

## TITLE 25. SUBDIVISIONS <sup>1</sup>

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<sup>1</sup> Title completely rewritten with Ordinance No. 07-16, dated 7/19/07.

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#### **25.01.01 Short Title.**

This Ordinance shall be known and may be cited as the “Brigham City Subdivision Ordinance” and may be identified within this document and other documents as “the Ordinance,” “this Ordinance,” “Subdivision Ordinance,” or “Land Use Ordinance.” This Ordinance shall be considered and may be identified as a Brigham City Land Use Ordinance, as defined by the Act.

#### **25.01.02 Purposes.**

This Ordinance is established to promote the purposes of Title 10 Chapter 9a Utah Code Annotated, 1953, as amended (hereinafter the “Act”) and to provide for the orderly division of lands, to avoid incompatibilities in land uses, and to secure the provision and long-term maintenance of necessary infrastructure, facilities, and services in an efficient and economical manner for existing and future Brigham City residents.

#### **25.01.03 Final Plat Required Before Lots May be Sold.**

As provided and authorized by the Act, a Final Subdivision Plat shall be approved, as provided by Section 25.04 herein, complying with all requirements of this Ordinance, and the Act, before such Final Subdivision Plat may be filed or recorded in the Office of the Box Elder County Recorder, and lots may be sold.

#### **25.01.04 Enactment.**

The City Council of Brigham City, Utah (hereinafter “Council”) adopts this Ordinance pursuant to the

Act and all other authorities and provisions of Utah and Federal statutory laws, and common law, as applicable.

This Ordinance constitutes a part of Brigham City's Land Use Ordinances, as authorized and identified by the Act.

**25.01.05 Applicability and Authority.**

Upon its adoption by the Council, and effective the 8th day of August 2007, this Ordinance shall govern and apply to the subdivision of all lands lying within the municipal boundaries of Brigham City, Utah (hereinafter "the City")

**25.01.06 Subdivision Defined.**

For the purposes of this Ordinance, and the Act, "Subdivision" shall be, and shall mean:

A. Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

B. Subdivision includes:

1. the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

2. all divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes, except as provided by Section 25.01.07 herein.

**25.01.07 Subdivision Not to Include.**

As provided by the Act, and for the purposes of this Ordinance, "Subdivision" does not include:

A. a bona fide division or partition of agricultural land for the purpose of joining one (1) of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable Land Use Ordinance of the City;

B. a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

1. no new lot is created; and

2. the adjustment does not violate applicable Land Use Ordinances of the City.

C. A recorded document, executed by the owner of record:

1. revising the legal description of more than one (1) contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

2. joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable Land Use Ordinances of the City.

D. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

1. no new dwelling lot or housing unit will result from the adjustment; and

2. the adjustment will not violate any applicable Land Use Ordinance of the City.

E. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Ordinance.

**25.01.08 Fees and Charges.**

The Council, by Resolution, may establish necessary fees and charges payable for Application processing and review, inspection services, and other services provided by the City, or required by this Ordinance. The Council may amend such fees and charges from time to time, as considered necessary.

**25.01.09 Prohibited Acts.**

A. An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a Final Subdivision Plat has been approved and recorded in the Office of the Box Elder County Recorder, as required and provided by this Ordinance, and the Act, is guilty of a violation of this Ordinance, and the Act, for each lot or parcel transferred or sold.

B. The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring lots does not exempt the transaction from being a violation of this Ordinance, and the Act, or from the penalties or remedies provided by this Ordinance, or the Act.

- C. Notwithstanding the provisions of this Section, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Ordinance, and the Act:
1. does not affect the validity of the instrument or other document; and
  2. does not affect whether the property that is the subject of the instrument or other document complies with the Land Use Ordinances of the City, including this Ordinance, other Land Use Ordinances, including the Brigham City Zoning Ordinance (hereinafter "Zoning Ordinance").

#### **25.01.10 Enforcement.**

- A. The City may take all actions, allowed under the law, to insure compliance and enforcement of this Ordinance. Failure of the City to enforce any provision or seek remedies to any violation of this Ordinance shall not legalize any such violation.
- B. The City, or any adversely affected owner of real estate within the City, in which violations of this Ordinance are occurring, or are about to occur may, in addition to other remedies provided by law, institute:
1. injunctions, mandamus, abatement, or any other appropriate actions; or
  2. proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- C. As provided by the Act, the City need only establish a violation of this Ordinance to obtain the injunction.
- D. The City may bring an action against a property owner to require that the property conform and comply with the provisions of this Ordinance and/or the Act.
- E. An action brought by the City against a property owner, and authorized by this Section, and the Act, may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation of this Ordinance.
- F. To enforce this Ordinance the City may withhold or deny the approval or issuance of any required Land Use Permit, or Building Permit, as provided by Section 25.01.11 herein.

#### **25.01.11 Licenses and Permits.**

- A. From the effective date of this Ordinance, no approval, including the issuance of any building permit for the construction, alteration, or modification of any building or structure, shall be issued by the City unless such approval complies with the requirements and provisions of this Ordinance, including a determination that the lot or parcel, proposed for the approval or permit is a legal lot created pursuant to the provisions of this Ordinance, or prior enactments of this Ordinance, or is a legal lot of record. Any approval or permit issued in conflict with the provisions and requirements of this Ordinance shall be void and invalid.
- B. The City may enforce this Ordinance by withholding building permits.
- C. It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the City without approval of a building permit, unless such building is exempt, as provided by the Building Code of the City.
- D. Except as provided by Section 25.01.13 herein, the City Building Official shall not approve, and shall not issue, a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all adopted Land Use Ordinances of the City, including this Ordinance, and the Zoning Ordinance.
- E. The City Building Official shall not approve, and issue, a building permit that would be a violation of this Ordinance, or the City's other Land Use Ordinances, including the Zoning Ordinance.
- F. No City employee shall approve and issue any permit or license that would be a violation of this Ordinance, or the City's other Land Use Ordinances, including the Zoning Ordinance.
- G. Any approval, permit, or license issued in conflict with any standard or requirement of this Ordinance, or the City's other Land Use Ordinances, including the Zoning Ordinance, shall be void and invalid.

#### **25.01.12 Penalties.**

- A. As provided by the Act, a violation of any provision of this Ordinance is punishable as a Class C misdemeanor upon conviction either:
1. As a Class C misdemeanor; or
  2. By imposing an appropriate civil penalty adopted under the authority of the Act.

#### **25.01.13 When an Applicant is Entitled to Approval of an Application – Exceptions – City May Not Impose Unexpressed Requirements – City Required to Comply with the Requirements of this Ordinance.**

- A. An Applicant is entitled to the approval of a Land Use Application, required by this Ordinance, if

such Application conforms to the requirements of this Ordinance, and the City's other Land Use Ordinances, Land Use Maps, and Zoning Ordinance, as may be applicable, in effect at the time when the City Planner, or designee, determines the Application to be complete and all fees have been paid, unless:

1. The Land Use Authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or

2. In the manner provided by local ordinance and before the Land Use Application is submitted, the City has formally initiated proceedings to amend its Land Use Ordinances in a manner that would prohibit approval of the Application as submitted.

B. The City shall process a Land Use Application without regard to proceedings initiated to amend the City's Land Use Ordinances, including this Ordinance and Zoning Ordinance if:

1. One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and

2. The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.

C. If the Final Subdivision Plat, as required by Section 25.01.03 and Chapter 25.04 herein conforms fully to the requirements of this Ordinance, and the City's other Land Use Ordinances, including the Zoning Ordinance, and has been approved by the Culinary Water Authority and the Sanitary Sewer Authority, as identified by Section 25.03.04(12) herein, the Final Subdivision Plat shall be approved.

D. The City shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:

1. In the approval required by this Ordinance, or in documents on which such approval is based; or

2. In this Ordinance, or in the City's other Land Use Ordinances, including the Zoning Ordinance.

E. The City shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:

1. In the Building Permit, or in documents on which the Building Permit is based; or

2. In this Ordinance, or the City's other Land Use Ordinances, including the Zoning Ordinance.

F. The City shall be bound by the terms and standards of this Ordinance, and the City's other Land Use Ordinances, including the Zoning Ordinance, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances.

G. The City shall process and render a decision on each Land Use Application required by this Ordinance with reasonable diligence.

#### **25.01.14 City Imposed Requirements and Exactions on Application Approval.**

The City shall not impose any requirement(s) or exaction(s) on any approval required by this Ordinance unless:

A. An essential link exists between a legitimate governmental interest and each requirement or exaction; and

B. Each requirement or exaction is roughly proportionate, in both nature and extent, to the impact of the proposed subdivision.

#### **25.01.15 Restrictions for Solar and other Energy Devices.**

The Brigham City Planning Commission (hereinafter "Commission") may refuse to recommend, and the Council and City Planner may refuse to approve a Preliminary Subdivision Application and Final Subdivision Application, or the dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the Preliminary Subdivision Application or Final Subdivision Application prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the Preliminary Subdivision Application or Final Subdivision Application.

#### **25.01.16 Validity.**

If any Chapter, Section, Subsection, Paragraph, Sentence, Standard, or Requirement of this Ordinance is held to be invalid, by a Court of competent jurisdiction, such holding shall not affect the validity of any other Chapter, Section, Subsection, Paragraph, Sentence, Standard, or Requirement of this Ordinance.

## **Chapter 25.02 Sketch Plan**

### **25.02.01 Sketch Plan Meeting – Purposes.**

A property owner proposing to subdivide any lands located within the municipal boundaries of the City shall schedule a Sketch Plan Meeting with the City Planner and other representatives of the City and public and private service providers, as determined necessary by the City Planner. The purposes of the Sketch Plan Meeting are to promote an understanding of the City's requirements for subdivisions, including this Ordinance, and to obtain Application processing and review information. The Sketch Plan Meeting shall also be an opportunity for the property owner to receive information on Application procedures and requirements, and to ask questions related to the proposed subdivision (see Figure 1).

### **25.02.02 Sketch Plan Application – Requirements.**

A Sketch Plan Application is required for a Sketch Plan Meeting. The Sketch Plan Application fee should be paid in accordance with Section 25.01.08. The Sketch Plan Application is a discussion document, designed to allow the identification of Application processing and review procedures, requirements and standards, and other items that may be considered in Application review once a complete Preliminary Subdivision Application is received. To achieve these objectives, a Sketch Plan Application shall provide the following information for discussion at the Sketch Plan Meeting:

A. A conceptual layout of the proposed subdivision for the entire area of the subdivision site (hereinafter "Subject Property"), including all subdivision phases, as applicable, and all proposed lots, meeting the minimum development standards, as required by the Zoning District in which the Subject Property is located including lot area, lot frontage, lot width, and yard requirements. The conceptual layout shall also identify the proposed layout of all roads and streets including proposed rights-of-way widths, road and street lengths, and proposed connections to all existing roads and streets and adjoining properties.

B. A minimum of five (5) copies of the proposed subdivision's conceptual layout, in a legible 11 inch x 17 inch size or a size required by the City Planner, shall be filed in the Office of the City Planner.

### **25.02.03 Sketch Plan Meeting – Items.**

At the Sketch Plan Meeting, the City Planner, and other representatives of the City and public and private service providers attending the Sketch Plan Meeting, as determined necessary by the City Planner, may identify the procedures anticipated for Subdivision Application review, Application requirements, review standards, other applicable City, County, State, and Federal requirements, and any other matters (See Figure 1).

### **25.02.04 Actions Following a Sketch Plan Meeting.**

A. Following the Sketch Plan Meeting, a Preliminary Subdivision Application may be filed by the Applicant in the Office of the City Planner.

B. Following the Sketch Plan Meeting, the City Planner shall present Sketch Plan Meeting information to the Commission. At a Commission regular meeting, but as a work session item, information shall be presented to the Commission including the date when the Sketch Plan Meeting was held, the property owner, or owner's authorized agent, the location of the Subject Property, and any other information related to the proposed subdivision. The Commission may identify items the Applicant should consider with a Preliminary Subdivision Application.

### **25.02.05 Sketch Plan – Not an Application for Subdivision Approval.**

A Sketch Plan Application does not constitute a Land Use Application for any approval or permit and is not binding on the City, or the Applicant. No Sketch Plan Meeting discussion should be considered by the Applicant as any indication of a Land Use Application approval or permit, or disapproval, either actual or implied.

## **Chapter 25.03 Preliminary Subdivision Applications**

### **25.03.01 Intent and Purpose.**

It is the intent of this Ordinance that a decision related to a Preliminary Subdivision Application be a discretionary action by the Council for Preliminary Subdivision Applications proposing a total of ten (10) or more lots, acting as the Land Use Authority, and the City Planner for Preliminary Subdivision Applications proposing a total of nine (9) or fewer lots, acting as the Land Use Authority. A decision by the Council or City

Planner, as applicable, related to a Preliminary Subdivision Application shall be accompanied by findings of fact, following the receipt of a Commission recommendation, such recommendation also being accompanied by findings of fact.

For the purposes of this Ordinance, the procedures and requirements for the consideration of a Preliminary Subdivision Application are provided to promote the full consideration of all items related to the proposed subdivision. The Commission shall identify and address all items applicable to a Preliminary Subdivision Application prior to providing a recommendation to the Council or City Planner, as applicable.

The Council or City Planner shall identify and address all items applicable to a Preliminary Subdivision Application prior to approving, approving with requirements, or denying the Preliminary Subdivision Application.

**25.03.02 Preliminary Subdivision Application – Council and City Planner identified as Land Use Authorities – Commission Recommendation Required.**

A. The Council for a Preliminary Subdivision Application proposing a total of ten (10) or more lots, and the City Planner for a Preliminary Subdivision Application proposing a total of nine (9) or fewer lots are hereby identified as the Land Use Authorities for Preliminary Subdivision Applications.

B. Prior to the Council or City Planner considering a Preliminary Subdivision Application, and as required by the Act, the Commission shall conduct a public hearing, complying with the notice requirements of Chapter 25.08 herein. Following the close of the public hearing, the Commission shall transmit a recommendation to the Council or City Planner, as applicable. The review procedures for the consideration of a Preliminary Subdivision Application by the Council are summarized by Figure 2 and the review procedures for the consideration of a Preliminary Subdivision Application by the City Planner are summarized by Figure 3, herein.

**25.03.03 Preliminary Subdivision Applications for Nine (9) or Fewer Lots – City Planner Authorized to Consider and Decide One (1) Preliminary Subdivision Application Only.**

The approval of one (1) Preliminary Subdivision Application proposing a total of nine (9) or fewer lots, by the City Planner, shall prohibit the City Planner from considering any additional Preliminary Subdivision Applications for the Subject Property that exists at the time of Preliminary Subdivision Application approval by the City Planner, as determined by the Property Identification Number for the Subject Property, provided by the Office of the Box Elder County Recorder or Office of the Box Elder County Assessor. The approval of one (1) Preliminary Subdivision Application by the City Planner, shall prohibit the City Planner from reviewing and approving, approving with requirements, or denying any subsequent Preliminary Subdivision Application for the Subject Property. Such Applications are required to provide a Preliminary Subdivision Application for review and decision by the Council, as required for a Preliminary Subdivision Application proposing a total of ten (10) or more lots.

**25.03.04 Preliminary Subdivision Applications – Application Requirements.**

All Preliminary Subdivision Applications, filed in the Office of the City Planner, shall provide the following information, necessary for the City Planner to determine the Application complete, as required by Section 25.03.06 herein:

A. **Application Form.** A Preliminary Subdivision Application Form, completed and signed by the owner(s) of the Subject Property, or authorized agent of the owner(s). If the Application Form is signed by an authorized agent of the owner(s), the Application Form shall be accompanied by an affidavit identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Preliminary Subdivision Application. All persons with a fee interest in the Subject Property shall be required to join in and sign the Preliminary Subdivision Application.

B. **Preliminary Subdivision Application Fees.** The Preliminary Subdivision Application shall include the payment of all Preliminary Subdivision Application fees and Review fees, as established the Council, and any total amount, or deposit amount, required to provide the services of the City Engineer, as provided and required by Section 25.03.05 herein.

C. **Legal Description.** A complete and accurate legal description of the Subject Property.

D. **Preliminary Subdivision Plat.** A Preliminary Subdivision Plat shall be prepared by a licensed land surveyor, as required by the Act,<sup>2</sup> and drawn at a scale of not less than one inch equals one-hundred feet

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<sup>2</sup> See also Section 25.04.05(4).



(1" = 100'), or as recommended by the City Planner or City Engineer. The Preliminary Subdivision Plat shall be prepared in pen and all sheets shall be numbered. A minimum of fifteen (15) 11 inch x 17 inch size and twelve (12) 24 inch x 36 inch size paper copies shall be provided and accompany the Preliminary Subdivision Application Form. A digital copy of the Preliminary Subdivision Plat, in a format acceptable to the City's Geographic Information System, standards shall also be provided. The Preliminary Subdivision Plat shall show the following:

1. A vicinity map, at a minimum scale of one (1) inch = one-thousand (1,000) feet, clearly identifying the boundaries of the entire Subject Property, property accesses, adjoining subdivision outlines and names, as applicable, and relevant features located within one-half (½) mile of the boundary of the Subject Property. The location of the Subject Property with respect to surrounding property and roads and streets, and the names of all adjoining property owners of record shall be shown.

a. The basis of bearings used, graphic and written scale, true north point, township, range, section, quarter section, lot number, and total area of the Subject Property.

b. Proposed road and street layout. All existing and proposed road and street names shall be shown.

c. The boundaries, course, and dimensions of all lots and parcels created, by their boundaries, course, and extent, whether the owner proposes that any lot or parcel is intended to be used as a road or street or for any other public use and whether any such area is reserved or proposed for dedication for a public purpose.

d. The location of any common space or open space areas, including the location of all property proposed to be set aside for public or private reservation, with the designation of the purpose of such set asides, and conditions, if any, of the dedication or reservation.

e. The lot or unit reference, or building reference, road, street or site address, the road and street name or coordinate address, acreage or square footage for all parcels, units, or lots proposed to be created. All parcels, units, or lots created shall be numbered consecutively.

f. All existing and proposed rights-of-way and easement grants of record for underground facilities, as defined by Section 54-8a-2 of the Utah Code Annotated, 1953, as amended, and for all other utility facilities, and all proposed road and street rights-of-way and easement grants of record.

g. Each lot or parcel proposed to be created shall identify the required setback lines identifying the required front, side, and rear yard areas, as required by the Zoning District in which the Subject Property is located.

2. A title block, placed on the right side of the Preliminary Subdivision Plat showing:

a. Proposed Name or Designation of the Subdivision that is distinct from any other Subdivision already recorded in the Office of the Box Elder County Recorder.

b. Name and address of the owner(s) of record and the name, address and license number of the licensed surveyor responsible for preparing the Preliminary Subdivision Plat.

c. Date of preparation of the Preliminary Subdivision Plat, and all revision dates, as applicable.

**E. Required Subject Property Information.** The following information is required and shall be provided on separate sheets at the same scale as the Preliminary Subdivision Plat:

1. The identification of known natural features including, but not limited to, jurisdictional wetlands, as identified by the United States Army Corps of Engineers, areas of slope exceeding five percent (5%) grade, flood plains, flood channels, and drainage way, identified as required by a Local, State, or Federal Agency, with authority, all water courses, areas where ground water is located within three (3) feet of the ground surface, water bodies, marshy or swampy areas, and any other natural features, as required by the City Planner or City Engineer for the Subject Property, including the total area of each.

2. All trees over six (6) inches in diameter, measured four (4) feet above the ground. In cases of heavily wooded areas, indication of the outline of the wooded area and location of trees which are to remain.

3. Existing contours, at intervals of no greater than two (2) feet, overlaid with the proposed subdivision layout. Elevations shall be based on national Geodetic Survey sea level data. In cases of predominately-level topography, one (1) foot interval contours may be required.

4. The location of any known man-made features on, or contiguous to the Subject Property, including existing parcels and lots, all utility easements, railroads, power lines and power poles, telephone and other telecommunication lines and facilities, bridges, culverts, drainage channels, all rights-of-way and easements, field drains, and well or spring protection areas.

5. The location and dimensions of all existing buildings, fence lines and property lines, overlaid

with the proposed subdivision layout.

6. The layout of existing and proposed power lines including the source and connection to the existing or proposed power supply.

7. All existing and proposed road and street locations and dimensions, with cross sections and vertical and horizontal profiles of all new roads and streets proposed to be dedicated to the City, showing the grades of all proposed roads and streets and identifying all proposed cuts and fills exceeding three (3) feet from the existing natural grade. The proposed radius of all centerline curves shall be shown.

The location and size of existing and proposed culinary water and sanitary sewer lines and the location of all wells and springs, if any, and the location of all existing and proposed secondary water locations, as required by the Brigham City Public Works Director and/or City Engineer.

8. Existing and proposed storm drainage and flood control system including existing and proposed pipe sizes, inlets, detention areas, and drainage arrows.

9. The location of all existing and proposed fire hydrants, including the sizes of all existing and proposed water lines serving all fire hydrants.

10. The location of all existing and proposed streetlights identifying the location, type, height, and light output of all existing and proposed streetlights.

11. The location of all existing and proposed street trees and other landscape plantings identifying the location and type of all street trees, shrubs and other landscape materials and plantings.

F. **Geotechnical Report.** A report providing geologic maps, soil type maps, and tables of soil type interpretations based on the National Cooperative Soils Survey, United States Department of Agriculture, Soil Conservation Service. The location and height of all subsurface ground water areas shall be shown.

G. **Preliminary Grading Plan.** For Subject Properties of one (1) acre or larger, a Preliminary Grading Plan shall be provided indicated by solid-line contours, using two (2) foot intervals, imposed on dashed line contours, also using two (2) foot intervals, of the existing topography for the entire Subject Property. For Subject Properties that have predominately level, topography one (1) foot contour intervals may be required by the City Planner and/or City Engineer. The Preliminary Grading Plan shall identify the proposed grading for each proposed lot or parcel to be created.

H. **Preliminary Erosion Control Plan.** When required by the City Planner and/or City Engineer, a Preliminary Erosion Control Plan for the Subject Property shall be provided and included with the Preliminary Subdivision Application. The Preliminary Erosion Control Plan shall identify the proposed drainage and erosion control techniques and methods for each proposed lot or parcel to be created.

I. **Preliminary Easement Plan.** A Preliminary Easement Plan, identifying the location, size, and use of all existing and proposed easements.

J. **Title Report.** A Title Report for the entire Subject Property, provided by a Title Company, within thirty (30) calendar days from the date of filing the Preliminary Subdivision Application in the Office of the City Planner.

