

**Perry City
ORDINANCE 23-K**

SUBDIVISIONS

AMENDING THE SUBDIVISION CODE

WHEREAS, Utah Code Annotated 10-9a authorizes Perry City to regulate the subdividing of land; and,

WHEREAS, the State of Utah adopted S.B. 174, Local Land Use and Development Revisions, and such bill requires updates to local land use codes;

NOW THEREFORE, be it ordained by the City Council of Perry City, UT as follows:

SECTION 1: Repealer. If any provisions of the municipal code previously adopted are inconsistent herewith they are hereby repealed.

SECTION 2: Amendment. Section "4.09.050 " is hereby amended as follows.

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Row	Annexation:	
Row	Annexation	\$800.00
Row	*Subdivision Fees:	
Row	Concept Application	\$100.00
Row	Preliminary Subdivision Application:	
Row	Residential Subdivision	\$300.00 plus \$100.00 per Lot
Row	Commercial Subdivision	\$500.00 plus \$100.00 per Lot
Row	Engineering and Design Application:	
Row	Residential Subdivision	\$300.00 plus \$125.00 per Lot
Row	Commercial Subdivision	\$500.00 plus \$125.00 per Lot
Row	Final Plat Application:	

Row	Residential or Commercial Subdivision	\$300.00 plus \$125.00 per Lot
...		
Row	Vacate a Street, Alley, Right-of-way, etc.	\$300.00
Row	Vacate a Subdivision	\$300.00
Row	*Site Plan Review (Design Review) and Conditional Use Permit Fees:	
Row	Site Plan or Conditional Use Permit	\$300.00
Row	Sign Permit	\$100.00
...		
Row	Land Use and Zoning Violations:	
Row	Violation	Up to \$1,000.00 per day or incident

* The City shall track the time and resources expended by the City to administer local and state codes and provide adequate engineering review and inspections for all Subdivision and site plan applications and shall require these costs to be paid to the City by the applicant.

HISTORY

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SECTION 3: Amendment. Section "14.01.010 " is hereby amended as follows.

All requirements and regulations of this Title, related provisions of the PMC, and related provisions of the Public Works Standards are necessary and vital to protect the public health and safety.

1. Purpose: Promote the ... of the area concerned.
2. Scope: This Title ... other applicable ordinances.

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SECTION 4: Amendment. Section "14.02.050 " is hereby amended as follows.

1. Approval Process. The ... be, in sequential order:

a. Concept Review/Pre-Application Meeting (Optional). A Subdivider may elect to submit a concept plan for review. The concept plan review shall include an informal conference involving the Subdivider, the Community Development Director, the City Engineer, and Public Works Director, ~~and Fire Marshall~~. Comments from the City staff and other participants during such informal review can guide the Subdivider in the preparation of subsequent applications. These comments shall not be binding and shall only be used for information in the preparation of subsequent applications and shall

not create any vested rights to proceed with development in any way. Subdividers should anticipate that future review bodies may raise additional concerns and issues not addressed in the Concept Review. There is no requirement for level of detail or information for a Concept Review. However, the more information and detail provided will allow for more detailed feedback.

b. Preliminary Subdivision Application. The Planning Commission shall be the Land Use Authority. It will discuss and review the application and then make a decision to approve or deny it. Property owners within three hundred feet (300') of the subject Parcel(s) shall be notified of the application.

~~c. Engineering and Design Application. The Community Development Director shall be the Land Use Authority and, in coordination with, but not limited to, the City Engineer, shall review the application and make a decision to approve or deny the engineering and design application.~~ Final Plat Application. The Community Development Director shall be the Land Use Authority and, in coordination with, but not limited to, the City Engineer and the City Public Works Director,

~~d. Final Plat Application. The Planning Commission shall be the Land Use Authority and shall~~ discuss and review such application and then make a decision to approve or deny the Final Plat application.

2. Subsequent Approval. Approval ... 15 of the PMC.

3. Exception. When a proposed Subdivision does not involve the development of new public infrastructure, an exception may be granted by the Community Development Director and City Engineer to waive the need for the ~~Engineering Preliminary and Design~~ Application.

