

ORDINANCE NO. 1243

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF DRAPER CITY FOR APPROXIMATELY 48.77 ACRES OF PROPERTY FROM A5 (AGRICULTURAL, 5-ACRE MINIMUM) AND RA1 (RESIDENTIAL AGRICULTURAL, 1-ACRE MINIMUM) TO R4 (SINGLE-FAMILY RESIDENTIAL, 10,000 SQUARE FOOT LOT MINIMUM), AND APPROVING THE MASTER DEVELOPMENT AGREEMENT FOR JENSON FARMS LOCATED AT APPROXIMATELY 11875 S. 700 WEST WITHIN DRAPER CITY

WHEREAS, pursuant to State law, Draper City has adopted a Zoning Ordinance and Zoning Map to guide the orderly development and use of property within the City; and

WHEREAS, from time to time it is necessary to review and amend the Zoning Map to keep pace with development within the City and to ensure the provision of a variety of economic uses; and

WHEREAS, the proposed zone change set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Map; and

WHEREAS, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed amendment to the official Zoning Map of Draper City, and the City Council has found the proposed zone change to be consistent with the City's General Plan.

WHEREAS, the City Council hereby determines that it will be in the best interest of the City to allow development of the subject property in accordance with the Development Agreement; and

WHEREAS, the Development Agreement will allow for a defined number of units and construction of improvements in the public right-of-ways and dedicated open space.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH:

Section 1. Zoning Map Amendment. The following described real property located at approximately 11875 S. 700 West within Draper City, Salt Lake County, State of Utah, previously zoned A5 and RA1 as shown on the Draper City Zoning Map, as depicted in Exhibit "A" hereto, are hereby changed and rezoned to R4:

27-25-100-046 (0.12 acres)
BEG S 00°05'01" E 600 FT & N 89°54'59" E 472.20 FT FR NW COROF SEC 25, T 3S,
R 1W, SLM; N 89°54'59" E 41.30 FT; S 14°41'44" E 61.54 FT; S 2°33'09" E 40.48 FT;

S 89°54'59" W 58.57 FT; N 00°05'01" W 100 FT TO BEG.

27-25-100-047 (0.21 acres)

BEG S 00°05'01" E 700 FT & N 89°54'59" E 472.20 FT FR NW COR OF SEC 25, T 3S, R 1W, SLM; N 89°54'59" E 58.57 FT; S 2°33'09" E 149.14 FT; S 89°54'59" W 64.99 FT; N 00°05'01" W 149 FT TO BEG.

27-25-100-049 (1 acre)

BEG NW COR OF SEC 25, T 3S, R 1W, SLM; S 00°05'01" E 318.58 FT; N 89°54'59" E 485.67 FT TO PT OF BEG; N 89°54'59" E 153.20 FT; S 00°05'01" E 297.71 FT; S 88°38'12" W 99.90 FT; N 14°41'44" W 50.14 FT; S 89°54'59" W 40.67 FT; N 00°05'01" W 251.42 FT TO BEG.

25-27-100-054 (45.36 acres)

BEG N 89°53'20" E 344.35 FT FR NW COR OF SEC 25, T 3S, R 1W, SLM; N 89°53'20" E 1408.54 FT TO RR R/WY; S 5°19'52" W 803.84 FT; S 7°10'24" W 479.52 FT; S 5°19'11" W 60.41 FT; S 89°53'36" W 1357.57 FT; N 0°05'01" W 190.88 FT; S 89°29'59" W 217.80 FT; N 0°05'01" W 444.76 FT; N 89°54'59" E 146.85 FT; S 0°05'01" E 149 FT; N 89°54'59" E 357.34 FT; N 2°33'09" W 189.62 FT; N 14°41'44" W 61.54 FT; W 480.50 FT; N 0°05'01" W 450.02 FT; N 89°53'20" E 311.35 FT; N 0°05'01" W 150 FT TO BEG. LESS BEG S 00°05'01" E 318.58 FT & N 89°54'59" E 485.67 FT FR NW COR OF SEC 25, T 3S, R 1W, SLM; N 89°54'59" E 153.20 FT; S 00°05'01" E 297.71 FT; S 88°38'12" W 99.90 FT; N 14°41'44" W 50.14 FT; S 89°54'59" W 40.67 FT; N 00°05'01" W 251.42 FT TO BEG. 45.36 AC. 9126-0911 9822-8932

27-25-100-030 (1 acre)

BEG S 700 FT & E 179.85 FT FR NW COR SEC 25, T 3S, R 1W, S L M; E 292.35 FT; S 149 FT; W 292.35 FT; N 149 FT TO BEG.