K. **Tax Clearance.** A tax clearance from the Box Elder County Treasurer shall be provided as part of the Preliminary Subdivision Application.<sup>3</sup>

L. **Evidence of Availability of Necessary Services.** The following information is required to be presented as part of the Preliminary Subdivision Application, necessary to establish the availability of required services to the Subject Property.

1. Culinary Water Requirements. As required and provided by the Act, the Brigham City Public Works Director (hereinafter "Public Works Director") is hereby designated as the Culinary Water Authority for the City. It shall be the responsibility of the Applicant(s) to provide all information and materials, as required by the Public Works Director, necessary to review the proposed culinary water system and culinary water sources.

2. Sanitary Sewer Requirements. As required and provided by the Act, the Public Works Director is hereby designated as the Sanitary Sewer Authority for the City. It shall be the responsibility of the Applicant(s) to provide all information and materials, as required by the Public Works Director, necessary to review the proposed sanitary sewer system.

3. Subdivision Roads and Streets. The Preliminary Subdivision Application shall identify the proposed road and street layout. Proposed subdivision roads and streets shall make provision for the continuation of existing roads and streets. All subdivision roads and streets shall be designed as required by the Brigham City Corporation Public Works Standards (hereinafter "Public Works Standards"). It shall be the

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<sup>3</sup> See also Section 25.04.05(12).

responsibility of the Applicant(s) to provide all information and materials, as required by the City Engineer, necessary to review the proposed road and street system and road and street designs.

4. Storm Drainage and Flood Control Facilities. The Preliminary Subdivision Application shall identify the storm drainage and flood control system. The proposed subdivision storm drainage and flood control system shall make provision for the continuation of existing storm drainage and flood control facilities. All subdivision storm drainage and flood control system facilities shall be designed as required by the Public Works Standards. It shall be the responsibility of the Applicant(s) to provide all information and materials, as required by the City Engineer, necessary to review the proposed storm drainage and flood control system.

5. Fire Protection, Suppression, and Access Facilities. The Preliminary Subdivision Application shall identify the proposed fire protection, fire suppression, and fire access facilities. Proposed subdivision fire protection, fire suppression, and fire access facilities shall make provision for the continuation of existing facilities. All subdivision fire protection, fire suppression, and fire access facilities shall be designed as required by the Public Works Standards. It shall be the responsibility of the Applicant(s) to provide all information and materials, as required by the City Fire Marshal, necessary to review the proposed fire protection, fire suppression, and fire access facilities.

6. Electrical Power Facilities. The Preliminary Subdivision Application shall identify the proposed electrical power facilities. Proposed subdivision electrical power facilities shall make provision for the continuation of existing facilities. All subdivision electrical power facilities shall be designed as required by the National Electric Safety Code (NESC). It shall be the responsibility of the Applicant(s) to provide all information and materials, as required by the City Power Superintendent, necessary to review the proposed electrical power facilities.

**M Special Service District or Special Service Area.** If the Subject Property is located within the boundaries of a Special Service District or a Special Service Area, a written recommendation from the governing board of such District or Area shall be provided with the Preliminary Subdivision Application materials, which recommendation may identify any potential impacts resulting from the proposed subdivision.

**N. Additional Information and Materials.** When the City Staff, Commission, Council, or City Planner deem necessary, the Applicant may be required to provide other information, materials, letters of feasibility, conduct studies, and provide other evidence indicating the suitability of the Subject Property for the proposed subdivision, including, but not limited to, compliance with the City's Transportation Plan(s) including access management plans, adequacy of infrastructure and utilities, public safety and fire protection, ground water protection, plant cover maintenance, geologic or flood hazard, erosion control, wildlife habitat preservation, and any other infrastructure, physical, environmental, or cultural matters.

#### **25.03.05 Preliminary Subdivision Application – Engineering Review Fees.**

The Applicant(s) for Preliminary Subdivision Application approval shall pay all costs incurred by the City for the provision of City Engineering services, provided by a licensed engineer, selected by the City, and necessary to review the Preliminary Subdivision Application materials for conformity to the requirements of this Ordinance, other applicable Land Use Ordinances and requirements, and accepted civil engineering practice.

#### **25.03.06 City Planner to Determine a Complete Preliminary Subdivision Application.**

A. Within thirty (30) calendar days of the Preliminary Subdivision Application being filed in the Office of the City Planner, and prior to the Preliminary Subdivision Application being scheduled with the Commission (see Figure 2 and Figure 3, as applicable), the City Planner shall determine and find that the Preliminary Subdivision Application is complete and contains all the information and material required for a complete Preliminary Subdivision Application, as required by Section 25.03.04 herein (see Figure 4). As provided for by the Act, the City Planner shall determine a Preliminary Subdivision Application submitted and complete when the Application is provided in a form that complies with all the requirements of Section 25.03.04 herein, and all applicable Preliminary Subdivision Application fees have been paid. The City Planner shall notify the Applicant, in writing, of the result of such determination. Following a Determination of a Complete Preliminary Subdivision Application, the City Planner shall schedule the Preliminary Subdivision Application for a public hearing with the Commission (see Figure 2 and Figure 3, as applicable) such hearing complying with all notice requirements for a public hearing to consider a Preliminary Subdivision Application, as required by Chapter 25.08, herein.

B. A Preliminary Subdivision Application lacking any of the Preliminary Subdivision Application information and materials, as required by Section 25.03.04 herein, shall be cause for the City Planner to determine the Preliminary Subdivision Application, as Incomplete. The requirements of Section 25.03.07 shall apply to all Preliminary Subdivision Applications determined to be Incomplete (see Figure 4).

**25.03.07 Determination of an Incomplete Preliminary Subdivision Application.**

A. A determination of an Incomplete Preliminary Subdivision Application by the City Planner shall prohibit the City Planner from scheduling the required Commission public hearing and shall prohibit the Commission, Council, or City Planner from considering any information or material related to the proposed subdivision (see Figure 4).

B. Following a determination of an Incomplete Preliminary Subdivision Application by the City Planner, the City Planner shall notify the Applicant, in writing, of the information lacking from the Preliminary Subdivision Application. The City Planner shall allow a minimum of thirty (30) calendar days, from the date of notification of an Incomplete Preliminary Subdivision Application, for the Applicant to provide the required information. If the Preliminary Subdivision Application remains incomplete after a minimum of thirty (30) calendar days from date of notification, the City Planner shall return the entire Incomplete Preliminary Subdivision Application to the Applicant(s), including any Preliminary Subdivision Application Review fees paid (see Figure 4).

**25.03.08 Appeal of a Determination of Application Completeness Decision by the City Planner.**

Any person aggrieved by a decision of the City Planner related to a Determination of Application Completeness may appeal the decision to the Commission, the Commission acting as the Appeal Authority for Determinations of Application Completeness decisions.

**25.03.09 Preliminary Subdivision Application Review Procedures.**

A. As provided by Section 25.03.02 the Council is the Land Use Authority for Preliminary Subdivision Applications proposing a total of ten (10) or more lots, and the City Planner is the Land Use Authority for Preliminary Subdivision Applications proposing a total of nine (9) or fewer lots, subject to Section 25.03.03.

B. The review and approval procedure for a Preliminary Subdivision Application proposing ten (10) or more lots is identified in Figure 2 herein.

C. The review and approval procedure for a Preliminary Subdivision Application proposing nine (9) or fewer lots is identified in Figure 3 herein.

D. Staff Review Meeting. Prior to the Commission considering the Preliminary Subdivision Application at a public hearing the City Staff shall review the Preliminary Subdivision Application for compliance to all requirements of this Ordinance and other Land Use Ordinances and requirements, as applicable. The results of the Staff Review Meeting, including all Staff review comments and recommendations shall be provided to the Commission, and Council or City Planner, the Land Use Authority, as applicable.

E. Necessary Approvals and Recommendations. Prior to the Commission considering a Preliminary Subdivision Application at a public hearing the City Planner shall require that the following approvals and recommendations are included with the information and materials provided to the Commission, and Council or City Planner, the Land Use Authority, as applicable:

1. Written approval of the feasibility of the proposed culinary water system and culinary water sources, provided by the Public Works Director.

2. Written approval of the feasibility of the proposed sanitary sewer system, provided by the Public Works Director.

3. A written recommendation of the proposed street and road layout and street and road designs, provided by the City Engineer.

4. If the proposed subdivision will be accessed from a State Highway, an appropriate access permit, as required by the State of Utah Department of Transportation, shall be provided. If the subdivision will be accessed from a County Road, authorization from Box Elder County to allow the subdivision access from a County Road shall be provided.

5. A written recommendation of the proposed storm water management and storm drainage and flood control facilities, provided by the City Engineer.

6. A written recommendation of the proposed fire protection, fire suppression, and fire access facilities, provided by the City Fire Marshal.

7. A written recommendation of the proposed electrical power facilities, provided by the City Power Superintendent.

8. All necessary approvals and/or permits from Federal, State, and Local agencies, as may be applicable.

F. Staff Comments, Necessary Approvals, and Recommendations. All Staff Review Meeting comments, necessary approvals, and recommendations provided to the Commission and Council or City Planner for consideration related to a Preliminary Subdivision Application shall also be provided to the

Applicant(s), a minimum of three (3) business days, before any public hearing or public meeting at which the Preliminary Subdivision Application is considered by the Commission and Council or City Planner, as applicable.<sup>4</sup>

G. Commission Public Hearing Required. Prior to the Commission formulating a recommendation and prior to the Council or City Planner, as applicable, considering a Preliminary Subdivision Application, the Commission shall conduct a public hearing, such hearing complying with all notice requirements for a public hearing to consider a Preliminary Subdivision Application, as required by Chapter 25.08 herein.

H. Commission Recommendation Required. Following the close of the Commission public hearing, the Commission shall consider all information and materials received. The Commission shall formulate and transmit a recommendation to the Council or City Planner, as applicable, on the Preliminary Subdivision Application for consideration.

The Commission may recommend approval of the Preliminary Subdivision Application, as presented, recommend approval of the Preliminary Subdivision Application with requirements, or recommend denial of the Preliminary Subdivision Application, with findings of compliance or non-compliance with this Ordinance, the City's other Land Use Ordinances and all other requirements, as applicable.

The Commission may recommend onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application approval, such improvements, facilities, services, and amenities being determined to be consistent with the requirements of Section 25.01.14 herein, including, but not limited to:

1. Road and street improvements, including layout, design, grading and surfacing.
2. Flood control facilities.
3. Culinary Water facilities.
4. Sanitary Sewer facilities.
5. Storm Drainage facilities.
6. Erosion Control facilities.
7. Traffic Circulation and Access Management facilities.
8. Lot, Parcel, and/or Site drainage.
9. Park and open space areas and facilities.
10. Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
11. Electrical power and telecommunications facilities.
12. Fencing and buffering treatments.
13. Street lighting facilities; and
14. Streetscape enhancements, including street trees and park strip improvements.

J. Council and City Planner Review. Following the receipt of a Commission recommendation, the Council for Preliminary Subdivision Applications proposing a total of ten (10) or more lots, and the City Planner for Preliminary Subdivision Applications proposing a total of nine (9) or fewer lots, shall consider the Preliminary Subdivision Application. The Council shall consider a Preliminary Subdivision Application proposing ten (10) or more lots at a regularly scheduled Council meeting and the City Planner shall consider a Preliminary Subdivision Application proposing nine (9) or fewer lots at a scheduled public meeting.

K. Land Use Authority Action. Following the consideration of the Preliminary Subdivision Application, the recommendation of the Commission, and all information and materials presented, the Council or City Planner, as applicable, acting as the Land Use Authority, may approve the Preliminary Subdivision Application, as presented, approve the Preliminary Subdivision Application with requirements, or deny the Preliminary Subdivision Application with findings of compliance or non-compliance with this Ordinance and other Land Use Ordinances and requirements, as applicable.

The Council or City Planner, as applicable, may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application approval, such improvements, facilities, services, and amenities being determined consistent with the requirements of Section 25.01.14 herein, including but not limited to:

1. Road and street improvements, including layout, design, grading and surfacing.
2. Flood control facilities.
3. Culinary Water facilities.
4. Sanitary Sewer facilities.
5. Storm Drainage facilities.

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<sup>4</sup> See also Chapter 25.08.

6. Erosion Control facilities.
7. Traffic Circulation and Access Management facilities.
8. Lot, Parcel, and/or Site drainage.
9. Park and open space areas and facilities.
10. Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
11. Electrical power and telecommunications facilities.
12. Fencing and buffering treatments.
13. Street lighting facilities; and
14. Streetscape enhancements including street trees and park strip improvements.

**25.03.10 Restrictions for Solar and other Energy Devices.**

See Section 25.01.15 herein.

**25.03.11 Effect of Approval, with or without Requirements, of a Preliminary Subdivision Application and Effective Period.**

The approval of a Preliminary Subdivision Application, with or without requirements, by the Council or City Planner, as applicable, shall not constitute a final approval of the subdivision by the City. A Preliminary Subdivision Application approval shall not authorize the division or development of the Subject Property, but allows the Applicant(s) to proceed with the preparation of the Final Subdivision Application for the Subject Property.

As provided by the Act, the continuing validity of a Preliminary Subdivision Application approval is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance and this Section, the approval of a Preliminary Subdivision Application shall be effective for a period of one (1) year from the date of approval by the Council or City Planner, as applicable, at the end of which time the Applicant(s) shall have submitted a Final Subdivision Application to the Office of the City Planner. If a Final Subdivision Application is not received in the Office of the City Planner within one (1) year of approval, the Preliminary Subdivision Application approval for the Subject Property shall be rendered void and invalid.

**25.03.12 Site Preparation Work Prohibited.**

No excavation, and no grading or regrading, shall take place on any Subject Property, and no building permits shall be issued by the City, until a Final Subdivision Application has been approved and the Final Subdivision Plat has been recorded in the Office of the Box Elder County Recorder, and a Preconstruction Meeting has been held with the City Engineer to identify the requirements for the construction and installation of all required subdivision improvements, facilities, services, and amenities.

**25.03.13 Appeal of Preliminary Subdivision Application Decisions.**

A. Any person aggrieved by a decision of the Council related to a Preliminary Subdivision Application proposing a total of ten (10) or more lots may appeal the decision to District Court, the Court acting as the Appeal Authority for Preliminary Subdivision Application decisions by the Council.

B. Any person aggrieved by a decision of the City Planner related to a Preliminary Subdivision Application proposing a total of nine (9) or fewer lots may appeal the decision to the Council, the Council acting as the Appeal Authority for Preliminary Subdivision Application decisions by the City Planner.

**Chapter 25.04 Final Subdivision Applications.**

**25.04.01 Intent and Purpose.**

It is the intent of this Ordinance that a decision related to a Final Subdivision Application decision be a ministerial action by the Council for Final Subdivision Applications proposing a total of ten (10) or more lots, acting as the Land Use Authority, and the City Planner for Final Subdivision Applications proposing a total of nine (9) or fewer lots, acting as the Land Use Authority. A decision by the Council or City Planner, as applicable, related to a Final Subdivision Application shall be accompanied by findings of fact, following the receipt of a City Staff recommendation.

For the purposes of this Ordinance, the procedures and requirements for the consideration of Final Subdivision Application are provided to promote the full consideration of all items related to the proposed subdivision. The City Staff shall identify and address all items applicable to a Final Subdivision Application

prior to providing a recommendation to the Council or City Planner, as applicable.

The Council or City Planner shall identify and address all items applicable to a Final Subdivision Application prior to approving, approving with requirements, or denying the Final Subdivision Application.

**25.04.02 Final Subdivision Application – Council and City Planner Identified as Land Use Authorities – City Staff Recommendation Required.**

A. The Council for Final Subdivision Applications proposing a total of ten (10) or more lots, and the City Planner for Final Subdivision Applications proposing a total of nine (9) or fewer lots are hereby identified as the Land Use Authorities for Final Subdivision Applications.

B. Prior to the Council or City Planner considering a Final Subdivision Application, the City Staff, City Engineer, and City Attorney shall transmit a recommendation to the Council or City Planner for consideration. The review procedures for the consideration of a Final Subdivision Application by the Council are summarized by Figure 5 and the review procedures for the consideration of a Final Subdivision Application by the City Planner are summarized by Figure 6, herein.

**25.04.03 Final Subdivision Applications for Nine (9) or Fewer Lots – City Planner Authorized to Consider and Decide One (1) Final Subdivision Application Only.**

Approval of one (1) Final Subdivision Application proposing a total of nine (9) or fewer lots, by the City Planner, shall prohibit the City Planner from considering any additional Final Subdivision Applications for the Subject Property that exists at the time of Final Subdivision Application approval by the City Planner, as determined by the Property Identification Number for the Subject Property, provided by the Office of the Box Elder County Recorder or Office of the Box Elder County Assessor, The approval of one (1) Final Subdivision Application by the City Planner, shall prohibit the City Planner from reviewing and approving, approving with requirements, or denying any subsequent Final Subdivision Application for the Subject Property. Such Applications are required to provide a Preliminary and Final Subdivision Application for review and decision by the Council, as required for a Final Subdivision Applications proposing a total of ten (10) or more lots.

**25.04.04 Final Subdivision Applications – Preliminary Subdivision Approval Required Application.**

As a condition precedent to the filing of a Final Subdivision Application in the Office of the City Planner, a Preliminary Subdivision Application for the Subject Property, with or without requirements, shall have been approved by the Council for a Preliminary Subdivision Application proposing a total of ten (10) or more lots, or the City Planner for a Preliminary Subdivision Application proposing a total of nine (9) or fewer lots.

**25.04.05 Final Subdivision Applications – Application Requirements.**

All Final Subdivision Applications, filed in the Office of the City Planner, shall provide the following information to be determined complete by the City Planner, as required by Section 25.04.07:

A. Application Form. A Final Subdivision Application Form, completed and signed by the owner(s) of the Subject Property, or authorized agent of the owner(s). If the Application Form is signed by an authorized agent of the owner(s), the Application Form shall be accompanied by an affidavit identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Final Subdivision Application. All persons with a fee interest in the Subject Property shall be required to join in and sign the Final Subdivision Application.

B. Final Subdivision Application Fees. The Final Subdivision Application shall include the payment of the all Final Subdivision Application fees and Review fees, as established the Council, and any total amount, or deposit amount, required to provide the services of the City Engineer, as provided and required by Section 25.04,06 herein.

C. Legal Description. A complete and accurate legal description for the entire Subject Property.

D. Final Subdivision Plat. A Final Subdivision Plat shall be prepared by a licensed land surveyor, as required by the Act, drawn at a scale of not less than one inch equals one-hundred feet (1" = 100'), or as recommended by the City Planner, and in a form acceptable to the Box Elder County Recorder for recordation. The Final Subdivision Plat shall be prepared in pen on Mylar and all sheets shall be numbered. All required certificates shall appear on a single sheet (along with the index and vicinity maps). One (1) original mylar copy of the Final Subdivision Plat and two (2) original mylar copies of the Final Subdivision Plan profiles shall be included with the Final Subdivision Application and a minimum of twelve (12) 11 inch x 17 inch size and twelve (12) 24 inch x36 inch paper copies shall be provided and accompany the Final Subdivision Application Form. A digital copy of the Final Subdivision Plat, in a format acceptable to the City's Geographic Information System standards shall also be provided. The Final Subdivision Plat shall contain the same information as required

by Section 25.03.04 herein, and shall include any revisions or additions, as required by the Council or City Planner, as part of the Preliminary Subdivision Application approval, as applicable. In addition, the Final Subdivision Plat shall show the following:

1. The notation of any self-imposed restrictions, including proposed restrictive covenants, signed by all owners of interest, and bearing the acknowledgment of a public notary, and all other restrictions as required by the Council or City Planner, as applicable.

2. The accurate survey of the perimeter of the Subject Property and all parcels, units, or lots, created, accurate in scale, dimension and bearing, and giving the location of and ties to the nearest survey monument. Bearings shall be shown to the nearest second; lengths to the nearest hundredth (100<sup>th</sup>) foot; areas to the nearest hundredth (100<sup>th</sup>) acre. All parcels, units, or lots created shall be numbered consecutively. All lands within the boundaries of the Subject Property and the Final Subdivision Plat shall be accounted for as parcels, lots, roads, streets, alleys, walkways, or other designation. The Subject Property shall have an error of closure of not greater than one (1) part in ten thousand (10,000).

3. Endorsements of every person having a security interest in the Subject Property subordinating their liens to all covenants, servitudes, and easements imposed on the property.

4. The location of all monuments erected, corners, and other points established in the field. The material of which the monuments, corners, or other points are made shall be noted as defined in the Public Works Standards.

5. All existing and proposed grid street numbers and street names shall be shown and the street address and coordinate address of all parcels, units, or lots, created shall be shown, as required by the addressing system of the City.

6. All existing and proposed rights-of-way and easement grants of record for underground facilities, as defined by Section 54-8a-2 of the Utah Code Annotated, 1953, as amended, and for all other utility facilities, and all proposed road and street rights-of-way and easement grants of record.

7. The location of any common space or open space areas, including the location of all property proposed to be set aside for public or private reservation, with the designation of the purpose of such set asides, and conditions, if any, of the dedication or reservation.

8. The name and address of the surveyor responsible for preparing the Final Subdivision Plat. The surveyor making the Final Plat shall certify that the surveyor:

- a. holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
- b. has completed a survey of the property described on the Final Plat in accordance with Section 17-23-17 of the Utah Code Annotated, 1953, as amended, and has verified all measurements; and
- c. has placed monuments as represented on the Final Subdivision Plat.

9. Located at the top-center and right-hand side of the Final Subdivision Plat, the name of the subdivision, as approved by the Box Elder County Recorder's Office. The basis of bearings used, graphic and written scale, true north point, township, range, section, quarter section, block, and lot number, and total area of the Subject Property shall be shown.

10. A title block showing:

- a. date of preparation of the Final Subdivision Plat;
- b. signature blocks for the dated signatures of the Chair of the City Council or City Planner, as applicable, Commission Chair, City Engineer, and City Attorney.

E. All documents establishing any required agreements, guarantees, or any bonds and the payment of any required guarantees or bonds.

F. Dedications and Grants of Easements. When the Applicant(s) is proposing, or is required, to provide dedications for any infrastructure, utilities, improvements, or services, the owner or operator of the infrastructure, utilities, improvements, or services shall approve the: (i) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record; (ii) location of existing underground and utility facilities; and (iii) conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision. Such approval shall be provided in writing with the Final Subdivision Application.

G. Purchase Agreements. When any parcel, unit, or lot is proposed to be purchased by a public or quasi-public agency, a letter of intention to purchase shall be provided with the Final Subdivision Application.