4. Expiration.

a. Each active Subdivision application shall expire and be considered denied if approval is not obtained within six (6) months of submittal. At the request of the Subdivider, the applicable Land Use Authority may grant one (1) six-month (6) extension to keep the application active while corrections and updates are being made in pursuit of approval.

b. The Preliminary Subdivision application approval shall be valid for a period of not more than one (1) year. To avoid expiration the Subdivider shall submit a complete Final Plat Application prior to expiration of the Preliminary Subdivision application approval. At the request of the Subdivider, the applicable Land Use Authority may grant up to two (2) six-month (6) extensions if substantial progress has been demonstrated by the Applicant.

~~b. Final Plats must be recorded in the office of the County Recorder not more than ninety (90) days from the date of approval of the Final Plat by the Land Use Authority.~~ c. Subdivider must record the Final Plat in the office of the County Recorder not more than two (years) years from the date of approval of the Final Plat by the Land Use Authority. If the plat is not recorded within the time frame given, all Subdivision approval shall be considered expired, null, and void, and the plat shall have no validity.

~~ed.~~ Expired applications shall be deemed null and void and require the Subdivider to start the Subdivision approval process over.

5. Denial. A Subdivision application may be denied by the Land Use Authority for failing to comply with the PMC, Public Works Standards, or applicable State statutes. Denial may be issued

following the submittal of deficient plans and/or failure to provide the information and/or modifications properly requested by the City, in the form and substance described in Utah Code Annotated 10-9a604.2, during any Review Cycle.

HISTORY

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SECTION 5: Amendment. Section "14.02.070 " is hereby amended as follows.

Notwithstanding the specific requirements ... all applicable Law.

1. Review of Submittals. The City shall follow the timeline and review requirements outlined in Utah Code Annotated 10-9a-604.2, or its successor statute.

2. Concept Review (Optional). The Subdivider shall contact the Community Development Director to arrange a time for a meeting to discuss the proposed Subdivision. The Subdivider shall submit a completed application and required fee.

~~23.~~ Preliminary Subdivision Application. The Subdivider shall submit the following:

- a. A completed Preliminary ... by the City Engineer).
- b. A signed Owner-Agent ... represented by another party).

...

- vii. Existing structures and ... and other unique features.
- viii. Data tables showing: ... of units per acre.
- ix. Preliminary landscape ~~plan~~and architectural plans (if applicable).
- d. For residential Subdivisions ... the Community Development Director.
- e. For residential Subdivisions ... shall implement this plan.
- f. Additional information as ... applicable codes and regulations.
- g. The information submitted ... as he/she deems prudent.

~~34.~~ Preliminary Subdivision Application Review. Within ~~fourteen~~fifteen (~~14~~15) business days of receipt of a complete application, City Staff and other invited regulating agencies and utility providers, shall review the submittals and provide comments/corrections to the applicant. Comments and corrections from this review process shall then be forwarded to the applicant and the Land Use Authority. When the comments and corrections from the review have been satisfactorily addressed, the application will be placed on the Land Use Authority's next available meeting agenda.

~~4. Engineering and Design Application. After receiving approval of the Preliminary Subdivision Application and satisfactorily addressing all comments and corrections, the Subdivider shall submit the following:~~ 5. Final Subdivision Application. After receiving approval of the Preliminary Subdivision Application and satisfactorily addressing all comments and corrections, the Subdivider shall submit the following:

a. A completed ~~Engineering~~Final and ~~Subdivision~~ ~~Design~~ Application form and required fee.

- b. A signed Owner-Agent ... represented by another party).
- c. A digital copy ... minimum, the following:
 - i. Show compliance with ... Works Standards and PMC.

- ii. ~~Complete~~Storm ~~storm~~ water ~~plan~~plans with calculations.
 - iii. Plan and profile drawings for all roadways.
 - iv. Utility plans.
 - v. Detail drawings.
 - vi. Written approval from ... Department of Transportation, etc.)
 - vii. Engineers cost estimate for required Improvements and Infrastructure.
 - viii. Landscape and architectural plans (if applicable)
 - ix. Covenants, conditions, and restrictions (if applicable)
 - x. For additional requirements see Chapter 14.03 of this Title.
- d. Additional information as ... applicable codes and regulations.