27-25-100-014 (1.08 acre)

BEG S 600 FT FR NW COR OF SEC 25, T 3S, R 1W, S L M; E 472.20 FT; S 100 FT; W 472.20 FT; N 100 FT TO BEG.

Contains 2,124,421.2 Square Feet or 48.77 Acres

Section 2. Development Agreement. The City of Draper approves the Development Agreement provided in Exhibit B, otherwise known as the Master Development Agreement for Jensen Farms.

Section 3. Severability Clause. If any part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all provisions, clauses and words of this Ordinance shall be severable.

Section 4. Effective Date. This Ordinance shall become effective immediately upon publication or posting, and the recording of the Development Agreement, which recording shall take place within 30 days of final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE 3rd DAY OF OCTOBER, 2017.



DRAPER CITY

Troy K. Walker

Mayor Troy K. Walker

ATTEST:

Rachelle Conner

Rachelle Conner, MMC, City Recorder

VOTE TAKEN:

Councilmember Rappleye

YES

NO

[Handwritten mark] _____

Councilmember Stenquist

[Handwritten mark] _____

Councilmember Summerhays

[Handwritten mark] _____

Councilmember Vawdrey

[Handwritten mark] _____

Councilmember Weeks

_____ *[Handwritten mark]*

Mayor Walker

EXHIBIT A

JENSON FARMS ZONE CHANGE

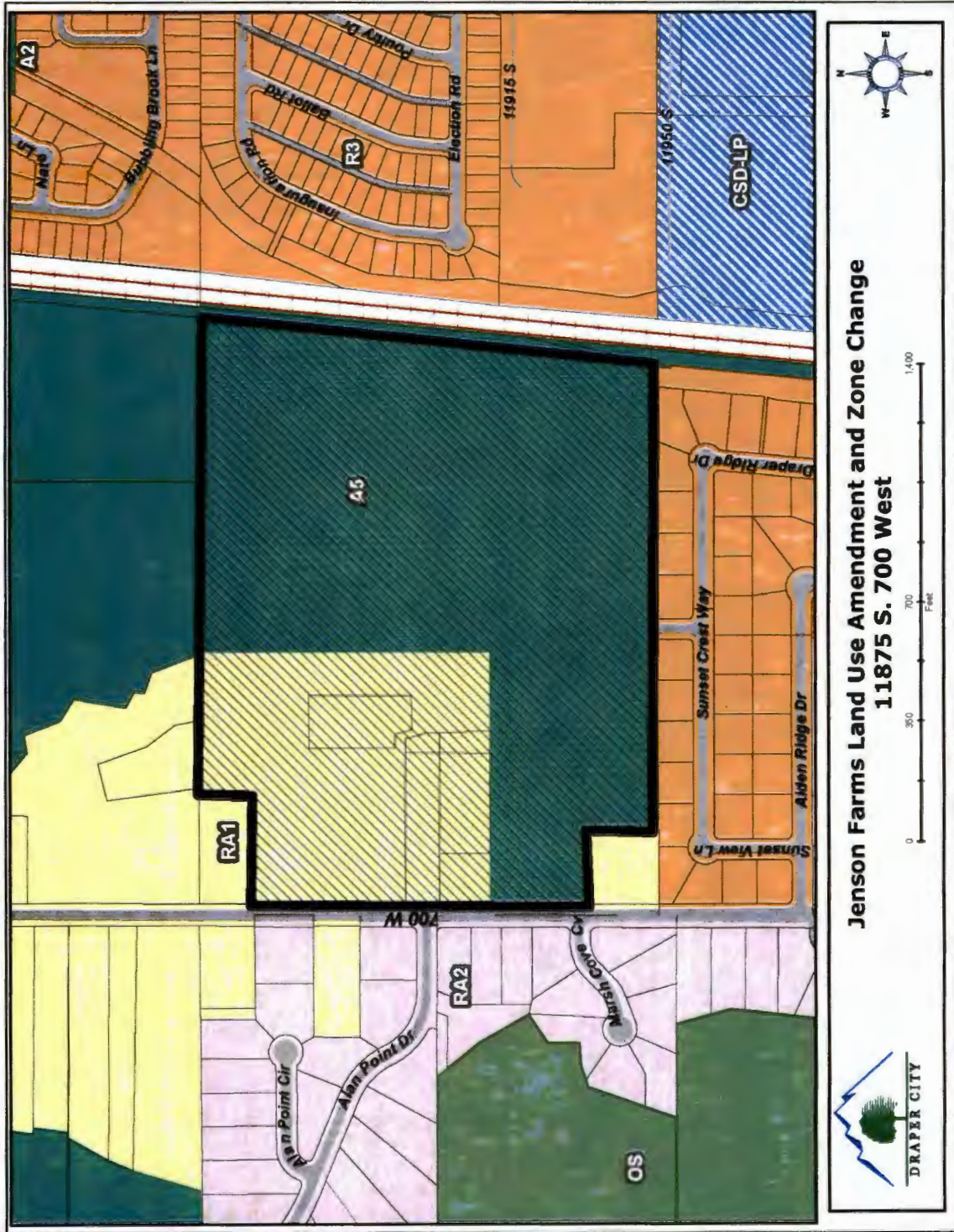


EXHIBIT B

JENSON FARMS MASTER DEVELOPMENT AGREEMENT

When Recorded, Return to:

Bowler Properties, LC

Randy Bowler

P.O. Box 2111

West Jordan, Utah 84084

Affecting Tax Parcels No.: 27251000540000

JENSON FARMS
SUBDIVISION DEVELOPMENT AGREEMENT

(11875 South 700 West)

For ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, THIS SUBDIVISION DEVELOPMENT AGREEMENT FOR JENSON FARMS (“Agreement”) is made and entered into as of the _____ day of _____, _____, by and between Draper City, a municipal corporation of the State of Utah, (“City”), and Bowler Properties, L.C., a Utah limited liability company (“Developer”), sometimes referred to jointly herein as “Parties.”

RECITALS:

- A. Developer is under contract to purchase real property within the City located at 11875 South and 700 West more particularly described in **Exhibit “A”** (legal description of the property) attached hereto and incorporated herein by this reference (“Property”).
- B. Developer and the City desire that the Property be developed in a unified and consistent fashion according to the terms set forth herein.
- C. Developer has pending a zone amendment application for purposes of amending the zoning of the Property to R-4.
- D. Developer and the City have cooperated in the preparation of this Agreement and desire to enter into this Agreement to specify the rights and responsibilities of Developer to develop the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.
- E. The Parties understand and intend that this Agreement is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-102.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

- 1. Recitals Incorporated.

The above Recitals are integrated into the terms and conditions of this Agreement.