H. Owner's Dedications. The owner's certificate of dedication(s) including a legal description of the Subject Property boundaries and the dedication of all public ways or spaces. This certificate shall be signed, dated, and notarized. The owner's certificate shall include a reference to any covenants that may be declared and blanks where the Box Elder County Recorder may enter the book and page number of their recording.



I. Required Local, State, and Federal Permits. When required all necessary approvals, licenses, and permits, as required, shall be provided by such Local State, and Federal departments and agencies and included with the Final Subdivision Application.

J. Covenants and Restrictions. Copies of all protective covenants, conditions and restriction (CC&R's), trust agreements, home owner's association articles and bylaws, and all other required documents, including those required by the Council or City Planner, as applicable, governing the future use of property, infrastructure, utility and service systems, re-subdivision, and other provisions required to maintain the integrity of the subdivision.

K. Final Construction Drawings. Final design and construction drawings for all proposed, or required infrastructure, utilities, improvements, or services prepared by a licensed civil engineer, and in a form and as required by the Public Works Standards and the City Engineer, including, but not limited to, all culinary water facilities, all sanitary sewer facilities, all storm drainage and flood control facilities, bridges and culverts, the profiles and cross sections of all proposed roads and streets, all secondary water facilities, all fire hydrants and fire protection and suppression facilities and systems, all electrical power facilities, all telecommunications facilities, all street lights, all street trees and other landscape plantings identifying the location and type of all street trees, shrubs and other landscape materials and plantings, and all other infrastructure, utilities, improvements, or services.

L. Improvement Construction Costs. Estimated construction costs of all proposed, or required infrastructure, utilities, improvements, or services prepared by a licensed civil engineer, and as required by the Public Works Standards and the City Engineer.

M. Final Grading Plan. For Subject Property of one (1) acre or larger, a final grading plan shall be provided indicated by solid-line contours, using two (2) foot intervals, imposed on dashed line contours, also using two (2) foot intervals, of the existing topography for the entire Subject Property. For Subject Properties that have predominately-level topography one (1) foot contour intervals may be required by the City Planner or City Engineer. The Final Grading Plan shall identify the proposed final grades for each proposed lot or parcel to be created.

N. Final Erosion Control Plan. When required by the City Planner or City Engineer, a final erosion control plan for the Subject Property shall be provided and included with the Final Subdivision Application. The Final Erosion Control Plan shall identify the proposed lot drainage and erosion control techniques and methods for each proposed lot or parcel to be created.

O. Final Easement Plan. A final easement plan, identifying the location, size, and use of all existing and proposed easements.

P. Title Report. If the Final Subdivision Application is filed in the Office of the City Planner after one hundred eighty (180) calendar days from the date the Preliminary Subdivision Application is approved, or if any changes or corrections have been made to the Title of the Subject Property since the Preliminary Subdivision Application was approved, a Title Report for the Subject Property, provided by a Title Company, within thirty (30) calendar days from the date of filing the Final Subdivision Application in the Office of the City Planner.

Q. Tax Clearance. A tax clearance from the Box Elder County Treasurer shall be provided as part of the Final Subdivision Application. The Council or City Planner, as applicable, may withhold an otherwise valid Final Subdivision Application approval until the owner(s) of the Subject Property provides the Council or City Planner, as applicable, with a tax clearance indicating that all taxes, interest, and penalties owing for the Subject Property have been paid. Tax Clearance. A tax clearance from the Box Elder County Treasurer shall be provided as part of the Preliminary Subdivision Application.<sup>5</sup>

#### **25.04.06 Final Subdivision Application Engineering Review Fees.**

The Applicant(s) for Final Subdivision Application approval shall pay all costs incurred by the City for the provision of City Engineering services, provided by a licensed engineer selected by the City, and necessary to review the Final Subdivision Application materials for conformity to the requirements of this Ordinance and other applicable Land Use Ordinances and requirements, and accepted civil engineering practice.

#### **25.04.07 City Planner to Determine a Complete Final Subdivision Application.**

A. Within thirty (30) calendar days of the Final Subdivision Application being filed in the Office of the City Planner, and prior to the Final Subdivision Application being scheduled with the Council or City Planner

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<sup>5</sup> See also Section 25.04.05(12).

(see Figure 5 and Figure 6, as applicable), the City Planner shall determine and find that the Final Subdivision Application is complete and contains all the information and material required for a complete Final Subdivision Application, as required by Section 25.04.05 herein (see Figure 4). As provided for by the Act, the City Planner shall determine a Final Subdivision Application submitted and complete when the Application is provided in a form that complies with all the requirements of Section 25.04.05 herein, and all applicable Final Subdivision Application fees have been paid. The City Planner shall notify the Applicant, in writing, of the result of such determination. Following a Determination of a Complete Final Subdivision Application, the City Planner shall schedule the Final Subdivision Application for review by the City Staff in preparation of consideration by the Council and City Planner (see Figure 5 and Figure 6, as applicable) and complying with all notice requirements of Section 25.08 herein.

B. A Final Subdivision Application lacking any of the Final Subdivision Application information and materials as required by Section 25.04.05 herein, shall be cause for the City Planner to determine the Preliminary Subdivision Application as Incomplete. The requirements of Section 25.04.08 shall apply to all Final Subdivision Applications determined to be Incomplete (see Figure 4).

**25.04.08 Determination of an Incomplete Final Subdivision Application.**

A. A determination of an Incomplete Final Subdivision Application by the City Planner shall prohibit the City Planner from presenting the Final Subdivision Application to the City Staff for review, and shall prohibit the Council or City Planner from considering any information or material related to the proposed subdivision.

B. Following a determination of an Incomplete Final Subdivision Application by the City Planner, the City Planner shall notify the Applicant, in writing, of the information lacking from the Final Subdivision Application. The City Planner shall allow a minimum of thirty (30) calendar days, from the date of notification of an Incomplete Final Subdivision Application, for the Applicant to provide the required information. If the Final Subdivision Application remains incomplete after a minimum of thirty (30) calendar days from date of notification, the City Planner shall return the entire Incomplete Final Subdivision Application to the Applicant(s), including any Final Subdivision Application review fees paid.

**25.04.09 Appeal of a Determination of Application Completeness Decision by the City Planner.**

Any person aggrieved by a decision of the City Planner related to a Determination of Application Completeness may appeal the decision to the Commission.

**25.04.10 Final Subdivision Application Review Procedures.**

A. As provided by Section 25.04.02 the Council is the Land Use Authority for Final Subdivision Applications proposing a total of ten (10) or more lots, and the City Planner is the Land Use Authority for Final Subdivision Applications proposing a total of nine (9) or fewer lots, subject to Section 25.04.03.

B. The review and approval procedures for a Final Subdivision Application proposing ten (10) or more lots are identified in Figure 5 herein.

C. The review and approval procedures for a Final Subdivision Application proposing nine (9) or fewer lots are identified in Figure 6 herein.

D. Staff Review Meeting. Prior to the Council or City Planner, as applicable, considering the Final Subdivision Application, the City Staff shall review the Final Subdivision Application for compliance to all requirements of this Ordinance and other Land Use Ordinances and requirements, as applicable. The results of the Staff Review Meeting, including all review comments and any Staff recommendations shall be provided to the Council or City Planner for consideration

E. City Engineer and City Attorney Recommendation. Prior to the Council or City Planner considering a Final Subdivision Application, the City Engineer, and City Attorney shall review the Final Subdivision Application and shall transmit a recommendation to the Council or City Planner, as applicable, for consideration.

F. Staff Comments, Necessary Approvals, and Recommendations. Any Staff Review meeting comments, necessary approvals, and recommendations provided to the Council or City Planner for consideration related to a Final Subdivision Application, including any comments and recommendations provided by the City Engineer and City Attorney, shall also be provided to the Applicant(s), a minimum of three (3) business days, before the Final Subdivision Application is considered by the Council or City Planner, as applicable.<sup>6</sup>

G. Acknowledgement and Necessary Signatures Required. The owner of the Subject Property shall

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<sup>6</sup> See also Chapter 25.08.

acknowledge the Final Subdivision Plat before the Council or City Planner, as applicable, authorized to take the acknowledgement of conveyances of real estate and shall obtain the signatures of required City Officials.

H. Council and City Planner Review. Following the receipt of all Staff review comments and recommendations, including the recommendations of the City Engineer and City Attorney, the Council for a Final Subdivision Application proposing a total of ten (10) or more lots, and the City Planner for a Final Subdivision Application proposing a total of nine (9) or fewer lots, shall consider the Final Subdivision Application. The Council shall consider a Final Subdivision Application proposing ten (10) or more lots at a regularly scheduled Council meeting and the City Planner shall consider a Final Subdivision Application proposing nine (9) or fewer lots at a scheduled public meeting.<sup>7</sup>

1. Following the consideration of the Final Subdivision Application, the recommendation of the City Staff, City Engineer, and City Attorney, and all information and material presented, the Council or City Planner, as applicable, may approve the Final Subdivision Application, as presented, approve the Final Subdivision Application with requirements, or deny the Final Subdivision Application with findings of compliance or non-compliance with this Ordinance, and other Land Use Ordinances and requirements, as applicable.

2. The Council or City Planner, as applicable, may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Final Subdivision Application approval, such improvements, facilities, services, and amenities being determined consistent with the requirements of Section 25.01.14 herein, including but not limited to:

- a. Road and street improvements, including layout, design, grading and surfacing.
- b. Flood control facilities.
- c. Culinary Water facilities.
- d. Sanitary Sewer facilities.
- e. Storm Drainage facilities.
- f. Erosion Control facilities.
- g. Traffic Circulation and Access Management facilities.
- h. Lot, Parcel, and/or Site drainage.
- i. Park and open space areas and facilities.
- j. Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
- k. Electrical power and telecommunications facilities.
- l. Fencing and buffering treatments.
- m. Street lighting facilities; and
- n. Streetscape enhancements including street trees and park strip improvements.

#### **25.04.11 Restrictions for Solar and other Energy Devices.**

See Section 25.01.15 herein.

#### **25.04.12 Effect of Approval, With or Without requirements, of a Final Subdivision Application and Effective Period.**

A. The approval of a Final Subdivision Application, with or without requirements, by the Council or City Planner, as applicable, shall constitute a final approval of the subdivision by the City.

B. After the approved Final Subdivision Plat has been acknowledged and certified, the owner(s) of the Subject Property shall, within one (1) year of the date of approval of the Final Subdivision Application, record the approved Final Plat in the Office of the Box Elder County Recorder. The Applicant(s) shall pay all fees, including copies, for the recording of the Final Plat and all Final Subdivision documents.

C. The Applicant(s) shall provide one (1) Mylar copy of the recorded Final Plat to the City Planner for inclusion in the files of the City.

D. After the Final Plat has been recorded, the Applicant(s) may apply for necessary permits required for the construction and installation of subdivision improvements and building permits consistent with the approved and recorded Final Plat and the City requirements for such permits.

E. As provided by the Act, the continuing validity of a Final Subdivision Application approval is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance, and this requirement, the approval of a Final Subdivision Application shall be effective for a period of one (1) year from the date of approval by the Council or City

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<sup>7</sup> See also Chapter 25.08.

Planner, as applicable, at the end of which time the Applicant(s) shall have presented the Final Subdivision Plat for recording in the Office of the Box Elder County Recorder. If the Final Subdivision Plat is not recorded within one (1) year of approval, the Final Subdivision Application shall be rendered void and invalid,

**25.04.13 Dedication of Streets and Other Public Places.**

A. Final Subdivision Plats, when made, acknowledged, and recorded in the Office of the Box Elder County Recorder, according to the procedures and requirements of this Ordinance, operate as a dedication of all roads, streets and other public places, and vest the fee of those parcels of land with the City for the use of the public for the uses named or intended by those Final Subdivision Plats.

B. The dedication established by this Section does not impose liability upon the City for roads, streets and other public places that are dedicated in this manner but are unimproved.

**25.04.14 Common Area Parcels on a Final Subdivision Plat – No Separate Ownership – Ownership Interest Equally Divided among other Parcels on the Final Subdivision Plat and Included in Description of other Parcels.**

A. A parcel designated as common area on a Final Subdivision Plat and recorded in the Office of the Box Elder County Recorder shall not be separately owned or conveyed independent of the other parcels created by the Final Subdivision Plat.

B. The ownership interest in a common area parcel described in Subsection (1) herein shall:

1. For purposes of assessment, be divided equally among all parcels created by the Final Subdivision Plat, unless a different division of interest for assessment purposes is indicated on the Final Subdivision Plat or an accompanying recorded document; and

2. Be considered to be included in the description of each instrument describing a parcel on the Final Subdivision Plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

**25.04.15 Site Preparation Work Prohibited.**

No installation of improvements shall take place on any Subject Property, and no building permits shall be issued by the City, until a Final Subdivision Application has been approved and the Final Subdivision Plat has been recorded in the Office of the Box Elder County Recorder, and a Preconstruction Meeting has been held with the City Engineer to identify the requirements for the construction and installation of all required subdivision improvements, facilities, services, and amenities.

**25.04.16 Appeal of Final Subdivision Application Decisions.**

A. Any person aggrieved by a decision of the Council for a Final Subdivision Application proposing a total of ten (10) or more lots may appeal the decision to District Court, the Court acting as the Appeal Authority for Final Subdivision Application decisions by the Council.

B. Any person aggrieved by a decision of the City Planner for a Final Subdivision Application proposing a total of nine (9) or fewer lot may appeal the decision to the Council, the Council acting as the Appeal Authority for Final Subdivision Application decisions by the City Planner.

**Chapter 25.05 Vacating or Amending a Recorded Final Subdivision Plat, Street or Alley Final**

**25.05.01 Amendment to a Recorded Final Subdivision Plat.**

The Council may vacate or amend a recorded Final Subdivision Plat or any portion of a recorded Final Subdivision Plat by following and complying with all requirements for vacating or changing a Subdivision Plat, as identified by Sections 10-9a-608 and 10-9a-609, Utah Code Annotated, 1953, as amended.

**25.05.02 Vacating or Altering a Street or Alley.**

The Mayor may vacate or alter a street or alley by following and complying with all requirements for vacating or altering a street or alley, as identified at Section 10-9a-609.5, Utah Code Annotated, 1953, as amended.

**25.05.03 Appeal of Subdivision Amendment Decisions.**

Any person aggrieved by a decision of the Council concerning a vacation or amendment of a recorded Final Subdivision Plat, or any portion of a recorded Final Subdivision Plat, or the decision of the Mayor concerning the vacation or alteration of a street or alley may appeal such decision to District Court, the Court acting as the Appeal Authority.

## **Chapter 25.06 Reserved**

## **Chapter 25.07 Subdivision Ordinance Amendments**

### **25.07.01 Intent and Purpose.**

It is the intent of this Ordinance that a decision related to a Subdivision Ordinance Amendment Application be a discretionary action by the Council, acting as the Land Use Authority. A decision by the Council related to a Subdivision Ordinance Amendment Application shall be accompanied by findings of fact, following the receipt of a Commission recommendation, such recommendation also being accompanied by findings of fact.

For the purposes of this Ordinance, the procedures and requirements for the consideration of Subdivision Ordinance Amendment Application are provided to promote the full consideration of all items related to the proposed Subdivision Ordinance Amendment Application. The Commission shall identify and address all items applicable to a Subdivision Ordinance Amendment Application prior to providing a recommendation to the Council.

The Council shall identify and address all items applicable to a Subdivision Ordinance Amendment Application prior to approving, approving with requirements, or denying the Subdivision Ordinance Amendment Application.

### **25.07.02 Subdivision Ordinance Amendment Application – Council Identified as the Land Use Authority – Commission Recommendation Required.**

A. The Council is hereby identified as the Land Use Authority for Subdivision Ordinance Amendment Applications.

B. Prior to the Council considering a Subdivision Ordinance Amendment Application, and as required by the Act, the Commission shall conduct a public hearing, complying with the notice requirements of Chapter 25.08 herein. Following the close of the public hearing, the Commission shall transmit a recommendation to the Council. The review procedures for the consideration of a Subdivision Ordinance Amendment Application are summarized by Figure 7 herein.

### **25.07.03 Subdivision Ordinance Amendment Applications – Application Requirements.**

All Subdivision Ordinance Amendment Applications, filed in the Office of the City Planner, shall provide the following information, necessary for the City Planner to determine the Application complete, as required by Section 25.07.05 herein:

A. Application Form. A Subdivision Ordinance Amendment Application Form completed and signed by the Applicant(s) for the proposed Subdivision Ordinance Amendment.

B. Subdivision Ordinance Amendment Application Fees. The Subdivision Ordinance Amendment Application shall include the payment of all Subdivision Ordinance Amendment Application fees and Review fees, as established the Council, and any total amount, or deposit amount, required to provide the services of the City Engineer, as provided and required by Section 25.07.04 herein.

C. The identification of the Chapter and Section Number of the Subdivision Ordinance proposed to be amended.

D. A detailed statement of the objective of the proposed Subdivision Ordinance Amendment, clearly identifying the weakness and deficiencies of the existing Chapter and/or Section proposed to be amended, and citing any Goals and Policies of the City, including those contained within the Brigham City General Plan, that supports the proposed Subdivision Ordinance Amendment.

E. Any other information and materials, considered by the Applicant(s), necessary to support the proposed Subdivision Ordinance Amendment.

### **25.07.04 Subdivision Ordinance Amendment Application – Engineering Review Fees.**

The Applicant(s) for Subdivision Ordinance Amendment Application approval shall pay all costs incurred by the City for the provision of City Engineering services, provided by a licensed engineer, selected by the City, and necessary to review the Subdivision Ordinance Amendment Application materials, as necessary, for conformity to the requirements of this Ordinance, other applicable Land Use Ordinances and requirements, and accepted engineering practice.

### **25.07.05 City Planner to Determine a Complete Subdivision Ordinance Amendment Application.**

A. Within thirty (30) calendar days of the Subdivision Ordinance Amendment Application being filed in the Office of the City Planner, and prior to the Subdivision Ordinance Amendment Application being scheduled with the Commission (see Figure 7), the City Planner shall determine and find that the Subdivision

Ordinance Amendment Application is complete and contains all the Subdivision Ordinance Amendment Application information and material required for a complete Subdivision Ordinance Amendment Application, as required by Section 25.07.03 herein (see Figure 4). As provided for by the Act, the City Planner shall determine a Subdivision Ordinance Amendment Application submitted and complete when the Application is provided in a form that complies with the requirements of Section 25.07.03 herein, and all applicable Subdivision Ordinance Amendment Application fees have been paid. The City Planner shall notify the Applicant, in writing, of the result of such determination. Following a Determination of a Complete Subdivision Ordinance Amendment Application, the City Planner shall schedule the Subdivision Ordinance Amendment Application for public hearing with the Commission (see Figure 7) such hearing complying with all notice requirements for a public hearing to consider a Subdivision Ordinance Amendment Application, as required by Chapter 25.08 herein.

B. A Subdivision Ordinance Amendment Application lacking any of the Subdivision Ordinance Amendment Application information and materials, as required by Section 25.07.03 herein shall be cause for the City Planner to determine the Subdivision Ordinance Amendment Application as Incomplete. The requirements of Section 25.07.06 shall apply to all Subdivision Ordinance Amendment Applications determined to be Incomplete (see Figure 4).

#### **25.07.06 Determination of an Incomplete Subdivision Ordinance Amendment Application.**

A. A determination of an Incomplete Subdivision Ordinance Amendment Application by the City Planner shall prohibit the City Planner from scheduling the required Commission public hearing and shall prohibit the Commission or Council from considering any information or material related to the proposed Amendment (see Figure 4).

B. Following a determination of an Incomplete Subdivision Ordinance Amendment Application by the City Planner, the City Planner shall notify the Applicant, in writing, of the information lacking from the Subdivision Ordinance Amendment Application. The City Planner shall allow a minimum of thirty (30) calendar days, from the date of notification of an Incomplete Subdivision Ordinance Amendment Application, for the Applicant to provide the required information. If the Subdivision Ordinance Amendment Application remains incomplete after a minimum of thirty (30) calendar days from date of notification, the City Planner shall return the entire Incomplete Subdivision Ordinance Amendment Application to the Applicant(s), including any Subdivision Ordinance Amendment Application Review fees paid.

#### **25.07.07 Appeal of a Determination of Application Completeness Decision by the City Planner.**

Any person aggrieved by a decision of the City Planner related to a Determination of Application Completeness may appeal the decision to the Commission, the Commission acting as the Appeal Authority for Determinations of Application Completeness decisions.

#### **25.07.08 Subdivision Ordinance Amendment Application Review Procedures.**

A. As provided by Section 25.07.02 the Council is designated as the Land Use Authority for all Subdivision Ordinance Amendment Applications.

B. The review and approval procedures for a Subdivision Ordinance Amendment Application is summarized in Figure 7 herein.

C. Staff Review Meeting. Prior to the Commission considering the Subdivision Ordinance Amendment Application at a public hearing (see Section 25.07.02) the City Staff shall review the Subdivision Ordinance Amendment Application for compliance to the requirements of this Ordinance and other Land Use Ordinances and requirements, as applicable. The results of the Staff Review Meeting, including all Staff review comments and recommendations shall be provided to the Commission and Council for consideration.

D. Staff Comments and Recommendations. All Staff Review comments and recommendations provided to the Commission and Council for consideration related to the Subdivision Ordinance Amendment Application shall also be provided to the Applicant(s), a minimum of three (3) business days, before the Subdivision Ordinance Amendment Application is considered by the Commission or Council, as applicable.<sup>8</sup>

E. Commission Public Hearing Required. As required by the Act, and prior to the Council considering the Subdivision Ordinance Amendment Application, the Commission shall conduct a public hearing, such hearing complying with all notice requirements for a public hearing to consider a Subdivision Ordinance Amendment Application, as required by Chapter 25.08 herein.

F. Commission Recommendation Required. Following the close of the Commission public hearing,

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<sup>8</sup> See also Chapter 25.08.

the Commission shall consider all information and materials received. As required by the Act, the Commission shall formulate and transmit a recommendation to the Council on the Subdivision Ordinance Amendment Application for consideration.

G. The Commission may recommend approval of the Subdivision Ordinance Amendment Application, as presented, recommend approval of the Subdivision Ordinance Amendment Application with requirements, or recommend denial of the Subdivision Ordinance Amendment Application, with findings.

H. Council Public Hearing Required. Prior to the Council considering the Subdivision Ordinance Amendment Application, the Council shall conduct a public hearing, such hearing complying with all notice requirements for a public hearing to consider a Subdivision Ordinance Amendment Application, as required by Chapter 25.08 herein.

I. Council Review. Following the close of the public hearing, the receipt of the Commission recommendation, the Council shall consider the Subdivision Ordinance Amendment Application. The Council shall consider a Subdivision Ordinance Amendment Application at a regularly scheduled Council meeting.