~~5. Engineering and Design Application Approval. When the City Engineer deems the drawings to be complete and acceptable, he/she shall approve and stamp and date the final set. Following the City Engineer's approval, and after finding the submittal to be complete and acceptable, the Land Use Authority shall issue approval of the Engineering and Design Application.~~ 6. Approval of construction drawings. When the City Engineer deems the drawings to be complete and acceptable, he/she shall approve and stamp and date the final set. Following the City Engineer's approval, and after finding the submittals to be complete and acceptable, the Land Use Authority shall issue approval of the Final Subdivision Application.

~~6. Pre-Construction Meeting. After receiving Engineering and Design Application Approval and before starting construction, the Subdivider shall work with the Community Development Director to schedule a preconstruction meeting. In no case shall any Improvement or Infrastructure associated with a Subdivision be constructed, in whole or in part, whether or not such Improvements and Infrastructure have been approved or guaranteed, without first holding a preconstruction meeting. City representatives to be invited to the meeting shall include the City Engineer, Public Works Director, and Community Development Director. This meeting shall be for the purpose of reviewing the codes, standards, and expectation of work associated with constructing a Subdivision with the Subdivider and the Contractor(s).~~ 7. Pre-Construction Meeting. After receiving approval of the Final Subdivision Application and before starting construction, the Subdivider shall work with the Community Development Director to schedule a pre-construction meeting. In no case shall any Improvement or Infrastructure associated with a Subdivision be constructed, in whole or in part, whether or not such Improvements and Infrastructure have been approved or guaranteed, without first holding a pre-construction meeting. City representatives to be invited to the meeting shall include the City Engineer, Public Works Director, and Community Development Director. This meeting shall be for the purpose of reviewing the codes, standards, and expectations of work associated with constructing a Subdivision with the Subdivider and the Contractor(s).

~~7. Final Plat Application Requirements. After receiving approval of the Engineering and Design Application, the Subdivider shall submit the following:~~ a. The Subdivider shall obtain a storm water permit with the State of Utah prior to scheduling the pre-construction

~~ameeting. A completed Final Plat Application form and required fee:~~

~~b. A signed Owner-Agent Affidavit (if the Owner is being represented by another party):~~

8. Requirements to Record the Plat.

~~e. A storm water permit with the State of Utah if not previously submitted.~~ After receiving approval of the Final Subdivision Application, the Subdivider shall

~~d. record A digital copy of the Final Plat and a Mylar print for signatures.~~

~~i.~~ The Final Plat shall be signed by the owner(s), the Mayor, the final Land Use Authority, the City Engineer, and the City Attorney.

~~ii. See PMC 14.04 for additional Final Plat requirements.~~ Such representatives shall sign the plat after all requirements are met, the escrow guarantee has been funded, and all direct costs have been paid. The following items shall be recorded with the Final Plat:

~~ea.~~ Final covenants, conditions, and restrictions (if applicable).

~~b. which Executed shall Subdivision be Improvement recorded with the Final Plat Agreement.~~

~~fc.~~ Final agreements (if applicable) executed by all parties.

~~89.~~ Development Agreements (Land Use Agreement). Agreements may voluntarily be entered into by the City and the Subdivider at any time during the Subdivision approval process in accordance with 15.01.070 of the PMC.

~~910.~~ Subdivision Improvement Agreement. The Subdivider shall sign a Subdivision Improvement Agreement as provided by the City. Such agreement shall be recorded with the Plat.

11. Review Cycle Response. After receiving comments and corrections from the the city on any Subdivision application as outlined in Utah Code Annotated 10-9a-604.2, the Subdivider shall provide a written response with corrected submittals in accordance with Utah Code Annotated 10-9a-604.2. The Subdivider shall provide the required written response and corrected submittals to the city within sixty (60) calendar days following receipt of the city's comments and corrections. Failure to provide the required response and corrected submittals within sixty (60) calendar days shall result in the application being immediately denied.

HISTORY

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SECTION 6: Amendment. Section "14.02.080 " is hereby amended as follows.