- 2. Development Requirements.

Subject to the City’s approval of the Project as a subdivision, together with all necessary zoning changes, entitlements and approvals, and subject to the terms and conditions of this Agreement, Developer shall proceed with the Project as follows:

a. Compliance with City Ordinances and Development Requirements. The Project shall be developed in accordance with the ordinances and development requirements, standards and specifications of the City governing preliminary and final subdivisions. All required plats, drawings and other supporting documents for the Project, and each phase thereof, shall be prepared and submitted to the City for its review and approval.

b. Dedication or Donation. Prior to or simultaneously with recording of the final plat for the Project, or any phase thereof, at the office of the Salt Lake County Recorder, Developer agrees to dedicate, transfer or donate to the City all required easements for the purpose of constructing, installing, operating and maintaining public utilities and improvements of every nature and kind as determined necessary by the City. Additionally, Developer agrees to dedicate, transfer or donate to the City an area of approximately (2.8) total acres of open space (“Open Space”) within the Project to be used for trails, passive open space, and creek preservation and maintenance as set forth on the depiction attached hereto as **Exhibit “B”** (Concept Plat) and incorporated herein by this reference. Trails in the public right of way and within the deeded Open Space as depicted in **Exhibit “B”** shall be installed by Developer. The exact details to the cross section of the trails and streets will be approved as part of the planning and engineering approval. It is anticipated that the trails will be built 10 ft. wide concrete trails. The Developer shall endeavor to reasonably preserve, and if disturbed then to be restore, the existing native landscape in the Open Space area. Developer shall construct the trail within such designated Open Space as part of the subdivision and in accordance with the City’s standards.

c. Road Stubbing. Developer agrees, as part of the Project, to construct two public roads, as shown on the concept plan, **Exhibit “B”**, to the northern edge in the development to better provide connectivity to the adjacent parcel to the north. The development may be phased as indicated on the attached concept plan, [however a connection shall be made to the street shown as Junegrass Drive on the Willow Creek subdivision as part of Phase 1 of the Project.](#)

d. Lot Density. Developer’s project for development of the Property as set forth in this Agreement is to be known as Jenson Farms (“Project”) and shall consist of a maximum of eighty six (85) single-family lots on approximately 48.61 acres with a maximum density of 2.1 units per acre. The exact break out of lot sizes is on the attached concept plat map “**Exhibit B**”, also indicated in the following table:

