b. The size of the development;
 - c. The need of the residents of the proposed subdivision for open space amenities;
 - d. The density of the project;
 - e. Whether the Payment in Lieu furthers the intent of the General Plan; and

- f. Whether the Payment in Lieu will result in providing open space and parks in more desirable areas.
3. **Excluded Open Space.** Specific types of open space do not qualify for this program including landscaping strips, regional trail segments, landscaping buffers, sensitive lands, landscaping in parking areas, or other types of open space that may be specifically required by City ordinances and standards.
4. **Qualification for the Program.** Developments that the developers or the planning staff believe would result in better projects and would meet the above described standards may qualify for the Payment in Lieu of Open Space Program.
 - a. Such developments will be presented to the Planning Commission and City Council as part of the review process for Concept Plans or Master Development Plans. Said payments in lieu of open space shall be presented for approval in connection with preliminary and final plat approval. During that review, the Planning Commission will make a recommendation to the City Council on the implementation of the Payment in Lieu of Open Space program.
 - b. Subsequent to the Planning Commission's review, the City Council may approve, approve with modifications, or deny a request to implement the Payment in Lieu of Open Space Program. The City Council maintains complete discretion as to whether a request to provide Payment in Lieu of Open Space shall be granted.
5. **Arrangements and Handling of Payment.** If the City Council approves a request to implement the Payment in Lieu of Open Space for a particular development, the following procedure will be followed:
 - a. The City shall maintain a list of no less than three appraisers whom the City has approved for purposes of appraising lands participating in this program. Using one of the City's approved appraisers, an appraisal of the entire project will be performed at the developer's expense. This appraisal will be performed on the basis that the property has received development entitlements of the approved development covered by the payment in lieu of open space.
 - b. An estimate of the required open space improvements, including landscaping, parks, trails, and other amenities, shall be performed by a landscaping company or landscape architect.
 - c. Once complete, the appraisal and estimate shall be submitted to the City Recorder. The City shall have thirty days to review the appraisal and estimate to determine whether they are acceptable without further review.
 - d. If the City finds that the appraisal and estimate are acceptable without additional review, the developer shall be notified in writing.
 - i. In the event that the City finds it necessary to further review the appraisal and estimate, the City shall employ, at the City's expense, an appraiser or landscape architect (or other professional) approved by the City to either review the original appraisal of the property or estimate or conduct a new appraisal or estimate. The City may, at the City's discretion, accept the original appraisal or use the average land value between the City's appraisal, if one is conducted, and the original appraisal. In addition, the City may, at the

- City's discretion, accept the original estimate of the open space improvements or use the average estimate of the developer's and City's estimate.
- ii. Upon completion of this process the City shall notify the developer in writing of its findings.
 - e. The City and the developer may agree as to the market value of the land or estimated open space improvements without an appraisal or estimate so long as there are circumstances that assure that the agreed value is at least equal to the expected appraised or actual value.
 - f. The developer shall pay as a Payment-in-Lieu the amount of money equivalent to the overall appraised value of the entire project times the percentage of land required for open space, plus the estimate of the anticipated open space improvements as follows:
 - i. Example: \$100,000 (appraised value of entire project acreage) x .30 (30% required open space) = \$30,000 plus the estimated cost of the open space improvements.
 - ii. In addition, the developer shall be required to pay an amount equal to the estimated costs of water connections and water rights for the land if it were developed as open space.
 - iii. Before any subdivision plats are recorded, the developer shall pay to the City (a) the land value, (b) estimated cost of the open space improvements based upon an average per-square-foot cost of improvements for the six most recent City parks with the highest and lowest park removed, and (c) estimated water rights costs.
 - g. Upon receipt of the payment, the City shall deposit those funds in an account that has been established for the purchase of park lands, the construction of parks and recreation improvements, or for upgrading or repairing existing park facilities. The City may expend the Payment in Lieu of Open Space funds at its discretion so long as they are only used for the purchase of parks, construction of parks and recreation improvements, or for upgrading or repairing existing parks facilities.
 - h. The City and developer may also agree to make other arrangements for the Payment in Lieu of Open Space if acceptable terms can be reached, but in no case shall the value of the Payment be less than the expected appraised value, estimated cost of open space improvements, and estimated water costs as described herein.

6. Voluntary Participation.

- a. This program is completely voluntary and developers who participate in it shall do so on a voluntary basis only. Written development agreements shall contain a description of the terms of this program.
- b. This program is also voluntary for the City and approval of all payments in lieu of open space are made at the sole discretion of the City Council. No entitlements are granted by virtue of this Chapter and all proposals to participate in this program are subject to the total and complete review and discretion of the City Council.

(Ord. 14-23)