J. Council Decision. The Council may adopt or reject the Subdivision Ordinance Amendment Application as proposed or recommended by the Commission, or after making any revision(s) the Council considers appropriate, approve the Subdivision Ordinance Amendment Application with revisions, or deny the Subdivision Ordinance Amendment Application with findings. A decision by the Council to amend the Subdivision Ordinance shall be by the Council's passage of an Ordinance clearly identifying the Chapter(s) and Section(s) of the Subdivision Ordinance to be amended, the nature of the amendments, and the effective date of such amendments.

**25.07.09 Effect of Approval, with or without requirements, of a Subdivision Ordinance Amendment Application – Adopting Ordinance Required.**

A. The passage of an Ordinance by the Council, as required by Section 25.07.08, approving a Subdivision Ordinance Amendment Application, with or without revisions, shall not constitute approval of any Subdivision Application, or any other Land Use Application by the Council. A Subdivision Ordinance Amendment Application approval shall not authorize the division or development of land.

B. Passage of an Ordinance by the Council approving a Subdivision Ordinance Amendment Application, with or without revisions, shall amend the Subdivision Ordinance on the effective date, as provided by the adopting Ordinance.

**25.07.10 Appeal of Subdivision Ordinance Amendment Application Decisions.**

Any person aggrieved by a decision of the Council for a Subdivision Ordinance Amendment Application may appeal the decision to District Court, the Court acting as the Appeal Authority for Subdivision Ordinance Amendment Application decisions by the Council.

**Chapter 25.08 Noticing Requirements**

**25.08.01 Purpose.**

As required by the Act, the City shall provide notice of all public hearings and public meetings for adoption or modification of this Ordinance and when a Land Use Application required by this Ordinance is considered by the Commission, Council, or City Planner. The notice requirements for public hearings and public meetings, and required Applicant notice are provided by this Chapter.

**25.08.02 Notice required for Public Hearings and Public Meetings to consider the Adoption or any Modifications of this Ordinance and Notice of Final Action.**

A. Public Hearings. The City Planner for public hearings before the Commission, and the City Recorder for public hearings before the Council, shall provide notice of the public hearing to consider the adoption or any modification of this Ordinance as follows:

1. Notice of the date, time, and place of each public hearing, at least ten (10) calendar days before the public hearing, which notice shall be:
  - a. Mailed to each "affected entity" as defined herein and by Section 10-9a-103(1) of the Act; and
  - b. Posted in at least three (3) public locations within Brigham City, or posted on the official website of Brigham City; and
  - c. Published in a newspaper of general circulation within Brigham City.
2. Notify each Applicant of the date, time, and place of each public hearing, at least ten (10)

calendar days before the public hearing.<sup>9</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Subdivision Ordinance Amendment Application at least three (3) business days before the public hearing.<sup>10</sup>

B. Public Meetings. The City Planner for public meetings before the Commission, and the City Recorder for public meetings before the Council, shall provide notice of the public meeting to consider the adoption or any modification of this Ordinance as follows:

1. Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:

a. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City.

2. Notify each Applicant of the date, time, and place of each public meeting at least twenty-four (24) hours before the meeting.<sup>11</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Application at least three (3) business days before the meeting.<sup>12</sup>

C. Notice of Final Action. The City Recorder shall notify the Applicant of any final action taken by the Council for any Subdivision Ordinance Amendment Application related to the adoption or any modification of this Ordinance.

### **25.08.03 Notice Required for Public Hearings and Public Meetings to consider a Preliminary Subdivision Application and Notice of Final Action.**

A. Public Hearings. The City Planner for public hearings by the Commission shall provide notice of the public hearing to consider a Preliminary Subdivision Application as follows:

1. Notice of the date, time, and place of each public hearing, at least five (5) calendar days before the public hearing, which notice shall be:

a. mailed to each "affected entity" as defined herein and by Section 10-9a-103(1) of the Act; and

b. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City; and

c. mailed and addressed to the record owner of each land parcel located within three-hundred (300) feet of the boundary of the Subject Property; or

d. posting the Subject Property with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

2. Notify each Applicant of the date, time, and place of each public hearing, at least three (3) calendar days before the public hearing.<sup>13</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Preliminary Subdivision Application at least three (3) business days before the public hearing.<sup>14</sup>

B. Public Meetings. The City Planner for public meetings before the Commission and the City Recorder for public meetings before the Council, shall provide notice of the public meeting to consider a Preliminary Subdivision Application as follows:

1. Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:

a. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City.

2. Notify each Applicant of the date, time, and place of each public meeting at least twenty-four (24) hours before the meeting.<sup>15</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Preliminary Subdivision

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<sup>9</sup> If the City Planner or City Recorder fails to comply with the requirements of Section 25.08.02(1)(b) or (c) or both, an Applicant may waive the failure so that the Application may stay on the public hearing agenda and be considered as if the requirements had been met.

<sup>10</sup> See Footnote #8.

<sup>11</sup> See Footnote #8.

<sup>12</sup> See Footnote #8.

<sup>13</sup> See Footnote #8.

<sup>14</sup> See Footnote #8.

<sup>15</sup> See Footnote #8.



Application at least three (3) business days before the meeting.<sup>16</sup>

C. Notice of Final Action. The City Recorder for Preliminary Subdivision Applications proposing a total of ten (10) or more lots, or the City Planner for Preliminary Subdivision Applications proposing a total of nine (9) lots or less, shall notify the Applicant of any final action taken by the Council or City Planner, as applicable, for a Preliminary Subdivision Application.

**25.08.04 Notice required by the Act for Public Meetings to Consider a Final Subdivision Application and Notice of Final Action.**

A. Public Meetings. The City Planner or public meetings before the City Planner, and the City Recorder for public meetings before the Council, shall provide notice of the public meeting to consider a Final Subdivision Application as follows:

1. Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:

a. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City.

2. Notify each Applicant of the date, time, and place of each public meeting at least twenty-four (24) hours before the meeting.<sup>17</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Final Subdivision Application at least three (3) business days before the meeting.<sup>18</sup>

B. Notice of Final Action. The City Recorder for a Final Subdivision Application proposing a total of ten (10) or more lots, or the City Planner for a Final Subdivision Application proposing a total of nine (9) lots or less, shall notify the Applicant of any final action taken by the Council or City Planner, as applicable, for a Final Subdivision Application.

**25.08.05 Notice Required for Public Hearings and Public Meetings to Consider an Amendment to a Final Subdivision Plat and Notice of Final Action.**

A. Public Hearings. The City Planner for public hearings by the Commission shall provide notice of the public hearing to consider a Final Subdivision Plat Amendment Application as follows:

1. Notice of the date, time, and place of each public hearing, at least five (5) calendar days before the public hearing, which notice shall be:

a. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City; and

b. mailed and addressed to the record owner of each land parcel located within three-hundred (300) feet of the boundary of the Subject Property; or

c. posting the Subject Property with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

2. Notify each Applicant of the date, time, and place of each public hearing, at least three (3) calendar days before the public hearing.<sup>19</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Final Subdivision Plat Amendment Application at least three (3) business days before the public hearing.<sup>20</sup>

B. Public Meetings. The City Planner for public meetings before the Commission and the City Recorder for public meetings before the Council, shall provide notice of the public meeting to consider a Final Subdivision Plat Amendment Application as follows:

1. Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:

a. Posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City.

2. Notify each Applicant of the date, time, and place of each public meeting at least twenty-four (24) hours before the meeting.<sup>21</sup>

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<sup>16</sup> See Footnote #8.

<sup>17</sup> See Footnote #8.

<sup>18</sup> See Footnote #8.

<sup>19</sup> See Footnote #8.

<sup>20</sup> See Footnote #8.

<sup>21</sup> See Footnote #8.

3. Provide to each Applicant a copy of each Staff Report regarding the Final Subdivision Plat Amendment Application at least three (3) business days before the meeting.<sup>22</sup>

C. Notice of Final Action. The City Recorder shall notify the Applicant of any final action taken by the Council for any Final Subdivision Plat Amendment Application.

**25.08.06 Notice Required for Public Hearings and Public Meetings to Consider an Application to Vacate, Alter, or Amend a Public Street or Right-of-Way.**

A. Public Hearings. The City Recorder, for the public hearing by the Council shall provide notice of the public hearing to consider an Application to Vacate, Alter, or Amend a Public Street or Right-of-Way as follows:

1. Notice of the date, time, and place of each public hearing, at least five (5) calendar days before the public hearing, which notice shall be:

- a. mailed to each "affected entity" as defined herein and by Section 10-9a-103(1) of the Act; and
- b. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City; and
- c. mailed and addressed to the record owner of each land parcel located within three-hundred (300) feet of the boundary of the Subject Property; or
- d. posting the Subject Property with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

2. Publishing notice once a week for four (4) consecutive weeks before the hearing in a newspaper of general circulation in Brigham City.

3. Notify each Applicant of the date, time, and place of each public hearing, at least three (3) calendar days before the public hearing.<sup>23</sup>

4. Provide to each Applicant a copy of each Staff Report regarding the Application to Vacate, Alter, or Amend a Public Street or Right-of-Way at least three (3) business days before the public hearing.<sup>24</sup>

B. Public Meetings. The City Planner for public meetings before the Commission and the City Recorder for public meetings before the Council, shall provide notice of the public meeting to consider an Application to Vacate, Alter, or Amend a Public Street or Right-of-Way as follows:

1. Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:

- a. posted in at least three (3) public locations within Brigham City; or posted on the official website of Brigham City.

2. Notify each Applicant of the date, time, and place of each public meeting at least twenty-four (24) hours before the meeting.<sup>25</sup>

3. Provide to each Applicant a copy of each Staff Report regarding the Application to Vacate, Alter, or Amend a Public Street or Right-of-Way Plat at least three (3) business days before the meeting.<sup>26</sup>

C. Notice of Final Action. The City Recorder shall notify the Applicant of any final action taken by the Council for any Application to Vacate, Alter, or Amend a Public Street or Right-of-Way.

**25.08.07 Notice Challenge.**

If notice given under authority of this Chapter, and the authority of the Act, is not challenged, as provided by the Act, within thirty (30) calendar days after the hearing(s) or meeting(s), or action, for which notice is given, the notice is considered adequate and proper.

**25.08.08 Courtesy Notice.**

In addition to the public hearing and public meeting notice required by this Chapter, and in the interests of favoring public awareness and participation, the City may also provide courtesy notice, in addition to the mandatory public hearing notice required by this Chapter.

Courtesy notice given under authority of this Section shall not be a basis for a challenge of notice, as provided by the Act.

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<sup>22</sup> See Footnote #8.

<sup>23</sup> See Footnote #8.

<sup>24</sup> See Footnote #8.

<sup>25</sup> See Footnote #8.

<sup>26</sup> See Footnote #8.

## **Chapter 25.09 Appeals**

### **25.09.01 Purpose.**

As required by the Act, this Chapter is provided to allow the Applicant(s), a Board, or Officer of the City, or any other person who believes they are adversely affected by a decision of a Land Use Authority to appeal such decision to an Appeal Authority, as identified by this Chapter.

### **25.09.02 Appeal Authorities.**

As required by the Act, and to provide for appeals of decisions of a Land Use Authority administering or interpreting this Ordinance, the following Appeal Authorities, with their respective appeal responsibilities, are hereby identified as follows:

A. Any person aggrieved by a decision of the Council in enacting or administering this Ordinance may file a Petition with District Court, as provided by this Chapter.

B. Any person aggrieved by a decision of the City Planner in administering or interpreting this Ordinance may file an Appeal Application with the Council, except any person aggrieved by a decision of the City Planner related to a Determination of Application Completeness may appeal the decision to the Commission.

### **25.09.03 Maximum Time Allowed to File Appeal.**

A. Any person, including the Applicant(s) for any approval required by this Ordinance, and any board or officer of the City, aggrieved by a decision of a Land Use Authority's decision administering or interpreting this Ordinance may, within ten calendar (10) days of the decision, appeal such decision to the Appeal Authority identified by Section 25.09.02 herein, except as may be further provided for by Subsection (2) and (3) below.

B. Any person, including the Applicant(s) for any approval required by this Ordinance, and any board or officer of the City, aggrieved by a decision of the Council, acting as a Land Use Authority, may file a petition for the review of the Council's decision with the District Court within thirty (30) calendar days after the decision is final, as provided by Section 25.09.11 herein.

C. Any person, including the Applicant(s) for any approval required by this Ordinance, and any board or officer of the City, aggrieved by a decision of an Appeal Authority may file a petition for review of the decision with the District Court within thirty calendar (30) days after the decision is final, as provided by Section 25.09.11 herein.

### **25.09.04 Requirements for an Appeal Petition.**

A. An Appeal Petition of a Land Use Authority's decision made under the authority of this Chapter shall clearly identify the alleged error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of this Ordinance.

B. Only those decisions in which a Land Use Authority has applied the requirements of this Ordinance to a particular Application, person, lot, or parcel may be appealed to an Appeal Authority.

### **25.09.05 Condition Precedent to Judicial Review, Appeal Authority Duties.**

A. As required by the Act, and as a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a Land Use Authority's decision, in accordance with the requirements of this Chapter.

B. An Appeal Authority shall:

1. Act in a quasi-judicial manner; and

2. Serve as the final arbiter of issues involving the interpretation or application of this Ordinance; and

3. May not entertain an Appeal of a matter in which the Appeal Authority, or any participating member thereof, had first acted as the Land Use Authority.

C. As provided by the Act, an adversely affected party shall present every theory of relief to the Appeal Authority that it can raise in District Court.

D. As required by the Act, an Appeal Authority shall not require an adversely affected party to pursue duplicate or successive Appeals before it, or another Appeal Authority, as a condition of the adversely affected party's duty to exhaust administrative remedies.

**25.09.06 Application Required.**

An Appeal Petition or Application for an Appeal, of a Land Use Authority's decision shall be made on the Appeal Application Form, available in the Office of the City Recorder.

**25.09.07 Meetings, Records, and Action of an Appeal Authority.**

- A. Each Appeal Authority as identified by Section 25.09.02 herein shall:
  - 1. notify each of its members of any meeting or hearing;
  - 2. provide to each of its members the same information and access to City resources as any other member;
  - 3. convene only if a quorum of its members is present; and
  - 4. act only upon the vote of a majority of its convened members.
- B. The City Recorder, in consultation with the City Attorney, shall coordinate with the Appeal Authority to schedule the hearing of the Appeal. The City Planner and City Recorder shall coordinate and transmit to the Appeal Authority all information and materials constituting the full and complete record of the matter and the decision of the Land Use Authority.
- C. Following a written decision by the Appeal Authority, as required by Section 25.09.11 herein, the City Recorder shall provide the Applicant a copy of the written decision.
- D. A record of the final decision of the Appeal Authority shall be maintained in the Office of the City Recorder, which shall constitute the official record of the Appeal Authority.

**25.09.08 Due Process.**

- A. Each Appeal Authority shall conduct each appeal as provided herein, and specifically Section 25.09.07 and Section 25.09.10.
- B. Each Appeal Authority shall respect the due process rights of each of the participants.

**25.09.09 Burden of Proof.**

Any person bringing an Appeal and alleging an error of a Land Use Authority's decision administering or interpreting this Ordinance has the burden of proof that the Land Use Authority erred.

**25.09.10 Standard of Review for Appeals.**

- A. Each Appeal Authority identified by this Chapter shall hear and review all Appeal Application matters "on the record," including the review of all factual matters. Each Appeal Authority shall only consider that information and material presented and originally before the Land Use Authority in making the decision that is the subject of the Appeal.
- B. The Appeal Authority shall determine the correctness of a decision of the Land Use Authority in its interpretation and application of the Land Use Ordinances.
- C. Only those decisions in which a Land Use Authority has applied the requirements of this Ordinance to a particular Application, person, lot, or parcel may be appealed to an Appeal Authority.
- D. An Appeal Petition shall not be used to waive, modify, or amend any requirement, provision, or term of this Ordinance.

**25.09.11 Final Decision.**

A. A decision of an Appeal Authority shall take effect on the date when the Appeal Authority, as applicable, issues a written decision, which shall constitute a final decision by the City in the matter.

**25.09.12 District Court Review.**

- A. Required Time for Filing.
  - 1. No person may challenge in District Court a decision of a Land Use Authority until that person has exhausted all administrative remedies as provided by this Chapter and received a final decision from the Appeal Authority, as provided by Section 25.09.11 herein.
  - 2. Any person adversely affected by a final decision made in the exercise of, or in violation of, the provisions of this Ordinance may file a petition for review of the decision with the District Court within thirty (30) calendar days after the decision is final.
  - 3. A petition is barred unless it is filed within thirty (30) calendar days after the Appeal Authority's decision is final.
- B. Tolling of Time.
  - 1. The required time for filing for District Court review shall be tolled from the date the a person files a request for arbitration of a constitutional taking issue with the property rights ombudsman,

as provided by §63-34-13, Utah Code Annotated, 1953, as amended, until thirty (30) calendar days after:

- a. The arbitrator issues a final award; or
- b. the property rights ombudsman issues a written statement under §63-34-13(4)(b), Utah Code Annotated, 1953, as amended, declining to arbitrate or to appoint an arbitrator.

2. A tolling under this Section operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

3. A request for arbitration filed with the property rights ombudsman after the time allowed under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

C. Standards Governing Court Review.

1. The District Court shall:

- a. presume that a decision, ordinance, or regulation made under the authority of the Land Use Ordinance, and the Act, is valid; and
- b. determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.

2. A decision, ordinance, or regulation of the Council involving the exercise of legislative discretion is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

3. A decision of a Land Use Authority, or an Appeal Authority, involving the exercise of administrative discretion is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

4. A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.

5. The time requirements for the filing of a petition with District Court, as provided by this Chapter, apply from the date on which the Land Use Authority takes action on an Application for any adversely affected third party, if the Land Use Authority conformed with the notice provisions of this Ordinance, as applicable, or for any person who had actual notice of the pending decision.

6. If the City has complied with the notice requirements, as provided by Chapter 25.08 herein, a challenge to the enactment of this Ordinance may not be filed with the District Court more than thirty (30) calendar days after the enactment.

D. Appeal Authority – Review on the Record.

1. The Council, acting as a Land Use Authority, or Appeal Authority, as the case may be, shall transmit to District Court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

2. If the proceeding was tape-recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Section.

3. If there is a record, the District Court's review is limited to the record provided by the Land Use Authority, or Appeal Authority, as the case may be.

4. The court may not accept or consider any evidence outside the record of the Land Use Authority, or Appeal Authority, as the case may be, unless that evidence was offered to the Land Use Authority, or Appeal Authority, respectively, and the court determines that it was improperly excluded.

5. If there is no record, the Court may call witnesses and take evidence.

6. The filing of a petition does not stay the decision of the Land Use Authority, or Appeal Authority, as the case may be.

E. Staying of Decision.

1. Before filing a petition under this Chapter, or a request for mediation or arbitration of a constitutional taking issue under §63-34-13, Utah Code Annotated, 1953, as amended, the aggrieved party may petition the Appeal Authority to stay its decision.

2. Upon receipt of a petition to stay, the Appeal Authority may order its decision stayed pending District Court review if the Appeal Authority finds it to be in the best interest of the City.

3. After a petition is filed under this Chapter, or a request for mediation or arbitration of a constitutional taking issue is filed under §63-34-13, Utah Code Annotated, 1953, as amended, the petitioner may seek an injunction staying the Appeal Authority's decision.

## **Chapter 25.10 Special Exceptions**

### **25.10.01 Intent and Purpose.**

This Chapter is provided to allow the opportunity for a Applicant(s) to present for review and decision an Application for a modification to the Public Works Standards, if the Applicant(s) believes that

special circumstances exist that merit such modification (hereinafter “Special Exception”). It is the intent of this Ordinance that a decision related to a Special Exception Application be a discretionary action by the Council, acting as the Land Use Authority, A decision by the Council related to a Special Exception Application shall be accompanied by findings of fact, following the receipt of a Commission recommendation, such recommendation also being accompanied by findings of fact.

For the purposes of this Ordinance, the procedures and requirements for the consideration of a Special Exception are provided to promote the full consideration of all items related to the proposed Special Exception. The Commission shall identify and address all items applicable to a Special Exception Application prior to providing a recommendation to the Council.

The Council shall identify and address all items applicable to a Special Exception Application prior to approving, approving with requirements, or denying the Special Exception Application.

**25.10.02 Special Exception Application – Council Identified as Land Use Authority – Commission Recommendation Required.**

A. The Council is hereby identified as the Land Use Authority for a Special Exception Application.

B. Prior to the Council considering a Special Exception Application, the Commission shall transmit a recommendation to the Council. The review procedures for the consideration of a Special Exception Application by the Council are summarized by Figure 8, herein.

**25.10.03 Allowed Special Exceptions.**

The following Special Exceptions may be considered and decided by the Council, following the receipt of a Commission recommendation, as required by Section 25.10.01, herein:

A. Delayed installation of Road and Street Improvements to a time certain other than required by the Public Works Standards.

B. The installation of a “half-street” other than required by the Public Works Standards.

**25.10.04 Special Exception Applications – Application Requirements.**

All Special Exception Applications, filed in the Office of the City Planner, shall provide the following information, necessary for the City Planner to determine the Application complete, as required by Section 25.10.06, herein:

A. Application Form. A Special Exception Application Form, completed and signed by the owner(s) of the Subject Property, or authorized agent of the owner(s). If the Application Form is signed by an authorized agent of the owner(s), the Application Form shall be accompanied by an affidavit identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Special Exception Application. All persons with a fee interest in the Subject Property shall be required to join in and sign the Special Exception Application.

B. Special Exception Application Fees. The Special Exception Application shall include the payment of the all Special Exception Application fees and Review Fees, as established by the Council, and any total amount, or deposit amount, required to provide the services of the City Engineer, as provided and required by Section 25.10.05 herein.

C. Preliminary Subdivision Plat Materials. A Special Exception Application shall provide one (1) copy of all materials required for a complete Preliminary Subdivision Application, as required by Section 25.03.04 herein, except item 25.03.04(1) and 25.03.04(2).

D. Special Exception Statement of Justification and Reasons Statement of Reasons. A Special Exception Application shall include a Statement of Justification and Reasons, provided by the Applicant(s), detailing the basis for the proposed Special Exception for the Subject Property and identifying all circumstances and unique situations particular to the Subject Property that provide a basis, and warrant a favorable recommendation by the Commission for such Special Exception, and the approval of the Special Exception Application by the Council.

**25.10.05 Special Exception Application Engineering Review Fees.**

The Applicant(s) for a Special Exception Application approval shall pay all costs incurred by the City for the provision of City Engineering services, provided by a licensed engineer, selected by the City, and necessary to review the Special Exception Application materials for conformity to the requirements of this Ordinance, other applicable Land Use Ordinances and requirements, and accepted engineering practice.