LOT BREAKDOWN TABLE	
LOT SIZE	NO. OF LOTS
10,000 - 13,000	44
13,000 - 22,000	40
22,000 and above	1
TOTAL	85
TOTA LOT AREA	39.482
TOTAL AREA	48.611
PARK AND CHURCH AREA	9.129
UNITS PER ACRE WITHOUT PARK & CHURCH AREAS	2.1

3. Concept Plan. Approval of this development agreement satisfies the requirement for a concept plan as required by DCMC 17-2.

4. Construction Standards and Requirements. All Construction shall be conducted and completed in accordance with the ordinances and development standards of the City. All required improvements for the Project shall be constructed in accordance with the City's construction standards and specifications for this Project and all required public improvements and easements shall be dedicated to the City; provided, however, maximum road widths for the Project shall be sixty feet (60') road right-of-way, and a ten foot (10') park strip along each street. If needed, and where applicable, the 10 foot (10') park strip can be reduced to no less than five feet (5') as needed for the proposed trail connections where the trail is wider than the normal sidewalk. Prior to commencing any construction or development, or acceptance, of any building, structures or other work or improvements within the Project, the Developer shall secure any and all permits which may be required by the City, Federal, State, or any other governmental entity having jurisdiction over the work. The Developer shall construct, or cause to be constructed, all improvements for the Project in conformity with all applicable federal, state and/or local laws, rules and regulations. Any park strips that are not adjacent to private lot or park land, which are to be maintained by City, shall have low maintenance improvements, such as stamped concrete.

5. Payment of Fees. The Developer shall accept and pay all required fees to the City in a timely manner pertaining to the Project or any portion thereof.

6. Impact Fees. The City shall not charge Developer impact fees based on Open Space acreage dedicated to the City pursuant to this Agreement, or the acreage which the City will purchase and improve as a park, as more fully set forth in this Agreement. The Developer shall pay impact fees for all residential lots located within the development.

7. Reimbursement for "Upsizing". The City shall not require Developer to "upsized" any public improvements (i.e., to construct the improvements to a size larger than required or not necessary to service the Project) unless financial arrangements reasonably acceptable to Developer and the City are made to compensate Developer for the costs associated with upsizing the improvements. In the event any off-site infrastructure or on-site infrastructure designed, constructed, or developed by Developer are oversized at the City's request and are oversized for the benefit of any property other than the Property, Developer shall be entitled to reimbursement from the City for the portion of the costs attributable to the oversizing of such improvements within ninety (90) days of submitting an invoice of acceptance by the City of the infrastructure dedication.

8. City Obligations.

Subject to the Developer complying with all of the City's Ordinances, rules, regulations and the provisions of this Agreement, the City agrees to:

a. Provide standard municipal services to the Project including police and fire protection, subject to payment of all fees and charges invoiced or levied therefore by the City.

b. Work in good faith with the Developer to follow the standard development review and approval process for residential subdivisions, including preliminary and final plat.

c. Cause the City's administrative personnel, with reasonable diligence, to take or cause to be taken all actions required or advisable to be taken preparatory to, but not including, final legislative action by the City Council or the Planning Commission, in connection with adoption of the pending zone

amendment for the Property and approval of this Agreement. Developer and/or owners (or their respective successor-in-title) of all or any part of the Property shall have the vested right (i) to have preliminary and final subdivision and construction plats and site plans reviewed and, if found to meet the standards and criteria set forth in this Agreement and in the City's ordinances, approved; and (ii) to develop and construct the Project in accordance with the densities as vested in under the terms and conditions of this Agreement.

d. To fulfill the City obligations referenced in the "Agreement Of Sale And Purchase" dated June 6, 2017 to purchase 5.68 acres of land in the development of a City park.

e. Maintain all utilities, roads, Open Space and other infrastructure and improvements dedicated to the City as part of the Project.

9. Assignment.

The Developer shall not assign this Agreement or any rights or interests herein without the prior written consent of the City.