To assure the completion ... shall be required.

1. Cost Estimate. The Subdivider shall submit an engineer's cost estimate for all Improvements and Infrastructure required within the Subdivision as part of the ~~Design~~Final ~~and Subdivision Engineering~~ Application. The cost estimate shall include quantities, units, and costs for all Improvements and Infrastructure required, and shall indicate which items have already been installed.

The City Engineer shall review and approve the cost estimate and may adjust the costs to meet current industry standards. Those items that are deemed ~~as~~ a "direct ~~fee~~"fee or "direct cost" shall be removed from the escrow and shall be accounted separately.

2. Guarantee Amount. The ... by the City Engineer.

a. One hundred percent ... Infrastructure not yet installed;

...

c. Five percent (5%) ... uninstalled Improvements and Infrastructure.

3. Liability. The Subdivider ... the applicable Escrow Agreement.

4. Default. In the event the Subdivider is in default with any provision of this Section, or fails or neglects to satisfactorily install the required Improvements and Infrastructure within three (3) years from the date of approval of the Final Plat, or to pay all liens in connection therewith, or to correct deficiencies or damages to the Improvements and Infrastructure required for final acceptance (see Subsection 10 hereof), the City may declare the escrow forfeited and the City may install, repair, or cause the required Improvements and Infrastructure to be installed or repaired, using the proceeds from the collection of escrow to defray the expense thereof or the City may release the funds and vacate the plat. The City may apply all sums deposited in escrow against the cost of completing all required Improvements and Infrastructure and to pay all expenses, including, but not limited to, all unreimbursed engineering expenses related to the development, a ten percent (10%) administration fee for the securing of contracts, and court costs and attorney fees. The default provisions required hereby shall be included in the applicable Escrow Agreement.

5. Improvements and Infrastructure Required for Occupancy. No occupancy permit shall be issued by the City unless the Improvements and Infrastructure adjacent to and directly servicing the Lot or Unit is complete and warranted as herein required. This shall include, but is not limited to, Streets, Utilities, and Sidewalk.

6. Release of Funds. ... approval by the City.

7. Direct Costs. The Subdivider shall pay the following direct costs ~~at the time they submit the Final Plat Application~~ to the City prior to recording the Final Plat:

- a. Funds to create ... all Improvements and Infrastructure.
- b. Funds for the ... the City Engineer.

8. Conditional Acceptance of ... acceptance upon the following:

- a. Completion of all required Improvements and Infrastructure.
- b. The Final Plat ~~Application~~ has been ~~approved and the Final Plat has been~~ recorded.
- c. The Subdivider makes ... purpose of conditional acceptance.
- d. Improvements and Infrastructure ... acceptable and in compliance.
- e. Reproducible as-built drawings ... by the City Engineer.

9. Warranty Period. The ... Improvements and Infrastructure.

a. Exemption. Sidewalk, curb and gutter, meter lids, and other adjacent Improvements and Infrastructure may be exempted from the warranty period when a building permit has been issued on the adjacent property and a deposit has been received from the permittee to cover replacement of damaged sidewalk, curb and gutter, meter lids, and other Improvements and Infrastructure ~~sidewalk only~~. The Subdivider shall continue to be responsible for installation deficiencies.

10. Final Acceptance of the Subdivision. The City ~~Council~~Engineer shall issue final acceptance of the Subdivision Improvements and Infrastructure when:

- a. The Subdivider makes ... purpose of final acceptance.
- b. Improvements and Infrastructure ... acceptable and in compliance.

~~11.~~ Upon acceptance by the City ~~Council~~Engineer, ~~the City Engineer shall authorize release of~~ all remaining escrow monies shall be released.

HISTORY

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SECTION 7: **Amendment.** Section "14.03.020 " is hereby amended as follows.

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2. Approval. Overall Street ... and adopted transportation plans.

3. Required Access.

a. A minimum of two (2) separate ingress/egress routes for vehicular access, which are fully improved Public Roads, shall be required when either of the following exist:

~~a.~~ i. The total number of equivalent residential units, or “ERUs”, (including adjacent developments and neighborhoods) served by a single means of access will exceed thirty (30). Thirty (30) ERUs shall include all proposed residential units and all existing single-family Structures and Lots, empty building Lots, approved Accessory Dwelling Units, and each unit in a multi-family Structure (e.g. apartment building, duplex, etc.).