**25.10.06 City Planner to Determine a Complete Special Exception Application.**

A. Within thirty (30) calendar days of the Special Exception Application being filed in the Office of the City Planner, and prior to the Special Exception Application being scheduled with the Commission (see Figure 8), the City Planner shall determine and find that the Special Exception Application is complete and contains all the information and material required for a complete Special Exception Application, as required by Section 25.10.04 herein (see Figure 4). As provided by the Act, the City Planner shall determine a Special Exception Application submitted and complete when the Application is provided in a form that complies with all the requirements of Section 25.10.04 herein, and all applicable Special Exception Application fees have been paid. The City Planner shall notify the Applicant, in writing, of the result of such determination. Following a Determination of a Complete Special Exception Application, the City Planner shall schedule the Special Exception Application for consideration with the Commission (see Figure 8) complying with all notice requirements for a public meeting to consider a Special Exception, as required by Chapter 25.08, herein.

B. A Special Exception Application lacking any of the Special Exception Application information and materials, as required by Section 25.10.04 herein, shall be cause for the City Planner to determine the Special Exception Application, as Incomplete. The requirements of Section 25.10.07 shall apply to all Special Exception Applications determined to be Incomplete (see Figure 4).

**25.10.07 Determination of an Incomplete Special Exception Application.**

A. A determination of an Incomplete Special Exception Application by the City Planner shall prohibit the City Planner from scheduling the Special Exception Application with the Commission and Council and shall prohibit the Commission or Council from considering any information or material related to the proposed Special Exception (see Figure 4).

B. Following a determination of an Incomplete Special Exception Application by the City Planner, the City Planner shall notify the Applicant, in writing, of the information lacking from the Special Exception Application. The City Planner shall allow a minimum of thirty (30) calendar days, from the date of notification of an Incomplete Special Exception Application, for the Applicant to provide the required information. If the Special Exception Application remains incomplete after a minimum of thirty (30) calendar days from date of notification, the City Planner shall return the entire Incomplete Special Exception Application to the Applicant(s), including any Special Exception Application Review fees paid (see Figure 4).

**25.10.08 Appeal of a Determination of Application Completeness Decision by the City Planner.**

Any person aggrieved by a decision of the City Planner related to a Determination of Application Completeness may appeal the decision to the Commission, the Commission acting as the Appeal Authority for Determinations of Application Completeness decisions.

**25.10.09 Special Exception Application Review Procedures.**

A. As provided by Section 25.10.02 the Council is the Land Use Authority for Special Exception Applications.

B. The review and approval procedure for a Special Exception Application is identified in Figure 8 herein.

C. The review and approval procedures for a Special Exception Application may be conducted concurrently with those required for a Preliminary Subdivision Application proposing a total of ten (10) or more lots, as identified by Section 25.03.09 herein.

**25.10.10 Special Exception Application – Approval Standards – Reasonable Approval Requirements Authorized.**

A. The Council shall not approve, and the Commission shall not recommend approval of a Special Exception Application, unless the evidence presented by the Applicant(s) clearly establishes the proposed Special Exception:

1. is an allowed Special Exception, as identified by Section 25.10.03 herein; and
2. will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
3. will not create any nuisance; and
4. sufficient evidence has been provided by the Applicant(s) to establish that circumstances exist on the Subject Property that provides a clear and reasonable basis for the approval of the Special Exception Application.

B. Reasonable Requirements. The Council may require, and the Commission may recommend, reasonable requirements determined necessary to insure the Special Exception will not be detrimental

to the health, safety, or welfare of City residents, and will not create a nuisance. For a Special Exception Application requesting Delayed Installation of Road and Street Improvements to a time certain other than required by the Public Works Standards the Council shall require such Road and Street Improvements be installed at a time certain, and require necessary guarantees sufficient to guarantee the installation of the required Road and Street Improvements, as required by the Council with the approval of the Special Exception Application.

**25.10.11 Effect of Approval, With or Without Requirements, of a Special Exception Application and Effective Period.**

The approval of a Special Exception Application, with or without requirements, by the Council shall not constitute a final approval of any subdivision or any other Land Use Application by the City. A Special Exception Application approval shall not authorize the division or development of the Subject Property, but allows the Applicant(s) to proceed with the preparation of the Final Subdivision Application for the Subject Property.

As provided by the Act, the continuing validity of a Special Exception Application is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance and this Section, the approval of a Special Exception Application shall be effective for a period of one (1) year from the date of approval by the Council, at the end of which time the Applicant(s) shall have submitted a Final Subdivision Application to the Office of the City Planner. If a Final Subdivision Application is not received in the Office of the City Planner within one (1) year, the Special Exception Application approval for the Subject Property shall be rendered void and invalid.

**25.10.12 Site Preparation Work Prohibited.**

No installation of improvements shall take place on any Subject Property, and no building permits shall be issued by the City, until a Final Subdivision Application has been approved and the Final Subdivision Plat has been recorded in the Office of the Box Elder County Recorder.

**25.10.13 Appeal of Special Exception Application Decisions.**

Any person aggrieved by a decision of the Council related to a Special Exception Application may appeal the decision to District Court, the Court acting as the Appeal Authority for Special Exception Application decisions by the Council. The Appeal Application shall be filed within thirty (30) calendar days after the action by the City Council.

**Chapter 25.11 Design and Construction Standards**

**25.11.01 Design and Construction Standards Applicable to all Subdivision Applications.**

A. The design and construction of all subdivisions shall be found by the Council and City Planner, acting as the Land Use Authority, as applicable, to preserve and protect the existing natural terrain, drainage, topsoil and trees of the Subject Property, as practicable.

B. The design and construction of all subdivisions located within the City shall recognize any hazardous or potentially hazardous conditions, including, but not limited to, landslides, mud and debris flows, rock falls, avalanches, areas of existing and potential ground subsidence, areas of high ground water, flood plains, drainage ways, and areas subject to fire dangers existing on the Subject Property. No Preliminary or Final Subdivision Application shall be approved by the Land Use Authority, with responsibility for the Subdivision Application, until such hazard(s) have been removed, or the design and layout of the proposed subdivision eliminates, or minimizes, any hazardous or potentially hazardous conditions to the extent determined necessary by the Land Use Authority.

C. The installation and construction of all required subdivision improvements, facilities, services, and amenities shall comply with all standards and requirements, as applicable, and as provided and required by the Public Works Standards.

**25.11.02 Design and Configuration of Lots and Parcels.**

A. No subdivision lot or parcel shall be divided by any municipal or County boundary line, or by any road, street, alley, or other lot.

B. No wedge-shaped or pie-shaped lot or parcel shall be less than thirty (30) feet in width measured at the front property line.

C. All side lot lines shall be located to be generally at right angles or radial to road and street rights-



of-way lines.

D. All subdivision lots and parcels shall front on a public road or street, or on a private street, court, or private driveway with direct access to a public road or street, and as approved by the Land Use Authority, with responsibility for the Subdivision Application.

#### **25.11.03 Street Design Requirements.**

A. Streets to Conform to Official Maps. The proposed subdivision road and street layout shall conform to all Brigham City Official Maps, including the Brigham City Transportation Plan, as adopted.

B. Through Traffic. All Minor Streets located within a subdivision shall be located and designed to discourage through traffic.

C. Stub Streets. Necessary stub streets shall be provided where required by the Land Use Authority to connect to adjacent undeveloped land and new streets shall connect to existing stub streets located in adjacent subdivision areas. If the length of the stub street is greater than \_\_\_\_\_feet from the centerline of the connecting street, the stub street shall provide the required turn around radius as a cul-de-sac street.

D. Road and Street Right-of-Way Widths. All roads and streets shall comply and provide the minimum road and street right-of-way widths as required by the Public Works Standards.

E. Road and Street Pavement Widths. All roads and streets shall comply and provide the minimum road and street pavement widths as required by the Public Works Standards.

F. Road and Street Shoulders. Road and street shoulders, a minimum width of ten (10) feet, shall be provided on all roads and streets where no curbs are provided.

G. Half-Streets. Half-streets shall not be permitted within any subdivision, unless approved as a Special Exception, as provided herein..

H. Cul-de-sac Streets. Cul-de-sac streets serving no more than twenty (20) lots, or parcels, and not exceeding more than six hundred fifty (650) feet in length, measured from the radius point of the cul-de-sac to the centerline of the connecting road or street, may be approved by the Land Use Authority provided the cul-de-sac provides a minimum turn around radius of fifty (50) feet, and the outside curb or pavement edge radius shall be a minimum of forty (40) feet. Cul-de-sac streets intended to be temporary shall comply with the above requirements.

I. Maximum Number of Roads and Streets at an Intersection. No more than four (4) roads and streets shall enter an intersection.

J. Angle of Road and Street Intersections. Roads and streets shall intersect at ninety (90) degrees.

K. Centerlines of Intersecting Roads and Streets. Two (2) subordinate roads or streets, meeting a through street from opposite sides, shall meet at the same point, or their centerlines shall be offset a minimum of two hundred (200) feet.

#### **25.11.04 Street Naming.**

All proposed subdivision roads and streets shall have the same road and street coordinate reference and name as existing roads and streets that are in alignment. There shall be no duplication of any road or street coordinate reference or names. All road and street names shall be approved by the Land Use Authority, responsible for the Subdivision Application approval.

#### **25.11.05 Road and Street Curvature and Alignment Requirements.**

A. Horizontal Curves. To provide necessary sight distances, when a road or street right-of-way deflects more than five (5) degrees, connection shall be made by horizontal curves. The minimum center-lines radii for Minor Streets shall be one hundred fifty (150) feet and of all other roads and streets shall be three hundred (300) feet. For Collector and Major Streets a minimum tangent of one hundred (100) feet shall be required between a curve and street intersection; a minimum tangent of one hundred (100) feet shall be required between reverse curves. All horizontal alignments shall be limited to maximum of thirteen and half (13½) degree curve.

B. Vertical Curves. Vertical curves shall be used at all changes of grades exceeding one (1) percent and shall be designed to provide minimum sight distances of two hundred (200) feet for Minor Streets and three hundred (300) feet for all other streets, except that vertical curves for Major Streets shall be as determined by the current specifications of the American Association of State Highway Transportation Officials.

C. All changes in vertical alignment shall be made by vertical curves with a minimum length of two hundred (200) feet for minor streets and three hundred (300) feet for major streets.

**25.11.06 Frontage on Freeways or Major Highways.**

Where a subdivision abuts a Freeway or Highway, a frontage road may be required by the Land Use Authority, responsible for the Subdivision Application approval.

**25.11.07 Minimum Roadbed and Paving.**

The minimum roadbed grading and paving for Minor, Collector and Major Streets, Local Access Roads, Collectors and Arterials shall be provided as required by the Public Works Standards, as adopted.

**25.11.08 Maximum Cul-De-Sac Length.**

All cul-de-sacs shall be limited to a maximum length of six hundred fifty (650) feet, measured from the radius point of the cul-de-sac to the centerline of the connecting road or street, and shall provide adequate easements for drainage, as required by the City Engineer.

**25.11.09 Maximum Road and Street Grade.**

All subdivision roads and streets shall comply with the maximum grades as follows:

A. Major and Collector Roads and Streets. A maximum grade of twelve percent (12%). Sustained grades in excess of one thousand (1,000) feet shall not exceed a maximum of ten percent (10%).

B. Minor Roads or Streets. A maximum grade of ten percent (10%). Sustained grades in excess of one thousand (1,000) feet shall be limited to a maximum of seven percent (7%).

C. Cul-De-Sacs. Any negative grade progressing toward the turnaround shall be limited to a maximum grade of six percent (6%). All cul-de-sacs shall terminate with a grade not to exceed three percent (3%) for the last one hundred (100) feet of travel surface.

D. Intersections. The maximum grade of an intersection shall not exceed three percent (3%) for a minimum distance of fifty (50) feet each way from the centerline of the intersection.

E. Maximum grades. Approved only when accompanied by changes to a lesser grade, and where length of that portion of that road at maximum grade is less than six hundred feet (600').

**25.11.10 Sidewalks, Curbs, and Gutters Required.**

All subdivisions shall provide sidewalks, curbs, and gutters, meeting the requirements of the Public Works Standards, on both sides of all public streets.

**25.11.11 Traffic Control Devices.**

All proposed traffic control devices shall conform to the standards of the Manual of Uniform Traffic Control Devices (MUTCD).

**25.11.12 Pedestrian Cross-Walks.**

Where blocks exceed one thousand (1,000) feet in length, pedestrian rights-of-way not less than ten (10) feet wide may be required when determined necessary by the Land Use Authority for adequate pedestrian circulation. Cross walk improvements (paving) not less than five (5) feet wide shall be placed within the rights-of-way, as required by the Land Use Authority.

**25.11.13 Lot Size Standards.**

All lots and parcels shall meet the minimum area requirements, or maximum density requirements of the Zoning District in which the Subject Property is located.

**25.11.14 Easement Standards.**

All required subdivision utility easements shall follow the rear and side lot lines, where practical, and shall be a minimum total width of twenty (20) feet, apportioned equally between the adjoining lots, parcels, or property.

A. When front property line easements are required, a minimum of ten (10) feet shall be provided. If required, easements for the perimeter of the Subject Property shall not be less than twenty (20) feet in width.

B. All required subdivision easements shall be located and designed to provide efficient installation and maintenance of all utilities and subdivision features. Special guying easements at corners may be required. Public utility installations shall be so located to permit multiple installations within all easements. The subdivision's final grades shall be established prior to any public utility installations.

**25.11.15 All Utilities to Be Underground.**

All power lines, telephone lines and other utility lines shall be provided underground, unless otherwise approved by the Land Use Authority, supported by the recommendation of the City utility and engineering staff.

**25.11.16 Alleys.**

The Land Use Authority may approve service accesses to the interior of blocks. The location and dimensions of such service accesses (alleys) shall be identified on the Final Subdivision Plat.

**25.11.17 Required Infrastructure and Services.**

A. **Culinary Water System and Facilities.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, shall require that the subdivision, as approved, provide all culinary water system and all culinary water facilities necessary to provide culinary water services to all lots and parcels, as required by the Public Works Director, acting as the City's Culinary Water Authority, and the Land Use Authority, responsible for Subdivision Application approval.

B. **Sanitary Sewer System and Facilities.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, shall require that the subdivision, as approved, provide all sanitary sewer system and all sanitary sewer facilities necessary to provide sanitary sewer services to all lots and parcels, as required by the Public Works Director, acting as the City's Sanitary Sewer Authority, and the Land Use Authority, responsible for Subdivision Application approval.

C. **Subdivision Roads and Streets.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, shall require that the subdivision, as approved, provide all roads and streets, and all transportation system facilities necessary to provide transportation and circulation facilities to all lots and parcels, as required by the City Engineer and City Planner, and the Land Use Authority, responsible for Subdivision Application approval.

E. **Storm Drainage and Flood Control Facilities.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, shall require that the subdivision, as approved, provide all storm drainage and flood control facilities necessary to provide storm drainage and flood control facilities to all lots and parcels, as required by the City Engineer, and the Land Use Authority, responsible for Subdivision Application approval.

F. **Fire Protection, Suppression, and Access Facilities.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, shall require that the subdivision, as approved, provide all fire protection, fire suppression, and access facilities necessary to provide fire protection, fire suppression, and access facilities to all lots and parcels, as required by the City Fire Marshal, and the Land Use Authority, responsible for Subdivision Application approval.

G. **Secondary Water System and Facilities.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, may be required to provide all secondary water system and all secondary water facilities necessary to provide secondary water services to all lots and parcels, as required by the City Engineer, and the Land Use Authority, responsible for Subdivision Application approval.

H. **Electrical Power System and Facilities.** All Preliminary Subdivision Application approvals, and all Final Subdivision Application approvals, shall require that the subdivision, as approved, provide all electrical power system and all electrical power facilities necessary to provide electrical power services to all lots and parcels, as required by the Director of Public Power, and the Land Use Authority, responsible for Subdivision Application approval.

I. **Fiber Optics.** All Preliminary Subdivision Application approvals and all Final Subdivision Application approvals shall require that the subdivision, as approved, provide all necessary infrastructure to support the installation of fiber optic materials and equipment, as required by the Director of Public Power.

**Chapter 25.12 Guarantees for Subdivision Improvements, Facilities, and Amenities**

**25.12.01 Necessary Guarantees.**

As part of the Final Subdivision Application approval, and recording of the Final Subdivision Plat in the Office of the Box Elder County Recorder's Office, the Land Use Authority shall require the necessary guarantees and securities sufficient to insure the installation and construction of all required subdivision improvements, facilities, services and amenities, as applicable, and as provided and required by the Public Works Standards, as adopted.

An Applicant(s) for Final Subdivision Approval shall guarantee the installation of all required subdivision improvements, facilities, services, and amenities, as applicable, by one (1) of the following

methods:

A. The Applicant(s) shall furnish and file with the City Recorder a bond with corporate surety in an amount equal to the cost of the required subdivision improvements, as estimated by the Engineer of Record and as approved by the City Engineer, plus an additional ten percent (10%), to assure the installation of such subdivision improvements, facilities, services, and amenities within a two (2) year period, which bond shall be approved by the City Attorney and shall be filed with the City Recorder.

B. The Applicant(s) shall deposit in escrow with an escrow holder approved by the City Attorney an amount of money equal to the cost of the subdivision improvements, as estimated by the Engineer of Record and approved by the City Engineer, plus an additional ten percent (10%), to assure the installation of such subdivision improvements within a two (2) year period from the approval of the Final Subdivision Application, which escrow agreement shall be approved by the City Attorney and shall be filed with the City Recorder.

C. The Applicant(s) shall furnish and file with the City Recorder a letter of credit in an amount equal to the cost of the subdivision improvements, estimated by the Engineer of Record and approved by the City Engineer, plus an additional ten percent (10%), to assure the installation of such subdivision improvements within a two (2) year period immediately following the approval of the Final Subdivision Application, which letter of credit shall be approved by the City Attorney and shall be filed with the City Recorder.

D. Phased Development. Whenever a subdivision is developed a portion at a time, such development shall be in an orderly manner and in such a way that the required subdivision improvements will be continuous and all required subdivision improvements will be made available for the full protection of the health, welfare, and safety of all residents of the subdivision, and the City.

#### **25.12.02 Inspection of Subdivision Improvements.**

The City Engineer shall inspect, or cause to be inspected, all required subdivision improvements in the course of construction, installation, or repair. No excavations for the installation of any subdivision improvements shall be covered or backfilled until such installation shall have been approved by the City Engineer. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the Applicant(s) by the City Engineer.

#### **25.12.03 Conditional/Final Acceptance of Subdivision Improvements – Guarantee Period.**

The Applicant(s) shall warrant and guarantee the subdivision improvements provided for herein and every part thereof, will remain in good condition for a minimum period of two (2) years, after the City has granted conditional acceptance of the subdivision improvements in writing. The Applicant(s) agrees to make all repairs to and maintain the subdivision improvements and every part thereof in good working condition during the guarantee period with no cost to the City. At the conclusion of the two (2) year guarantee period, the improvements shall be inspected and if found to be satisfactory, the City will grant a final acceptance of all improvements and record a release of financial guarantee to the Applicant(s).

#### **25.12.04 Default.**

In the event the Applicant(s) defaults, or fails or neglects to satisfactorily install the required subdivision improvements within two (2) years from the date of Final Subdivision Application approval, the Council may declare the guarantee to be in default, and may require the installation of all required subdivision improvements using the guarantee amounts for such installation of subdivision improvements.

### **Chapter 25.13 Definitions**

**Act.** Means Title 10 Chapter 9a of the Utah Code Annotated, as amended.

**Affected Entity.** Means a County, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

- A. the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- B. the entity has filed with the municipality a copy of the entity's general or long-range plan; or
- C. the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

**Agent.** Means the person with written authorization to represent a property owner.

**Appeal Authority.** Means the person, board, commission, agency, or other body designated by this

Ordinance to decide an appeal of a decision of a Land Use Application.

**Applicant.** Means any person(s) presenting an Application for an approval required by this Ordinance.

**Application.** Means a written request for an approval and completed in a manner prescribed by this Ordinance for review and decision by a Land Use Authority.

**Chief Executive Officer.** Means the:

- A. Mayor in municipalities operating under all forms of municipal government except the Council-Manager form; or
- B. City Manager in municipalities operating under the Council-Manager form of municipal government.

For the purposes of this Ordinance, the Brigham City Mayor is identified as the Brigham City Chief Executive Officer.

**City Attorney.** Means an attorney admitted to practice law in the State of Utah and so appointed by the City.

**City Engineer.** Means a registered Civil Engineer so appointed by the City, or designee.

**City Planner.** Means the person so appointed by the City, or designee.

**City Recorder.** Means the person so appointed by the City.

**Code.** Means the Utah Code Annotated, 1953, as amended

**Commission.** Means the Planning Commission of Brigham City, Utah.

**Constitutional Taking.** Means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

- A. Fifth or Fourteenth Amendment of the Constitution of the United States; or
- B. Utah Constitution Article I, Section 22.

**Council.** Means the duly elected City Council of Brigham City, Utah.

**Cul-de-sac.** Cul-de-sac streets serving no more than twenty (20) lots, or parcels, and not exceeding more than six hundred fifty (650) feet in length, measured from the radius point of the cul-de-sac to the centerline of the connecting road or street and provides a minimum turn around radius of fifty (50) feet, and the outside curb or pavement edge radius shall be a minimum of forty (40) feet. Cul-de-sac streets intended to be temporary shall comply with the above requirements.

**Culinary Water Authority.** Means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property. For the purposes of this Ordinance, the Brigham City Public Works Director is identified as the Brigham City Culinary Water Authority.

**Dedication.** Means the setting aside of land by an owner for any public use for the enjoyment of the public and owned by a public agency.

**Easement.** Means that portion of a lot, parcel, or tract reserved for present or future use by a person or agency other than the fee owner(s) of the property. The easement may be for use under, on, or above said lot or land parcel.

**Exaction.** Means a requirement or condition imposed on a Subdivision Application if:

- A. an essential link exists between a legitimate governmental interest and each exaction; and
- B. each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

**General Plan.** Means the Brigham City General Plan, such document setting forth general guidelines for proposed future development of the land within Brigham City.

**Land Use Application.** Means an application required by a municipality's land use ordinance. For the purposes of this Ordinance, a Sketch Plan Application, a Preliminary Subdivision Application, and Final Subdivision Application are determined to be Land Use Applications.

**Land Use Authority.** Means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application. For the purposes of this Ordinance, the City Planner and Council are both identified as a Land Use Authority, being designated as such by the passage of this Ordinance by the Brigham City Council.