10. Default. If Developer or the City materially fails to perform their respective obligations hereunder or to comply with the material terms hereof (a "Default"), the party believing that a Default has occurred shall provide notice to the other party. Said notice of Default shall, (1) specify the claimed event of Default; (2) identify the provisions of this Agreement claimed to be in Default; (3) identify why the Default is material; and (4) (optional) propose a method and time for curing the Default. Upon the issuance of a Notice of Default, the parties shall engage in a "Meet and Confer". If the issue is not resolved during the "Meet and Confer" process, the parties shall engage in a mediation process. If a mediation process is necessary based on the foregoing, the parties shall appoint a mutually acceptable mediator within ten (10) days of the "Meeting and Confer". If the parties are unable to agree on a single acceptable mediator, each shall, within ten (10) days, appoint their own representative. These two representatives shall choose the single mediator. Developer shall pay the fees of the chosen mediator. After being named mediator, such individual shall within fifteen (15) days, review the positions of the parties regarding the mediation issues and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems to be appropriate. The mediator's opinion shall not be binding on the parties. If the parties are not able to resolve the Default by "Meet and Confer" or by mediation then the parties may have all rights and remedies available in equity, including, but not limited to, injunctive relief, and specific performance. Neither party shall be entitled to damages of any nature, which are hereby waived.

11. Notice.

Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer:
Bowler Properties L.C., Attn. Randy H. Bowler
P.O. Box 2111
West Jordan, Utah 84084

To City:
Draper City Attn: City Manager
1020 Pioneer Rd
Draper, UT 84020

Any party may change its address for notice by giving written notice to the other party in accordance with provisions of this Section.

12. Attorneys' Fees.

In the event of any lawsuit between the parties hereto arising out or relating to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled, in addition to the equitable remedies, if any, awarded in such proceeding, to recover reasonable attorneys' fees and costs.

13. Integration.

This Agreement, together with the exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements or previous agreements between the parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the perspective parties hereto.

14. Headings.

The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

15. No Third Party Rights/No Joint Venture. This Agreement does not create a joint venture relationship, partnership or agency relationship between the City and Developer. Further, the parties do not intend this Agreement to create any third-party beneficiary rights. The parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the City's.

16. Binding Effect.

This Agreement shall inure to the benefit of, and be binding upon the parties hereto and their respective heirs, representatives, officers, agents, employees, successors and assigns (if any assignments are allowed as provided hereinabove).

17. No Guarantee of Rezone

The City makes no representations that the request of Developer to have the Property rezoned will be approved by the Draper City Council. Therefore, this Agreement shall not be binding upon Developer unless the request for a rezone of the Property to the R-4 zone is approved by the Draper City Council. [The rezone of the property by the City Council shall not be valid until this Development Agreement is recorded. This Development Agreement shall be recorded within 30 days of the decision to rezone by the City Council.](#)

18. Agreement to be Recorded.

Upon the approval of the rezone of the Property to the R-4 zone by the Draper City Council, this Agreement may be recorded against the Property and shall be deemed to run with the land and shall be binding on all successors and assigns of Developer in the ownership or development of any portion of the Property.

[signatures on following page(s)]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

Developer:

BOWLER PROPERTIES L.C.,
a Utah limited liability company

By: _____

Name: _____

Its: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this ____ day of _____, 2017, personally appeared before me _____, known or satisfactorily proved to me to be the person who signed the foregoing instrument, and acknowledged to me that he/she is the _____ of Bowler Development L.C., a Utah limited liability company, and acknowledged to me that said limited liability company executed the same.

Notary Public

City:
DRAPER CITY

By _____
Troy K. Walker, Mayor

Attest and Countersign:

City Recorder

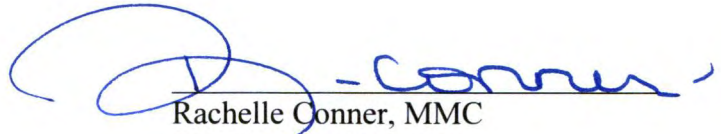
Dated: _____

Affidavit of Posting

SALT LAKE/UTAH COUNTY, STATE OF UTAH

I, the City Recorder of Draper City, by my signature below, certify that copies of **Ordinance No. 1243** for the **City of Draper**, which **Passed and Adopted by the City Council of Draper City, State of Utah on the 3rd day of October, 2017**, was posted at the following places: Draper City Electronic Bulletin Board, Draper Fire Station 12300 South, and the Draper Crescent Senior Citizens Center, within the municipality.

Posted: October 4, 2017 to October 23, 2017

A handwritten signature in blue ink, appearing to read "Rachelle Conner", written over a horizontal line.

Rachelle Conner, MMC
City Recorder
Draper City, State of Utah