~~b.~~ ii. A development extends more than one thousand eight hundred (1,800) feet from a connecting Street.

~~e.b.~~ Access Spacing. Where more than one (1) means of access is required, the points of access shall be placed a minimum of five hundred (500) feet apart, measured from center of right-of-way to center of right-of-way. The accesses shall provide separate and distinct access to Highway 89, a City collector road, or a City arterial road. The Fire Code Official may require a greater minimum distance than five hundred (500) feet if:

i. An essential link ... and the requirement; and

ii. The requirement is ... of the proposed development.

~~e.c.~~ Exceptions. The Land Use Authority for the Preliminary Subdivision Application may waive these access requirements when any of the following exist:

i. Unique topographic circumstances ... enhance public safety standards.

ii. Where no point ... ERUs reaches sixty (60).

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SECTION 8: **Amendment.** Section "14.03.050 " is hereby amended as follows.

1. The Lot arrangement, ... whenever possible and desirable.

2. Lots shall not ... unusable for normal purposes.

3. For Subdivisions containing more than three residential building Lots, no Lots shall directly access an arterial or minor arterial Street, 1200 West (Perry Street) or Highway 89. This provision may not be avoided by subdividing a tract of land in separate, small, incremental subdivisions.

4. All Lots shown ... by the City Engineer.

5. Each Lot shall ... Apartments, or commercial purposes.

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SECTION 9: **Amendment.** Section "14.03.055 " is hereby amended as follows.

...

3. A Flag Lot ... under the same ownership.

4. The staff portion/access ... to a Public Road.

5. The minimum width of the access for a Flag Lot shall be sixteen feet (16') for one (1) Flag Lot and a minimum of 30 feet (30') (fifteen feet (15') for each Flag Lot) for two (2) Flag Lots located next to each other. The maximum width of the access shall be ~~sixty~~forty feet (~~60'~~40'), the maximum length shall be three hundred feet (300'), and the maximum grade shall be fifteen percent (15%).

6. No Structure or ... Engineer and Fire Marshall.

7. All property boundaries ... for purposes of setbacks.

8. The area of ... the Flag Lot's zoning.

9. Each Flag Lot ... to the access strip.

~~10. A turnaround at the end of the access shall be installed and the same shall be approved by the Fire Marshall.~~

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SECTION 10: **Amendment.** Section "14.03.060 Utilities " is hereby amended as follows.

14.03.060 Utilities ~~To Be Underground~~

Utilities to be Underground. All Utilities, including those that are normally overhead shall be placed underground in all Subdivisions. The Subdivider shall establish final utility grades prior to Utilities being placed underground. Exception: wireless communication equipment.

Private Irrigation. Private irrigation pipes and related infrastructure that have served the property to be Subdivided shall be properly abandoned and sealed. The Subdivider shall trace service laterals back to a shared mainline and disengage, seal, and remove the service lateral and any associated gates, boxes and other infrastructure that are no longer needed due to the construction of the Subdivision. Such work shall be performed to the satisfaction of the City and the related water company/provider and shall be inspected by the City and the related water company/provider.

HISTORY

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SECTION 11: **Amendment.** Section "14.07.010 " is hereby amended as follows.

~~The~~In regards to money owed in connection with a reimbursement agreement or no access clause, the City, may, but shall not be obligated to, attempt to recover ~~reimbursement~~such funds ~~for the public Improvements and Infrastructure~~ from any property owner or subsequent Subdivider.

HISTORY

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SECTION 12: **Amendment.** Section "14.07.030 " is hereby amended as follows.

1. Application Requirements. The application for a reimbursement agreement shall be completed in conjunction with the ~~Engineering and Design Application and shall only apply to the current phase of the Subdivision. Applications will not be received for any phase that has previously received Engineering and Design Approval. The application shall include, at a minimum, the following:~~Final Subdivision Application and shall only apply to the current phase of the Subdivision. Applications will not be received for any phase that has previously received Final Subdivision Approval. The application shall include, at a minimum, the following:

- a. Payment of application ... from the reimbursement funds.
- b. Description of the ... owned by the Applicant.