**Land Use Ordinance.** Means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan. This Ordinance is a Land Use Ordinance of Brigham City, Utah.

**Land Use Permit.** Means a permit issued by a Land Use Authority. For the purposes of this Ordinance, a Preliminary Subdivision Application approval and a Final Subdivision Application approval are identified as a Land Use Permit.

**Legislative Body.** Means the duly elected City Council of Brigham City, Utah.

**Lot Line Adjustment.** Means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

**Mayor.** Means the duly elected Mayor of Brigham City, Utah.

**Monument.** A permanent survey marker established by the Box Elder County Surveyor and/or a survey marker set in accordance with the City Engineer's specifications and referenced to Box Elder County survey monuments.

**Noncomplying Structure.** Means a structure that:

- A. legally existed before its current land use designation; and
- B. because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

**Nonconforming Use.** Means a use of land that:

- A. legally existed before its current land use designation;
- B. has been maintained continuously since the time the land use ordinance governing the land changed; and
- C. because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

**Official Map.** Means a map drawn by municipal authorities and recorded in a County recorder's office that:

- A. shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- B. provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- C. has been adopted as an element of the municipality's general plan.

**Owner.** Means any person who alone, jointly or severally with others, has a legal or equitable title to property.

**Person.** Means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

**Plat.** Means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, Section 17-23-17, or Section 57-8-13 of the Utah Code.

**Public Hearing.** Means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

**Public Meeting.** Means a meeting that is required to be open to the public under Title 52, Chapter 4, Utah Open and Public Meetings Act.

**Public Works Director.** Means the person so appointed by the City.

**Public Works Standards.** Means the Brigham City Public Works Standards, as adopted.

**Record of Survey Map.** Means a map of a survey of land prepared in accordance with Section 17-23-17 of the Utah Code.

**Right-of-Way.** Means any area provided for conveying vehicle and pedestrian traffic.

**Sanitary Sewer Authority.** Means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems. For the purposes of this Ordinance, the Brigham City Public Works Director is identified as the Brigham City Sanitary Sewer Authority.

**Special District.** Means an entity established under the authority of Title 17A, Special Districts, of the Utah Code, and any other governmental or quasi-governmental entity that is not a County, municipality, school district, or unit of the state.

**Special Exception.** An adjustment to a subdivision development standard and authorized as an adjustment to the requirements of this Ordinance, such adjustment requiring careful review.

**Specified Public Utility.** Means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1 of the Utah Code Annotated, as amended.

**Stub Street.** Means a stub at the end of a street to connect to adjacent undeveloped land for future new streets or shall connect to existing stub streets located in adjacent subdivision areas.

**Street.** Means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

**Subdivision.** Means "subdivision" as defined by Section 25.01.05 herein, and the Act. Subdivision does not include any action, as identified and defined by Section 25.01.06 herein, and the Act.

**Subject Property.** Means the land area, identified by the Parcel Identification Number, provided by the Box Elder County Recorder's Office or Box Elder County Assessor's Office, for which an approval is required to comply with this Ordinance or the Act.

**Unincorporated.** Means the area outside of the incorporated area of a City or town.

**Zoning Map.** Means a map, adopted as part of a land use ordinance that depicts land use zones, overlays, or districts of Brigham City.

**Chapter 25.01. Subdivisions:**

**25.01.010. Scope of Ordinance:**

~~\_\_\_\_\_ A. No person shall subdivide any tract of land which is located wholly or in part in Brigham City, Utah except in compliance with this section. No person shall sell or exchange or offer to sell or exchange any parcel of land which is any part of a subdivision of a larger tract of land, nor offer for recording in the office of the County Recorder any deed conveying such parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this section; provided that this section shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this section except as provided in B below.~~

~~\_\_\_\_\_ B. No lot within a subdivision created and recorded prior to the effective date of this section or approved by the Planning Commission and City Council and recorded in the County Recorder's office under the provisions of this section, shall be further divided, rearranged, added to or reduced in area, nor shall the boundaries of any lot be altered in any manner so as to create more lots than initially recorded, or any nonconforming lot, without first obtaining the approval of the Planning Commission except as provided in C below:~~

~~\_\_\_\_\_ C. The Planning Commission may authorize the Zoning Administrator to approve lot alterations of a subdivision subject to such limitations or qualifications as are deemed necessary by the Planning Commission.<sup>27</sup>~~

**25.01.020. Variances:**

~~\_\_\_\_\_ A. Should the subdivider clearly demonstrate that, because of peculiar physical conditions pertaining to his land and not to other lands in the general area, the literal enforcement of one or more of the regulations of this section is impractical or will exact undue hardship, and where a subdivision would otherwise be permitted, the governing body, after favorable recommendation of the Planning Commission, may permit such variance or variances as may be reasonable and within the general purpose and intent of this section:~~

~~\_\_\_\_\_ B. Variances may be granted by the governing body, after recommendation by the Planning Commission, as provided herein for Planned Unit Developments:~~

**25.01.030. Exemptions:**

~~\_\_\_\_\_ Any land divided for any purpose into two (2)<sup>28</sup> or more parts after the passage of this section shall be subject to the provisions and regulations herein, except the following, which are exempt therefrom:~~

~~\_\_\_\_\_ A. Land divided into parts the smallest of which is one hundred sixty (160) acres in area, or larger:~~

~~\_\_\_\_\_ B. Land divisions which are bona fide divisions or partitions of agricultural land for agricultural purposes, as defined herein:~~

**Chapter 25.02. Intent and Purpose:**

**25.02.010. Intent and Purpose:**

~~\_\_\_\_\_ The purpose of these regulations, and the intent of the local jurisdiction in their adoption is as follows:~~

~~\_\_\_\_\_ A. To provide policies, standards, requirements, and procedures to regulate and control the design and improvement of all subdivisions:~~

~~\_\_\_\_\_ B. To assist in implementing the objectives, policies, and programs of the Master Plan by ensuring that all proposed subdivisions, together with provisions for their design and improvement, are consistent with the Master Plan and all applicable specific plans:~~

~~\_\_\_\_\_ C. To preserve and protect, to the maximum extent possible, unique and valuable natural resources and amenities, including topographic and geologic features, beaches and natural water courses, fish and wildlife habitats, historical and cultural places, and scenic vistas and attractions; and to improve the public's access to and enjoyment of such resources and amenities through the dedication or continuance of appropriate public easements thereto:~~

~~\_\_\_\_\_ D. To preserve and protect the special environmental quality and aesthetic character of all hillside and mountainous areas; to prevent detrimental impacts on the soil mantle, vegetative cover, and other~~

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<sup>27</sup> Ordinance No. 03-28, dated 5/15/03.

<sup>28</sup> Ordinance No. 99-24, dated 9/9/99

environmental factors; to reduce the hazards to life and property from fire, flood, erosion, sedimentation and soil slippage; and to relate the amount of grading within a subdivision to the slope of the natural terrain.

~~\_\_\_\_\_ E. To encourage the clustering of housing developments where subdivisions are permitted in hillside and mountainous areas, in order to minimize grading, preserve the natural terrain, and enlarge the open space:~~

~~\_\_\_\_\_ F. To relate land use intensity and population density to existing developments, street capacity and traffic access, the slope of the natural terrain, the availability and capacity of public facilities and utilities, and open spaces:~~

~~\_\_\_\_\_ G. To provide lots of sufficient size and appropriate design for the purposes for which they are to be used:~~

~~\_\_\_\_\_ H. To provide streets of adequate capacity and design for the traffic that will utilize them, and to ensure maximum safety for pedestrians and users of vehicles.~~

~~\_\_\_\_\_ I. To ensure adequate access to each building site.~~

~~\_\_\_\_\_ J. To provide sidewalks, pedestrian-ways, and equestrian and hiking trails for the safety, convenience, and enjoyment of residents of new developments:~~

~~\_\_\_\_\_ K. To provide adequate systems of water supply, sanitary sewage disposal, storm drainage, street lighting, and other utilities need for public health, safety, and convenience.~~

~~\_\_\_\_\_ L. To provide adequate sites for public facilities needed to serve residents of new developments:~~

~~\_\_\_\_\_ M. To ensure that the costs of providing land for streets, alleys, pedestrian-ways, easements, and other rights-of-way and for the improvements therein needed to serve new developments are borne by the subdivider(s):~~

~~\_\_\_\_\_ N. To prevent land which is actually or potentially dangerous by reason of flood hazard, inundation, inadequate access, inadequate water supply or fire protection, insufficient sewage facilities, or hazardous geological conditions from being subdivided for any use or in any manner tending to create an increased detriment to the public health, safety, or welfare:~~

~~\_\_\_\_\_ O. To ensure that, insofar as possible, land is subdivided in a manner that will promote the public health, safety, convenience, and general welfare and the physical, social and economic development of the area in conformance with the Master Plan.~~

## **Chapter 25.03. Definitions.**

### **25.03.010. Definitions.**

~~\_\_\_\_\_ Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the words "used" or "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used or occupied; the word "shall" is mandatory and not directory, and the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the word "lot" includes the words plot, or parcel.~~

~~Alley. A public access-way less than twenty-six (26) feet wide, which is designed to give secondary access to lots or abutting properties; an alley shall not be considered a street, for the purposes of this section.~~

~~Average percent of Slope. An expression of rise or fall in elevation along a line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a parcel or lot. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is a one hundred (100) percent slope.~~

~~Building Official. Building official is the official, or his duly authorized deputy, charged with the administration and enforcement of this section.~~

~~Block. The land surrounded by streets or other rights-of-way, other than an alley, or land which is designated as a block on any recorded subdivision plat.~~

~~Condominium. The ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property.~~

~~Crosswalk or Walkway. A right-of-way dedicated to public use, to facilitate pedestrian access through a subdivision block.~~

~~Conservation Standards. Guidelines and specifications for soil and water conservation practices and management, enumerated in the Technical Guide prepared by the USDA Soil Conservation Service, adopted by the Soil and Water Conservation District supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the land-owner selects that alternative which best~~



~~meets his needs in developing his soil and water conservation plan.~~

~~**Design, Subdivision.** Street alignment, grades, and width; width and alignment of easements and rights-of-way for drainage, water system, and sanitary sewers; and minimum lot area, width, and depth. Design shall also include:~~

- ~~\_\_\_\_\_ A. The alignment, grade and width of easements and rights-of-way for utilities;~~
- ~~\_\_\_\_\_ B. The grading and general layout of lots and streets within the area;~~
- ~~\_\_\_\_\_ C. Location of land to be dedicated for park and recreational purposes; and;~~
- ~~\_\_\_\_\_ D. Such specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to insure conformity to or implementation of applicable general or specific plans.~~

~~**Division of Agricultural Land for Agricultural Purposes.** A bona fide division or partition of agricultural land for agricultural purposes shall mean, for purposes of this section, the division of a parcel of land into two (2)<sup>29</sup> or more parcels which meet all the following conditions:~~

~~\_\_\_\_\_ A. None of the parcels created is smaller than five (5) acres in area for irrigated land and one hundred sixty (160) acres for unirrigated land;~~

~~\_\_\_\_\_ B. The purpose of the division shall be to use each of the lots for agriculture, not for investment, building development, recreational use, cabin or other housing use, livestock feed yard, or other agricultural industry or business.~~

~~\_\_\_\_\_ C. Each of the parcels created has access to a public street or highway or to a private street approved by the Planning Commission and the governing body.~~

~~\_\_\_\_\_ D. Each of the parcels created shall be capable, in the opinion of the Planning Commission and of the governing body, of producing an income from the sale of agricultural products sufficient to justify its existence as a separate agricultural lot entity. Among the factors used in making a decision as to whether a division of land is or is not bona fide division or partition of agricultural land for agricultural purposes, the Planning Commission and the governing body may consider the availability of water for irrigation or stock-watering purposes; the class of the soil and depth of the soil mantle; the slope of the land, and past history of agricultural production.~~

~~**Driveway.** A private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the roadway is located.~~

~~**Dwelling.** Any building or portion thereof designed or used exclusively as the more or less permanent residence or sleeping place of one or more persons or families, but not including a recreational coach, tent, camper, travel trailer, mobile home, hotel, motel, hospital, or nursing home.~~

~~**Easement.** That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner(s) of said property(ies). The easement may be for use under, on, or above said lot or lots.~~

~~**Essential Facilities.** Utilities, sanitary and public safety facilities provided by a public utility or other governmental agency for overhead or surface or underground services, excluding any building, electrical substation or transmission line of fifty (5) KV or greater capacity, except by conditional use permit.~~

~~**Final Plat.** A subdivision map prepared in accordance with the provisions of this section, which is designed to be placed on record in the office of the County Recorder.~~

~~**Fire Protection.** Such water supply, water lines, fire hydrants and other protective devices as may be required in accordance with the provisions of this section.~~

~~**Flood Hazard.** A hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses.~~

~~**Frontage.** All property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts or that common line between a lot and a public street.~~

~~**General Plan (or Master Plan).** A long range generalized plan adopted by the Governing Body for the local jurisdiction.~~

~~**Geological Hazard.** A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvements, due to the movements, failure, or shifting of the earth.~~

~~**Governing Body.** The City Council of Brigham City, Utah.~~

~~**Improvement.** Work, objects, devices, facilities, or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, street construction to require standards, water systems, sewer systems, sidewalks, curbs and gutters, drainage facilities, street trees, street signs,~~

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<sup>29</sup> Ordinance No. 99-24, 9/9/99

~~street lights, traffic control or safety devices, fire hydrants, and such other facilities or construction as are required by the subdivision title or by the Planning Commission and/or Governing Body for the necessary proper development of the proposed subdivision.~~

~~Inundation.~~ Pondered water in motion of sufficient depth to damage property, due to the presence of the water or to the deposit of silt.

~~Lateral Sewer.~~ A sewer which discharges into another sewer and has only building sewers tributary to it.

~~Local Attorney.~~ The attorney employed by or officially representing the Local Jurisdiction.

~~Local Building Inspector.~~ The building inspector employed by or officially representing the Local Jurisdiction.

~~Local Jurisdiction.~~ Brigham City, Utah.

~~Local Planner.~~ The planner employed by or officially representing the Local Jurisdiction.

~~Local Surveyor.~~ The surveyor employed by or officially representing the Local Jurisdiction.

~~Lot.~~ The unit into which land is divided on a subdivision plat or deed, with the intention of offering such unit for sale, lease or separate use, either as an undeveloped or developed site, immediate or future, regardless of how it is conveyed. Lot shall also mean parcel, plat, site, or any similar term.

~~Lot, Corner.~~ A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

~~Lot, Restricted.~~ A lot which has an average slope of twenty-five (25%) percent or more over a major portion of its area, or (2) which does not have a building area of at least seventy-five (75) feet by one hundred (100) feet on a buildable portion of the lot with an average slope of less than twenty-five (25%), or (3) which has been identified as having potential geologic or other environmental hazards or constraints which require further investigation prior to the issuance of a building permit. The lot shall be increased in area and width if over the twenty-five (25%) percent slope category and shall be regulated and developed in accordance with the Hillside Development Ordinance of Brigham City and conditions imposed by the Brigham City Planning Commission in addition to the requirements of this section.

~~Lot, Unrestricted.~~ A lot having an average slope of less than twenty-five (25) percent, or a lot having an average slope of twenty-five (25) percent or more which contains a building area of at least seventy-five (75) feet by one hundred (100) feet with an average slope of less than twenty (20) percent, which building area is designated as such on the subdivision plat in which the lot is located.

~~Lot Right-of-Way.~~ A strip of land of not less than sixteen (16) feet in width connecting a lot to a street for use as private access to that lot.

~~Master Plan (or General Plan).~~ A long range generalized plan adopted by the governing body for the local jurisdiction.

~~Mobile Home Subdivision.~~ A subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes exclusively.

~~National Cooperative Soil Survey.~~ The soil survey conducted by the U.S. Department of Agriculture in cooperation with the State Agricultural Experiment Station and other federal and state agencies.

~~Non-Buildable Area.~~ The area of a lot which, because of identified potential geologic or other environmentally hazardous conditions, has been determined unsuitable for construction of residential buildings and other structures for human occupancy. Decks, patios, pergolas, storage sheds, private unattached garages and other accessory structures may be allowed, however, within the designated non-buildable area of a lot.

~~Official Map or Public Localities Map.~~ An official map or public facilities map adopted by the governing body for the local jurisdiction.

~~Off-street Parking Space.~~ The space required to park one (1) passenger vehicle, which space shall meet the requirements of Title 29, if any. If there are no Title 29 parking provisions, parking space dimensions and requirements shall be as determined by the Planning Commission.

~~Off-site Facilities.~~ Improvements not on individual lots but generally within the boundaries of the subdivision which they serve, as further outlined in the ordinance.

~~Open Space.~~ The area reserved in parks, courts, playgrounds, golf courses, and other similar open areas to meet the density requirements of Planned Unit Developments.

~~On-site Facilities.~~ Construction or placement of the dwelling and its appurtenant improvements on a lot.

~~Owner.~~ The holder of the fee title to land or buildings, or to property to be subdivided, whether a person, partnership, corporation, or other entity recognized by law, and his or its lessees, permittees, assignees, or successors in interest.

~~Parcel of Land.~~ Contiguous quantity of land, existing as a separate legal description with a separate tax identification number at the time of the adoption of this Subdivision Ordinance (1973), in possession of or owned by or recorded as the property of the same claimant person. Land in one ownership but physically divided by a public highway, road or street is not considered contiguous under this definition and may

therefore, be used as two or more individual parcels of land.

Pedestrian-way. A right-of-way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a crosswalk or walkway or pedestrian-way may be located within or without a street right-of-way, at grade, or grade separated from vehicular traffic.

Permanent Monument. Any structure of concrete, masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference, which meets the requirements of the local jurisdiction for permanent monuments.

Plan, Sketch. A generalized layout of a proposed subdivision, with accompanying general proposals and intentions of the subdivider, and relating the proposed subdivision to its area, to public utilities, facilities, and services, and to special problems which may exist in the area.

Planned Unit Development (PUD) An integrated design for development of residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements.

Planning Commission. The Planning Commission of the Local Jurisdiction.

Plot Plan. A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings and buildings to be erected, the location of the lot in relation to abutting streets, and such other information as may be required by the Planning Commission.

Preliminary Plat. A drawing, to scale, representing a proposal to subdivide a tract, lot or parcel of land, and meeting the preliminary plat requirements of this section.

Protection Strip. A strip of land between the boundary of a subdivision and a street within the subdivision, for the purpose of controlling the access to the street by property owners abutting the subdivision.

Street Systems:

———— **A. Principal Arterials.** Major highways of the national interstate network, and some links to major destinations which are designated by and developed through the Utah Department of Transportation federal standards.

———— **B. Minor Arterials.** Highways forming the major statewide networks, designated by the Utah State Department of Transportation and comprising the National Highway System built to federal standards.

———— **C. Major Collectors.** Major roads comprising the interstate network system and administered by the Utah State Department of Transportation.

———— **D. Minor Collectors.** Roads that constitute the County network system.

———— **E. Local Access.** Rural access roads and all others forming the system to give access to property.

———— **F. Major Streets.** Network of principal urban traffic ways handling large volumes of traffic.

———— **G. Collector Streets.** Network of minor urban traffic ways providing for through traffic between major streets and minor street.

———— **H. Minor Streets.** Local urban streets giving access to abutting properties.

Streets, Roads and Highways:

———— **A. Street, Cul-de-sac.** A street which is designed to remain permanently closed at one end with the closed end terminated by a vehicular turnaround. For purposes of these regulations, the length of a cul-de-sac street shall be measured from the centerline of the intersecting street along the centerline of the cul-de-sac, to the point where the center of the cul-de-sac terminates at the center of the turnaround.

———— **B. Street, Half.** A street parallel and contiguous to a property line and of lesser right-of-way width than will eventually be required; the additional needed right-of-way width to be obtained in the future from the abutting property owner prior to development as frontage.

———— **C. Street, Public.** A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare not less than twenty-six (26) feet wide which has been accepted by the public, and which affords the principal access to abutting properties.

———— **D. Street, Major.** A street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated on the Master Plan as a controlled-access highway, major street, parkway or other equivalent term to identify those streets comprising the basic structure of the street plan.

———— **E. Street, Collector.** A street existing or proposed, of considerable continuity, which is the main means of access to the major street system.

———— **F. Street Minor.** A street, existing or proposed, which is supplementary to a collector street and of limited continuity, which serves or is intended to serve the local needs of a neighborhood and gives access to abutting properties.

———— **G. Street, Frontage, or Frontage Road.** A minor street or road which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through

traffic.