...

2. Approval Process.

- a. Submit Reimbursement Agreement ... respect to the application.
- b. Application Approval. The authority to execute a reimbursement agreement shall be granted by the Land Use Authority in conjunction with approval of the ~~Design and Engineering Application.~~Final Subdivision Application.

c. Reimbursement Agreement Drafted. ... a minimum, the following:

- i. Descriptions of all affected properties;

...

SECTION 13: **Amendment.** Section "14.07.050 " is hereby amended as follows.

...

- a. If the applicant ... fulfillment of the obligation.
- b. The applicant shall ... or use being commenced.

2. City. The City shall not be responsible to collect funds related to no access clauses. The City may be allowed to collect funds for reimbursement agreements. If the City is designated as the collector of the funds, the amount shall be forwarded to the designated recipient at the last known address listed in the agreement or as may otherwise be provided per the terms of the agreement. The City shall not be responsible for locating any beneficiary, survivor, assignee, or other successor in interest entitled to reimbursement. Any collected funds unclaimed within two (2) years after the date of collection shall be forwarded to the Utah State Unclaimed Properties Office in the name of the applicant or the known assignee or beneficiary of those funds. Provided the City actually forwarded the funds to the designated recipient as provided herein and has reasonable proof of doing so, then the designated recipient shall have no claim against the City for not actually receiving the funds. The designated recipient or its successors or assigns shall not have any claim to interest, penalties or fees related to the funds while the funds are in the City's possession or for the timing in which the funds are forwarded to the ~~designate~~designated recipient.

HISTORY

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SECTION 14: **Amendment.** Section "14.07.080 " is hereby amended as follows.

1. Any Person intending to develop or subdivide any land or to construct any Structures or other Improvements and Infrastructure upon any land that is identified in an approved reimbursement; agreement or no access clause, shall be under an affirmative obligation to notify the City when applying for a building permit or land use approval or authorization for any development or construction, of the existence of the reimbursement agreement or clause and to make suitable arrangements for payment of the required share of the privately funded public Improvements and Infrastructure that benefit that Person's property.

2. Any Person who ... permit or commencing construction.

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SECTION 15: **Amendment.** Section "14.09.010 " is hereby amended as follows.

1. Vacating, altering, or ... costs to the City.

2. The Land Use ... the Final Plat Application.

3. Lot line adjustments do not require an amended plat. The Land Use Authority for a Lot line adjustment shall be the Community Development Director or designee.

4. Combining Parcels not in a recorded Subdivision does not require approval of the City.

HISTORY

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SECTION 16: **Severability.** If any section, subsection, sentence, clause, or phrase of this amendment is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this amendment.

SECTION 17: **Effective Date.** This ordinance being necessary for the peace, health, and safety of the City, shall go into effect at the expiration of the 20th day after publication or posting or the 30th day after final passage as noted below or whichever of said days is the more remote from the date of passage thereof.

****Signatures On Next Page****

PASSED AND ADOPTED by Perry City Council this **9th day of November, 2023.**



KEVIN JEPPSEN, Mayor
Perry City

Attest:



SHANNA JOHNSON, City Recorder
Perry City

City Council Vote as Recorded:	AYE	NAY	ABSTAIN	ABSENT
Nathan Tueller	<u>X</u>	—	—	—
Toby Wright	<u>X</u>	—	—	—
Blake Ostler	<u>X</u>	—	—	—
Ashley Young	<u>X</u>	—	—	—
Dave Walker	—	—	—	<u>X</u>



RECORDED this 17th day of November, 2023.

PUBLISHED OR POSTED this 17th day of November, 2023.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

In accordance with Utah Code Annotated §10-3-713, 1953 as amended, I, the City Recorder of Perry City, hereby certifies that the foregoing Amendment was duly passed and published or posted at:

1. City Hall
2. Perry City Website
3. Utah Public Notice Website

on the above referenced dates.



SHANNA JOHNSON, City Recorder
Perry City