~~H. **Street, Private, Or Private Road.** A right of way approved by the Planning Commission and governing body, permanently reserved for use by the lot owners, not less than twenty-six (26) feet in width, and improved and maintained as required by the Planning Commission and Governing Body.~~

~~I. **Street, Stub.** A street or road extending from within a subdivision boundary and temporarily terminating there with no permanent vehicular turnaround. Stub streets are provided to permit adjacent undeveloped parcels of land to be developed later by continuing the stub street to the extended connecting street system.~~

~~J. **Street, Right-of-Way.** That portion of land dedicated to public use for street and utility purposes.~~  
~~**Structure.** Anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground.~~

~~**Subdivider.** Any person, firm, corporation, partnership or association who causes land to be divided into a subdivision for himself or others.~~

~~**Subdivision.** Any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. For purposes of this regulation, a subdivision of land shall include:~~

~~A. The division or development of land whether by deed, metes and bounds description, devise and testacy, lease map, plat, or other recorded instrument; and~~

~~B. Except as provided below, divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes:~~

~~For purposes of these regulations, a subdivision of land shall not include:~~

~~A. A bona fide division or partition of agricultural land, as defined herein, for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance.~~

~~B. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:~~

~~1. no new lot is created; and~~

~~2. the adjustment does not result in a violation of applicable zoning ordinances; and~~

~~3. the adjustment follows the procedures specified by state law.~~

~~C. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.~~

~~**Subdivision, Cluster.** A subdivision of land in which the lots have areas less than the minimum lot area of the district in which the subdivision is located, but which complies with the Cluster Subdivision provisions of the zoning code and in which a significant part of the land is privately reserved or dedicated as permanent common open space to provide low-density character for the residential lots in the subdivision.~~

~~**Vicinity Plan.** A map or drawing, to scale, showing the physical relationships of the proposed development to existing or proposed streets, buildings and utilities; other relevant information such as special terrain or surface drainage; and existing zoning classifications of all land within three hundred (300) feet of the property proposed for development.~~

~~**Zone.** A district as described on the zoning map or in the Zoning Title.~~

~~**Zoning Title.** Title 29 of the Brigham City Code of the Local Jurisdiction.~~

#### **Chapter 25.04. Procedures for Submission:**

##### **25.04.010. Preliminary Information:**

~~Each person who proposes to subdivide land within the territory of Brigham City shall confer with the Public Works staff before preparing any plans or plats, in order to become familiar with the City subdivisions, zoning and public works requirements for the area in which the subdivision is to be located and to discuss the proposed development of the tract and its integration into the surrounding property development and street system.~~

##### **25.04.020. Preliminary Plat:**

~~Subdividers shall submit required Preliminary Plat materials and supporting documents of a proposed subdivision to the Planning Commission offices for approval prior to the submission of a Final Plat. Submission requirements and time required for review and notification are included in Chapter 25.06.~~

~~Approval of the Preliminary Plat shall be good for one (1) year. Thereafter, approval of the Preliminary Plat will have expired unless a Final Plat has been submitted to the Planning Commission or a mutually-agreed-upon extension has been granted by the Planning Commission. Whenever a Final Plat is submitted for less than the entire area covered by the Preliminary Plat, approval of the Preliminary Plat for the remaining unplatted area shall be automatically extended for an additional one (1) year.~~

##### **25.04.030. Final Plat:**

~~The Final Plat submission shall conform to the approved Preliminary Plat.~~

##### **25.04.035. Fewer Than Ten (10) Lots:**

~~An owner of a tract of land shall be permitted to divide that tract into fewer than ten (10) lots without filing a Final Plat as further defined in Section 25.06.~~

##### **25.04.040. Conformity to These Regulations:**

~~Sketch Plans, Preliminary Plats, and Final Plats shall all conform to the requirements and specifications of these regulations, and shall be submitted in the manner prescribed.~~

##### **25.04.050. Planning Commission Action:**

~~Failure by the Planning Commission to act by recommending to the governing body the approval, conditional approval, or disapproval of a final plat within sixty-five (65) days of the receipt of such plat, or another mutually agreed upon period of time, shall be deemed a favorable approval by the Planning Commission.~~

##### **25.04.060. Governing Body Action:**

~~After approval or conditional approval of the Final Plat by the Planning Commission, the subdivider or his agent shall appear at the next regularly scheduled meeting of the governing body to request review of the final plat. The governing body shall act on the application within thirty-five (35) days of such request.~~

##### **25.04.070. Acceptance of Street and Other Public Land Dedication:**

~~Acceptance of dedication of proposed public lands or streets, or street rights-of-way in an approved plat can be made only by the governing body. Plat approval will be deemed as acceptance of dedication unless streets and other public spaces are shown as "not intended for dedication."~~

#### **Chapter 25.05. Sketch Plan:**

~~For future use:~~

#### **Chapter 25.06. Preliminary Plat:**

##### **25.06.010. Submission Requirements:**

~~Copies of all required material shall be officially submitted to the Planning Commission by the Subdivider or authorized representative at an official Planning Commission meeting.~~

**25.06.020. Plat Requirements:**

- ~~\_\_\_\_\_ A. One (1) copy of an Application for Approval (See Appendix A) of a Preliminary Plat and all required supporting documents.~~
- ~~\_\_\_\_\_ B. A sufficient number of black on white, blue on white or brown on white prints of the preliminary plat plus one reproducible, of such quality and resolution that all detail in the drawing is readily discernible. The number of prints to be submitted shall be determined by the Zoning Administrator.<sup>31</sup>~~

**25.06.030. Drawing Requirements:**

~~\_\_\_\_\_ The accuracy of location of alignments, boundaries, and monuments shall be certified by a registered land surveyor licensed to do such work in the state of Utah. A workmanlike execution of the Plat shall be made in every detail. A poorly drawn or illegible Plat is sufficient cause for rejection. The following data shall be submitted as part of the Preliminary Plat submission:~~

- ~~\_\_\_\_\_ A. A vicinity sketch showing perimeter outline of the plan, accesses, abutting subdivision outlines and names, and other relevant information within a one-half (½) mile distance of the perimeter of the proposed plat.~~
- ~~\_\_\_\_\_ B. A traverse map of the (monumented, see 25.07.050) perimeter of the proposed subdivision. The traverse shall have an error of closure of not greater than one part in 10,000. Survey tie into the state grid or other permanent marker established by the County surveyor is required, if practical.~~
- ~~\_\_\_\_\_ C. The existing contours at two (2) foot intervals for predominant ground slopes within the tract between level and five percent (5%) grade and five foot (5') contours for predominant ground slopes within the tract over five percent (5%) grade. Elevations shall be based on National Geodetic Survey sea level data. In cases of predominately level topography throughout a subdivision, one foot (1') interval contours may be required.~~
- ~~\_\_\_\_\_ D. Lot and street layout.~~
- ~~\_\_\_\_\_ E. Dimensions of all lots to nearest foot (which may be scaled values).~~
- ~~\_\_\_\_\_ F. Total acreage of entire proposed subdivision.~~
- ~~\_\_\_\_\_ G. Lots and blocks numbered consecutively.~~
- ~~\_\_\_\_\_ H. Locations and identification of all existing and proposed public and private easements.~~
- ~~\_\_\_\_\_ I. Existing and proposed street names.~~
- ~~\_\_\_\_\_ J. Street profiles to show proposed grades.~~
- ~~\_\_\_\_\_ K. The Plat shall be drawn to a scale not less than one (1") inch equals one hundred (100') feet, and shall indicate the basis of bearings, true north point, name of subdivision, name of municipality, township, range, section, and quarter section, block and lot number of the property under consideration.~~
- ~~\_\_\_\_\_ L. General location in the subdivision area of trees over six inches (6") in diameter, measured at four and one-half (4 ½) feet above the ground. In cases of heavily wooded areas, indication of the outline of wooded area and location of trees which are to remain. It is the intent of this requirement to determine the approximate location of trees for design evaluation rather than to require unnecessary surveying of exact tree location.~~
- ~~\_\_\_\_\_ M. An affidavit that the applicant is the owner, the equitable owner, or authorized by the owner in writing to make application for the land proposed to be subdivided.~~
- ~~\_\_\_\_\_ N. Sites, if any, to be reserved or dedicated for parks, playgrounds, schools, or other public uses.~~
- ~~\_\_\_\_\_ O. Sites, if any, for multi-family dwellings, shopping centers, community facilities, industry, or other uses, exclusive of single-family dwellings.~~
- ~~\_\_\_\_\_ P. Location, function, ownership and manner or maintenance of common open space not otherwise reserved or dedicated for public use.~~

**25.06.040. Supporting Documents Required:**

- ~~\_\_\_\_\_ The following shall accompany and be a part of the submission:~~
- ~~\_\_\_\_\_ A. Three (3) copies of the Sewage Disposal Report (Appendix B) where on-lot sewage treatment is proposed.~~
- ~~\_\_\_\_\_ B. A Location and Vicinity Map showing the following:~~
  - ~~\_\_\_\_\_ 1. Related existing and planned streets and highway systems.~~
  - ~~\_\_\_\_\_ 2. Subdivision boundary lines.~~
  - ~~\_\_\_\_\_ 3. Zoning districts, taxing districts, and other special districts, if any.~~
  - ~~\_\_\_\_\_ 4. Water sources.~~

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<sup>31</sup> Ordinance No. 98-43, 9/17/98

- ~~\_\_\_\_\_ 5. Significant vegetation patterns.~~
- ~~\_\_\_\_\_ C. A map at a suitable scale showing the following:~~
  - ~~\_\_\_\_\_ 1. Proposed future street layout in dashed line for any portion or parcel of the plan which is not being subdivided at the present time.~~
  - ~~\_\_\_\_\_ 2. Water courses and proposed storm water drainage systems including culverts, water areas, streams, areas subject to occasional flooding, marshy areas or swamps. (Note: Detailed design of drainage structures is not required for a preliminary plat).~~
  - ~~\_\_\_\_\_ 3. Approximate boundaries of areas subject to inundation or storm water overflows of an intensity estimated to occur with a return frequency of once every hundred (100) years.~~
  - ~~\_\_\_\_\_ 4. Existing buildings, other easements, telephone lines, gas lines, power lines, and other features located on the subdivision and within two hundred (200) feet of its boundaries.~~
  - ~~\_\_\_\_\_ 5. A composite utility easement plan showing location, size and proposed use of all easements. All utilities must be constructed within approved easements.~~
  - ~~\_\_\_\_\_ 6. The substance of all other covenants, grants of easements or restrictions to be imposed upon the use of the land, buildings, and structures.~~
- ~~\_\_\_\_\_ D. Geologic maps and investigation reports regarding area suitability for the proposed development.~~
- ~~\_\_\_\_\_ E. Soil type maps and tables of soil type interpretations based on the National Cooperative Soils Survey, U.S. Department of Agriculture, Soil Conservation Service, provided by Soil Conservation District.~~
- ~~\_\_\_\_\_ F. A letter from each utility company involved, addressed to the Planning Commission, stating that they have reviewed the plan and are setting forth their comments concerning the extent of services and the design of utility easements.~~

**25.06.050. Summary Statement of Proposal:**

- ~~\_\_\_\_\_ A summary statement to be submitted shall include:~~
  - ~~\_\_\_\_\_ A. Total development area, and number of proposed dwelling units.~~
  - ~~\_\_\_\_\_ B. Total number of square feet in nonresidential floor space.~~
  - ~~\_\_\_\_\_ C. Total number of off-street parking spaces, including those associated with a single-family residential development.~~
  - ~~\_\_\_\_\_ D. Estimated number of gallons per day of water system requirements where distribution system is proposed.~~
  - ~~\_\_\_\_\_ E. Estimated number of gallons per day of sewage to be treated, where central sewage treatment facility is proposed.~~
  - ~~\_\_\_\_\_ F. Estimated construction cost and proposed method of financing of the streets and related facilities; water distribution system; sewage collection system; storm drainage facilities; and such other utilities as may be necessary.~~
  - ~~\_\_\_\_\_ G. Survey notes of subdivision perimeter survey and copies of all monument records.~~

**25.06.060. Review Procedures - Preliminary Plat:**

~~\_\_\_\_\_ When a Preliminary Plat has been officially submitted and received at a Planning Commission meeting, it shall be placed on the agenda of the Planning commission meeting next scheduled for subdivision review, if all required reviews have been completed and recommendations received by the Planning Commission; provided, however, that in no case shall the preliminary plat be first considered by the Planning Commission later than its second meeting following receipt of the Plat.~~

~~\_\_\_\_\_ The Planning Commission, or its authorized representative, shall immediately upon the receipt of the complete submission distribute copies of prints of the plan provided by the subdivider to the staff for review and other interested agencies as follows:~~

- ~~\_\_\_\_\_ A. To the appropriate school district.~~
- ~~\_\_\_\_\_ B. To each City or town within one (1) mile radius of any portion of the proposed subdivision.~~
- ~~\_\_\_\_\_ C. To any utility or special district or irrigation company, as applicable.~~
- ~~\_\_\_\_\_ D. To the Utah State Section of Forestry and Fire Control, where applicable (such as for mountain subdivisions and in heavily-wooded areas).~~
- ~~\_\_\_\_\_ E. To the multi-County Planning District Office.~~
- ~~\_\_\_\_\_ F. To the Soil Conservation district Board within which the subdivision is located, for explicit review and recommendations regarding soil suitability, flooding problems, and erosion control.~~
- ~~\_\_\_\_\_ G. To the Local Health Officer and the State Division of Environmental Health for their review of the sewage disposal reports, for review of adequacy of existing or proposed sewage treatment works to be built to handle estimated effluent, and for a report on the quality and quantity of the proposed water supply to serve the proposed subdivision.~~

~~\_\_\_\_\_ H. To the State Engineer for a certified statement documenting all related water rights, historic use and estimated water yield to supply the proposed development, if the water supply is not to be furnished from a public water system approved by the state Division of Environmental Health.~~

~~\_\_\_\_\_ I. To the Utah Geological Survey.~~

~~\_\_\_\_\_ Failure of any of the above agencies to respond to the Planning Commission with comments concerning the subdivision within twenty-five (25) days of receipt of the Preliminary Plat shall be deemed approval of such plat by such agency.~~

**25.06.070. The Planning Commission Approval:**

~~\_\_\_\_\_ A. The Planning Commission shall approve only those preliminary plats which the Commission finds to be developed in accordance with the intent, standards, and criteria specified in this section and the Subdivision Regulations.~~

~~\_\_\_\_\_ B. The Planning Commission shall determine from a review of the Preliminary Plat whether the soil, slope, vegetation, and the drainage characteristics of the site are such as to require substantial cutting, clearing, grading, and other earthmoving operations in the construction of the subdivision or otherwise entail an erosion hazard, and if so, the Planning Commission shall require the subdivider to provide soil erosion and sedimentation control plans and specifications. Such control plans and specifications shall be prepared by a person trained and qualified in such matters, as is determined by the Planning Commission or by the U.S. Soil Conservation Service, using the County conservation standards.~~

~~\_\_\_\_\_ C. Within thirty-five (35) days after review of the Preliminary Plat at a public meeting, the Planning Commission shall approve, disapprove, or approve with conditions the Preliminary Plat, and notify the subdivider in writing of such action, or may postpone action to allow the subdivider time to provide material or additional information needed by the Planning Commission, to then determine appropriate action.~~

**25.06.080. Requirements for Fewer Than Ten (10) Lots:**

~~\_\_\_\_\_ A. A Preliminary Plat meeting the requirements of this section is submitted for review and approval by the Planning Commission and City Council.~~

~~\_\_\_\_\_ B. A legal description for the tract of land and for each lot in the proposed subdivisions submitted along with the Preliminary Plat.~~

~~\_\_\_\_\_ C. Utility easements as requested by all utility companies and City departments are described and recorded with each lot description.~~

~~\_\_\_\_\_ D. If improvements on existing streets are substandard or do not meet the requirements of the Brigham City Public Works Standards and Technical Specifications, the required improvements shall be constructed by the developer to meet City standards. Said improvements shall be guaranteed by the owner in accordance with Chapter 25.12 of the Brigham City Code. Exception: In cases where an existing residential lot is subdivided into three or less lots and sidewalk is the only required improvement that is needed. In these instances a note shall be made to the plat and recorded against the property stating "Sidewalk shall be installed in the public right-of-way by the property owner when a structure is built on or improvement made to the lot per code Section 29.03.160."<sup>32</sup>~~

~~\_\_\_\_\_ E. The subdivision does not require the dedication of any land for streets or other public purposes.~~

~~\_\_\_\_\_ F. The subdivision is not traversed by the map lines of a proposed street or a street to be widened as shown on the City Master Plan or Official Map.~~

~~\_\_\_\_\_ G. Each of the lots in the subdivision meets the frontage, width and area requirements of the zoning ordinance or has been granted a variance from such requirements from the Board of Adjustment under the powers of the Board granted in the zoning ordinance.~~

~~\_\_\_\_\_ H. Approval of the Preliminary Plat by the Planning Commission and the City Council and providing all of the requirements of this section have been met, shall be authorization for the subdivider to sell lots within the subdivision covered by the Preliminary Plat by metes and bounds, and the requirements of a Final Plat shall be waived.~~

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<sup>32</sup> Ordinance No. 03-13, dated 4/3/03.



## **Chapter 25.07. Final Plat.**

### **25.07.010. Submission Requirements.**

~~\_\_\_\_\_ A. Copies of all required material shall be officially submitted to the offices of the Planning Commission, or their authorized representative, by the subdivider or his authorized representative.~~

~~\_\_\_\_\_ B. Final Plats shall be submitted for approval within eighteen (18) months of the date a Preliminary Plat has been approved by the Planning Commission. No Final Plat submission can be accepted which has exceeded this time lapse period, unless an extension of time has been granted by the Planning Commission upon written request of the subdivider. Any plat submitted for which Preliminary Plat approval has been given in excess of eighteen (18) months previous and for which no time extension has been granted shall be considered by the Planning Commission as a new Preliminary Plat. The final plat shall also contain the refinements required in 25.07.020.~~

### **25.07.020. Phase Development.**

~~\_\_\_\_\_ A. The final platting of subdivisions containing more than twenty-five (25) lots shall be done in phases, except as provided in C herein. Each phase shall consist of the number of lots which can be completely developed with both off-site and on-site improvements within a two (2) year period, or twenty-five (25) lots, whichever is larger. Off-site improvements are construed to be those improvements required by this section. On-site improvements shall be construed to mean the construction or placement of the dwelling and its appurtenant improvements on each lot. The development of the subdivision shall be in an orderly manner and in such a way that the phases will be contiguous, the required improvements will be continuous, and all of the said off-site improvements will be made available for the full, effective and practical use and enjoyment thereof by the lessees or grantees of any of the lands subdivided within the time hereinafter specified.~~

~~\_\_\_\_\_ B. When the off-site improvements have been one hundred (100) percent completed within the boundaries of the recorded plat and approved by the local engineer, and the on-site improvements are seventy (70) percent completed, the subdivider may submit the next phase of the proposed development in accordance with the rules and regulations of this subdivision ordinance.~~

~~\_\_\_\_\_ C. A final plat including more than twenty-five (25) lots will be accepted only upon the submission of qualified evidence indicating that the market absorption rate is such, and the financial ability of the subdivider is such that the off-site improvements for all lots in such final plat will be completed within two (2) years, and that on-site improvements will be completed on at least seventy (70) percent of the lots within four (4) years of such approval.~~

### **25.07.030. Plat Requirements.**

~~\_\_\_\_\_ A. The Final Plat submission shall conform in all major respects to the Preliminary Plat as previously reviewed and approved by the Planning Commission and shall incorporate all modifications required in its review. The Governing Body may, however, approve a Final Plat which has been modified to reflect improvements in design or changes which have occurred in its natural surroundings and environment since the time of the Preliminary Plat review and approval.~~

~~\_\_\_\_\_ B. A Final Plat shall be submitted in phases, except as provided in 25.07.020.~~

~~\_\_\_\_\_ C. One (1) copy of application form (Appendix A) for review of a Final Plat and all required supporting documents shall be submitted.~~

~~\_\_\_\_\_ D. The original Final Plat drawing and a sufficient number of black on white, blue on white or brown on white prints of the final plat and one (1) reproducible set of the plan and profile drawings along with a sufficient number of black on white, blue on white or brown on white prints of the plan and profile drawings, of such quality and resolution that all detail in the drawing is readily discernible, shall be submitted at the time of submittal of the final plat. The number of prints of final plat and plan and profile drawings to be submitted shall be determined by the Zoning Administrator.<sup>33</sup>~~

~~\_\_\_\_\_ E. A receipt shall be issued to the subdivider or his authorized representative for the Final Plat submission when it has been determined that the submission includes all the requirements set forth in these regulations.~~

### **25.07.040. Drawing Requirements.**

~~\_\_\_\_\_ The Final Plat drawing shall have the following standards:~~

~~\_\_\_\_\_ A. The plat shall be prepared and certification made as to its accuracy by a registered land surveyor~~

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<sup>33</sup> Ordinance No. 98-43, 9/17/98

~~licensed to do such work in the state of Utah. A workmanlike execution of the plat shall be made in every detail. A poorly-drawn or illegible plat is sufficient cause for its rejection.~~

~~B. The plat shall be delineated in permanent ink on waterproof tracing cloth or original Mylar as provided by the office of the County surveyor. Sepia copies of original molars are not acceptable.~~

~~C. The bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside with the lot dimensions. When the plat is bounded by an irregular shore line or a body of water, the bearings and distances of a closing meander traverse should be given and a notation made that the plat includes all land to the water's edge or otherwise.~~

~~D. If a plat is revised, a copy of the old plat shall be provided for comparison purposes.~~

~~E. All blocks and all lots within each block shall be consecutively numbered.~~

~~F. On curved boundaries and all curves in the plat, sufficient data shall be given to enable the reestablishment of the curves on the ground. This curve data shall include the following for circular curves:~~

~~1. radius of curve~~

~~2. central angle~~

~~3. tangent~~

~~4. arc length~~

~~G. Excepted parcels shall be marked "Not included in this subdivision" and the boundary completely indicated by bearings and distances.~~

~~H. All streets, walkways and alleys shall be designated as such and streets shall be named; bearings and dimensions must be given.~~

~~I. All easements shall be designated as such and bearings and dimensions given.~~

~~J. All lands within the boundaries of the plat shall be accounted for either as lots, walkways, streets, alleys, or as excepted parcels.~~

~~K. All dimensions of irregularly-shaped lots shall be indicated in each lot.~~

~~L. All bearings and lengths shall be given for all lot lines, except that bearings and lengths need not be given for interior lot lines where the bearings and lengths are the same as those of both end lot lines.~~

~~M. Parcels not contiguous shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be embraced in one plat, provided that all owners join in the dedication and acknowledgment.~~

~~N. Lengths shall be shown to hundredths of a foot, and angles and bearings shall be shown to seconds of arc.~~

~~O. The information on the plat shall include:~~

~~1. name of subdivision, astronomic north arrow and basis thereof, and date~~

~~2. name and address of owner or owners of record~~

~~3. total acreage of subdivision; total number of lots~~

~~4. township, range, section (and quarter section if portion)~~

~~5. graphic scale~~

~~6. local engineer and County surveyors certificate~~

~~7. local attorney's approval certificate~~

~~8. planning commission approval certificate~~

~~9. governing body approval certificate~~

~~10. any additional information required by the local government~~

~~P. The dimensions and format of the plat shall be established by the Governing Body. Various typical examples are included in Appendix F for reference.~~

**25.07.050. Monuments. (See Appendix D):**

~~A. Permanent reference monuments, as approved by the local engineer, shall be set on the external boundary of the subdivision, and at all street center line intersections and all beginning and end points of curves, to provide line of sight control for reestablishing the survey.~~

~~B. Block and lot monuments shall be set.~~

~~C. At least one second order benchmark shall be set (where practical to tie in) within every subdivision or subsequent filing prior to submission of the Final Plat for Approval.~~

~~D. Detail requirements on monument construction, marking, and setting are contained in Appendix D.~~

**25.07.060. Survey Certification:**

~~\_\_\_\_\_ The surveyor making a plat shall certify on the plat that it conforms to these survey regulations and to all applicable state laws and that the monuments described in it have been placed as described. He shall affix his name and seal.~~

**25.07.070. Supporting Documents:**

~~\_\_\_\_\_ The following documents shall be submitted with the Final Plat drawing and be considered a part of the submission:~~

~~\_\_\_\_\_ Drawings showing layout, profile, and detail design of:~~

~~\_\_\_\_\_ A. All utilities and easements, plus statements from utility companies (water, sewer, electric, gas, telephone, etc.) as applicable, that service will be provided to the development:~~

~~\_\_\_\_\_ B. Plan, profile and typical cross-section drawings of the roads, bridges, culverts, sewers, and other drainage structures:~~

~~\_\_\_\_\_ C. Grading and drainage plan. The proposed grading plan shall be indicated by solid-line contours superimposed on dashed-line contours of existing topography for the area of the Final Plat. Such contours shall be at two (2) foot intervals for predominant ground slopes within the tract between level and five (5%) percent grade, and five (5') foot contours for predominant ground slopes with the tract over five percent (5%) grade. In case of predominantly level topography throughout a subdivision, one (1') foot contour intervals may be required:~~

~~\_\_\_\_\_ D. Erosion control plan when required, to be submitted as result of Preliminary Plat review:~~

~~\_\_\_\_\_ E. The above drawings shall be prepared as required in 25.06.070 (B):~~

~~\_\_\_\_\_ F. An exact copy of a certificate of a title insurance company or attorney which shall set forth the names of all property owners included in the plat and shall include a list of all mortgages, judgements, liens, easements, contracts and agreements of record in the County which shall affect the property covered by such plats. If the opinion of title discloses any of the above, then at the option of the Governing Body the holders or owners of such mortgages, judgements, liens, easements, contracts, or agreements shall be required to join in and approve the application before the Plat shall be acted upon by the Planning Commission:~~

~~\_\_\_\_\_ G. Where a portion of an existing easement is contiguous to a proposed easement or right-of-way of a new subdivision, proof of the dedication of the existing easement or right-of-way acceptable to the Planning Commission must be submitted:~~

~~\_\_\_\_\_ H. Where the subdivider is to dedicate land for schools, roads, parks, or other public purposes, a letter of intent is required from the public agency receiving the dedication, agreeing to such dedication and stating how applicable improvement standards will be met. When land within a subdivision is to be purchased by a public agency for public use, a letter of intention to purchase shall be required:~~

~~\_\_\_\_\_ I. When a new street will intersect with a state highway or will cross a railroad, a copy of the state highway permit or railroad crossing permit shall be submitted:~~

**25.07.080. Summary Statement of Proposal:**

~~\_\_\_\_\_ A summary statement submitted shall include the following:~~

~~\_\_\_\_\_ A. Total development Area, and number of proposed dwelling units:~~

~~\_\_\_\_\_ B. Total number of square feet of nonresidential floor space:~~

~~\_\_\_\_\_ C. Total number of off-street parking spaces, excluding those associated with single-family residential development:~~

~~\_\_\_\_\_ D. Estimated total number of gallons per day of sewage to be treated where a central sewage treatment facility is proposed, or general disposal means and suitability where no treatment facility is proposed:~~

~~\_\_\_\_\_ E. Estimated total number of gallons per day of water system requirements where a distribution system is proposed:~~

~~\_\_\_\_\_ F. Estimated construction cost and proposed method of financing streets and related facilities, water distribution system, sewage collection system, flood plain protection, storm drainage facilities, and such other facilities as may be needed. If improvements are not to be completed prior to approval of the Final Plat, the cost estimates included in this statement shall be identical to those included in the improvement agreement:~~

~~\_\_\_\_\_ G. Copies of protective covenants, trust agreements, and home owners' association articles and bylaws, including those required by the Governing Body, to govern the future use of each of water or sewer systems, re-subdivision, and other potential changes which might significantly alter the subdivision as approved by the Governing Body with regard to the criteria and standards of these regulations:~~

~~\_\_\_\_\_ H. Monument record:~~

**25.07.090. Review Procedures - Final Plat:**

~~When a Final Plat has been received, it shall be acted upon at a Planning Commission meeting scheduled for Subdivision review, within thirty-five (35) days or another mutually agreed upon period of time:~~

**25.07.100. Planning Commission Review:**

~~A. The Planning Commission shall review the Final Plat at a regularly scheduled public meeting. If the Final Plat and all supplementary data complies with the applicable requirements of these regulations and the requirements of the approved Preliminary Plat, the Planning Commission shall certify approval of the Plat on the space provided:~~

~~B. Within five (5) days after review of the Final Plat at the public meeting, the Planning Commission shall send written notification of its review to the Governing Body. Required modification to the Final Plat; one copy to be transmitted to the Governing Body, one to be retained in the Planning Commission files, and one to be transmitted to the subdivider.~~

~~C. The only basis for rejection of a Plat shall be its nonconformance to adopted rules, regulations and ordinances currently in force and affecting the land and its development, or its lack of conformance with the approved Preliminary Plat.~~

**25.07.110. Governing Body:**

~~A. The Governing Body shall review the Final Plat within thirty-five (35) days of receipt of transmittal from the Planning Commission at a regularly scheduled public meeting. If the Governing Body determines that the Final Plat submission complies with the applicable requirements of these regulations, they shall certify approval of the plat on the space provided. The subdivided shall provide an adequate number of the approved plats or prints marked for modification, together with the official notification of the action, to be distributed by the Governing Body as follows:~~

- ~~1. one copy to the Planning Commission files~~
- ~~2. one copy to Governing Body files~~
- ~~3. one copy to subdivider~~
- ~~4. one copy to engineer and surveyor of subdivider~~
- ~~5. one copy to multi-County planning district office~~
- ~~6. one copy to each utility company serving the subdivision~~

**25.07.120. Recording Final Plat:**

~~A. The Governing Body shall record the Final Plat with the County Clerk and Recorder within five (5) working days of approval of the Final Plat by the Governing Body; the subdivider shall pay the expense of such recording.~~

~~B. The County Clerk and Recorder shall furnish the subdivider with a receipt, upon filing for the Final Plat:~~

**25.07.130. Resubdivision Procedure:**

~~Resubdivision of land or changes to a recorded plat shall be considered a subdivision and it shall comply with these regulations, with the following exceptions:~~

~~A. Lot lines may be revised from those shown on the recorded plat, provided that in making such changes:~~

- ~~1. no lot or parcel of land shall be created or sold that is less than the minimum requirements for area or dimension as established by these regulations or other applicable regulations or ordinances.~~
- ~~2. drainage easements or rights-of-way reserved for drainage shall not be changed, unless supported by complete engineering data and required approvals.~~
- ~~3. Street locations and street rights-of-way shall not be changed; and~~
- ~~4. the plat shall not be altered in any way which will adversely affect the character of the plat filed.~~

~~B. If it is discovered that there is a minor survey or drafting error in a recorded final plat, the subdivider shall be required to file a final plat with an affidavit witnessed by two (2) land surveyors, concerning the change which shall be approved by the Planning Commission and the Governing Body. If, however, the correction of the error results in such major alterations that the corrected plat no longer meets the design standards and criteria of these regulations, then the corrected plat shall require full approval procedures and recording of a corrected plat.~~

~~C. A copy of all final Plat revisions shall be submitted to the Planning Commission and the Governing Body, for review:~~

~~Where the resubdivision complies with the appropriate requirements of these regulations, a Record Plat indicating the resubdivision shall be submitted to the Planning Commission and the Governing Body for their endorsements, prior to the filing of such plat with the County Clerk and Recorder. Such plats shall specifically indicate the revisions being made compared with the previously recorded plat.~~

~~The Local Jurisdiction shall maintain an adequate numbered filing system for all subdivisions, including copies of all maps, data, and official subdivision actions; also a master location map (or maps) referenced to the filing system, for public use and examination.~~

#### **~~25.07.140. Amending Recorded Plats~~**

~~A. Recorded plats shall be amended as defined in "Utah Code Unannotated 10-9-808. Vacating or changing a subdivision plat" (or as recodified in State Code).~~

~~B. Plats which are amended totally or partially to include areas not currently within the boundary of the plat shall be amended as defined in "Utah Code Unannotated 10-9-808. Vacating or changing a subdivision plat" (or as recodified in State Code). Plat amendments shall include the words "Amended and Extended" within the title block.<sup>34</sup>~~

### **~~Chapter 25.08. Design Standards:~~**

#### **~~25.08.010. Design Standards:~~**

~~All subdivisions must comply with the following standards:~~

#### **~~25.08.020. General Standards:~~**

~~A. The design and development of subdivisions shall preserve insofar as possible the natural terrain, natural drainage, existing topsoil and trees.~~

~~B. Land subject to hazardous conditions such as slides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been eliminated or will be eliminated by the subdivision and construction plans.~~

#### **~~25.08.030. Lots:~~**

~~A. No single lot shall be divided by a municipal or County boundary line.~~

~~B. A lot shall not be divided by a road, alley, or other lot.~~

~~C. **Wedge-shaped Lots.** No wedge-shaped lot shall be less than thirty (30) feet in width at the front property line, or the lot frontage required by the zoning ordinance, whichever is larger.~~

~~D. **Lot Lines.** Side lot lines shall be at substantially right angles or radial to street lines. Where lot lines are not at right angles to the street lines, this shall be shown.~~

~~E. **Front on Public Street.** All residential lots in subdivisions shall front on a public street, or on a private street or court approved by the Planning Commission and the Governing Body, except as may be approved for planned unit developments, cluster subdivisions, or other special dwellings.~~

#### **~~25.08.040. Streets and Street Requirements:~~**

~~A. **Street Plan.** The street or highway layout shall conform to the master plan and official map adopted by the Planning Commission and Governing Body.~~

~~B. **Through Traffic.** Minor streets shall be laid out to discourage through traffic.~~

~~C. **Stub Streets.** Stub streets shall be provided where needed to connect to adjacent undeveloped land and new streets must be provided where needed to connect to existing stub streets in adjacent subdivisions. Not more than six (6) lots shall front on a street, except where a temporary cul-de-sac turnaround is provided.~~

~~D. **Intersections.** Intersections of minor streets with major streets shall be kept to the minimum.~~

~~E. **Right-of-way Width.** Streets shall have the following minimum right-of-way widths:~~

~~1. principle arterial: federal and state standards~~

~~2. minor arterial: federal and state standards~~

~~3. major collector: minimum of eighty-two and one-half (82 ½) feet or as required by state standards~~

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<sup>34</sup> Ordinance No. 04-16, dated 6/17/04.

- ~~4. minor collector: minimum of sixty-six (66) feet or as required by state standards~~
- ~~5. major street: a minimum of eighty-two (82) feet, or as required by state and federal standards, or by the Planning Commission~~
- ~~6. collector street: sixty six (66) feet~~
- ~~7. minor street and frontage road: fifty (50) feet~~
- ~~8. private street or road: as required by the Planning Commission, but not less than twenty-six (26) feet.~~

~~F. **Roadway Width.** Streets shall have the following roadway widths (face of curb to face of curb):~~

- ~~1. principle arterial: federal and state standards~~
- ~~2. minor arterial: federal and state standards~~
- ~~3. major collector: minimum of forty-eight (48) feet or as required by state standards~~
- ~~4. minor collector: minimum of twenty-eight (28) feet or as required by state standards~~
- ~~5. major street: a minimum of fifty-six (56) feet, or as required by state and federal standards~~
- ~~6. collector street: forty-four (44) feet~~
- ~~7. minor street or frontage road: twenty-eight (28) feet~~
- ~~8. ten foot (10') shoulders shall be provided where there are no curbs installed~~
- ~~9. private street or road: as required by the Planning Commission~~

~~G. **Half Streets.** None are permitted, except if required to complete a half street already existing, or if approved by the Planning Commission and the Governing Body.~~

~~H. **Dead end Streets.** Dead end streets, including stub streets, shall be permitted or required by the Planning Commission only to provide future access to adjoining property, except for dead end street systems in cluster subdivisions, planned unit developments, condominium developments, or similar special projects.~~

~~I. **Cul-de-sac Streets.** Permanent cul-de-sac streets serving no more than twenty (20) lots, and not more than six hundred fifty (65) feet long, whichever is more restrictive, may be permitted and shall be provided with a right-of-way at the turnaround of fifty (50) feet radius or more, and the outside curb or pavement edge radius shall be forty (40) feet or more. Cul-de-sac streets intended to be only temporary must also satisfy the above requirements.~~

~~J. **Number of Streets at Intersection.** No more than four (4) streets shall enter an intersection.~~

~~K. **Angle of Street Intersections.** Streets shall intersect at ninety (90) degrees and may be designed only with approval of the Planning Commission.~~

~~L. **Centerlines of Intersecting Streets.** Two subordinate streets meeting a through street from opposite sides shall meet at the same point, or their centerlines shall be offset at least two hundred (200) feet.~~

**25.08.050. Street Names:**

~~Streets shall have the names of existing streets which are in alignment. There shall be no duplication of street names within the area. All street names shall be approved by the Planning Commission.~~

**25.08.060. Curvature and Alignment:**

~~A. **Horizontal curves.** To ensure adequate sight distances, when street roadway lines deflect more than five (5) degrees, connection shall be made by horizontal curves. The minimum center-line radii for minor streets shall be one hundred fifty (150) feet and of all other streets shall be three hundred (300) feet. On collector and major streets a minimum tangent of one hundred (100) feet shall be required between a curve and street intersection; a minimum tangent of one hundred (100) feet shall be required between reverse curves.~~

~~B. **Vertical curves.** Vertical curves shall be used at all changes of grades exceeding one (1) percent and shall be designed to provide minimum sight distances of two hundred (200) feet for minor streets and three hundred (300) feet for all other streets, except that vertical curves for major streets shall be as determined by the current specifications of the American Association of State Highway Officials.~~

**25.08.070. Frontage on Major Highways:**

~~Where a residential subdivision abuts a major highway, frontage roads may be required.~~

**~~25.08.080. Roadbed Construction Standards for Paved Roadways for Public Streets.~~**

~~———— A. **Roadbed grading and paving width.** Minimum roadbed grading and paving for minor, collector and major streets, local access roads, collectors and arterials shall be established by the local Governing Body. (See Appendix E for typical examples). Reduction of such roadway grading and paving may be approved by the local Planning Commission and Governing Body for one-way street, mountain subdivisions, or other justifiable design or topographical reasons. Ten (10) foot shoulders shall be provided where curbs are not installed.~~

**~~25.08.090. Road Grades.~~**

~~———— All road and street grades shall be designed as follows:~~

~~———— A. **Major and collector roads and streets.** Limited to a maximum grade of twelve percent (12%). Sustained grades in excess of 1,000 feet shall be limited to a maximum of ten percent (10%).~~

~~———— B. **Minor roads or streets.** Limited to a maximum grade of ten percent (10%). Sustained grades shall be limited to seven percent (7%).~~

~~———— C. **Cul-de-sacs.** With a negative grade progressing toward the turnaround shall be limited to a maximum grade of six percent (6%). The cul-de-sac shall terminate with a grade not to exceed three percent (3%) for the last one hundred feet (100') of traveled surface. The cul-de-sac shall be limited to a maximum length of six hundred fifty feet (650') and have adequate easement for drainage.~~

~~———— D. **Street intersections.** Have a vertical alignment such that the grade shall not exceed three percent (3%) for a minimum distance of fifty feet (50') each way from the centerline of the intersection.~~

~~———— E. **Maximum grades.** Approved only when accompanied by changes to a lesser grade, and where length of that portion of that road at maximum grade is less than six hundred feet (600').~~

~~———— F. **All changes in vertical alignment.** Made by vertical curves with minimum length of two hundred feet (200'), for minor streets and three hundred feet (300') for major streets.—  
(See 25.08.060 (B)).~~

~~———— G. **Horizontal alignment.** Limited to maximum of 13.5 degree curve.~~

~~———— H. **Roads in mountainous terrain.** Be designed at less than maximum allowable in order that they can be safely negotiated and that snow can be removed during winter.~~

**~~25.08.100. Sidewalks, Curbs and Gutters.~~**

~~———— Sidewalks, curbs and gutters shall be provided on both sides of all public streets.~~

**~~25.08.110. Block Standards.~~**

~~———— Block lengths shall be reasonable as approved by the Planning Commission and in total design shall provide for convenient access and circulation for emergency vehicles.~~

**~~25.08.120. Pedestrian Cross-Walks.~~**

~~———— Where blocks exceed one thousand feet (1,000') in length, pedestrian rights-of-way of not less than ten feet (10') in width may be required by the Planning Commission through blocks were needed for adequate pedestrian circulation. Walk improvements (paving) of not less than five feet (5') in width shall be placed within the rights-of-way, as required by the Planning Commission.~~

**~~25.08.130. Lot Size Standards.~~**

~~———— Where no zoning regulations are in effect, density standards or minimum lot size requirements may be specified by the Planning Commission, based on interpretations made from the Cooperative Soil Survey, U.S. Department of Agriculture, Soil Conservation Service, and other procedures and available information. All lots shall conform to area requirements of any existing zoning ordinance.~~

**~~25.08.140. Easement Standards.~~**

~~———— A. Easements shall follow rear and side lot lines whenever practical and shall have a minimum total width of utility easements shall be twenty (20) feet, apportioned equally in abutting properties.~~

~~———— B. Where front-line easements are required, a minimum of twenty (20) feet shall be allocated as a utility easement. Perimeter easements shall not be less than twenty (20) feet in width, extending throughout the peripheral area of the development, if required by the Planning Commission.~~

~~———— C. All easements shall be designed so as to provide efficient installation of utilities or street planting. Special guying easements at corners may be required. Public utility installations shall be so located as to permit multiple installations within the easements. The developer shall establish final utility grades prior to~~

utility installations.

**25.08.150. Utilities to Be Underground:**

~~\_\_\_\_\_ All power lines, telephone lines and other utility lines shall be placed underground by the subdivider unless the Governing Body, supported by the recommendation of the City utility and engineering staff, determines that it is not feasible to do so.~~

**25.08.160. Alleys:**

~~\_\_\_\_\_ The Planning Commission may approve service access to the interior of blocks in certain instances, in which case such alleys must be indicated on the plan and plat.~~

**25.08.170. Sanitary Sewage Disposal - General Requirements:**

~~\_\_\_\_\_ A. **Sanitary Sewerage System Required.** Except as otherwise provided below, the subdivider shall provide, or have provided, a piped sanitary sewerage system to the property line of every lot in the subdivision. The sewerage system shall meet the minimum standards and requirements of the Local Health Officer, the State Division of Environmental Health, and this section.~~

~~\_\_\_\_\_ B. **On-lot Sewage Disposal System.** Septic tanks and/or sealed vaults will be approved only when an existing sanitary sewer system is more than one-half (½) mile from the boundary of the subdivision and shall be disapproved in any case unless approved in writing by the Local Health Officer and the state Division of Environmental Health. In order to determine the adequacy of the soil involved to properly absorb sewage effluent and to determine the minimum lot area required for such installations, an interpretive map based on the National Cooperative Soil Survey showing the suitability of the soil for septic tank fields or pits shall be submitted, along with the results of percolation tests. The results of these data will be reviewed by the local Health Officer and the state Division of Environmental Health, in addition to the Planning Commission.~~

~~\_\_\_\_\_ The following requirements shall be met:~~

~~\_\_\_\_\_ 1. Lands made, altered, or filled with non-earth materials within the last ten (10) years shall not be divided into building sites which are to be served by soil absorption waste disposal systems:~~

~~\_\_\_\_\_ 2. Each subdivided lot to be served by an on-site soil absorption sewage disposal system shall contain an adequate site for such system. An adequate site requires a minimum depth of eight (8) feet from the surface of the ground to impermeable bedrock, and a minimum depth of six (6) feet from the surface of the ground to the ground water surface (based on annual high water level). Each site must also be at least fifteen hundred (1500) feet from any shallow water supply well and one hundred (100) feet from any other well; at least one hundred (100) feet from a stream or water course, and at least two hundred (200) feet from any major live stream; and at least ten (10) feet from any dwelling or property line.~~

~~\_\_\_\_\_ 3. Soils having a percolation rate slower than or faster than standards allowed by the Local Health Officer or State Division of Environmental Health shall not be divided into building sites to be served by soil absorption sewage disposal systems:~~

~~\_\_\_\_\_ 4. Land rated as having severe limitations for septic tank absorption fields as defined by the County soil survey, U.S. Department of Agriculture, Soil Conservation Service, shall not be divided into sewage building sites to be serviced by soil absorption sewage disposal systems unless each such building site contains not less than twenty thousand (20,000) square feet of other soils rated suitable for building construction and installation of an on-site soils absorption sewage disposal system:~~

~~\_\_\_\_\_ 5. An applicant desiring to install soil absorption sewage disposal facilities on the soils having severe limitations, as determined in the preliminary plan review, shall: Have additional on-site investigations made, including percolation tests; obtain the certification of a soils scientist that specific areas lying within these soils are suitable for the proposed soil absorption sewage disposal system; and meet Local Health Officer and Utah State Division of Environmental Health standards and regulations. In addition, the Sanitary Inspector shall find that the proposed corrective measures have overcome the severe soil limitations:~~

~~\_\_\_\_\_ 6. Other applicable standards adopted by the Governing Body and local and State health departments:~~

**25.08.180. Appeal From Soil Classification:**

~~\_\_\_\_\_ An applicant desiring to install soil absorption sewage disposal facilities on soils having severe limitations shall have an opportunity to present evidence contesting such classification and analysis, if he so desires. Thereafter, the Governing Body may affirm, modify, or change the classification.~~

**25.08.190. Sanitary Sewer Mains, Laterals, And House Connections - Future:**

~~\_\_\_\_\_ Where local, County and regional master plans indicate that construction or extension of sanitary~~



~~sewers may serve the subdivision area within a reasonable time, the Planning Commission may require the installation and capping of sanitary sewer mains and house connections by the subdivider in addition to the installation of temporary individual on-lot sanitary disposal systems by the subdivider or lot purchaser. Whenever individual on-lot Utah sewage disposal systems are proposed the subdivider shall either install such facilities, or require by deed restrictions or otherwise as a condition of the sale of each lot or parcel within such subdivision that on-lot sanitary sewage disposal facilities be installed by the purchaser of said lot at the time the principal building is constructed, and no building permit shall be issued until such installation is assured. In all other cases, sanitary sewage disposal facilities shall be provided for every lot or parcel by a complete community or public sanitary system.~~

~~**25.08.200. Test Procedures:**~~

~~Test procedures shall be conducted in accordance with local and state Department of Health requirements.~~

~~**25.08.210. Water Supply:**~~

~~**A. Public Water System Required.** Except as otherwise provided below, the subdivider shall provide, or have provided a piped, public water supply to the property line of every lot in any subdivision the smallest lot of which is less than five (5) acres in area. The water system shall meet the minimum standards and requirements of the State Division of Environmental Health, the Local Health Officer, and this section, and wherever the subdivision is located near forested or grassy or brushy lands, of the State Section of Forestry and Fire Control:~~

~~**B. Public Water System Required - Exceptions.** The governing body may allow individual on-lot water supply systems or supply of water from a communal well or spring other than as an approved public water system only if the application by the subdivider meets all the following conditions:~~

~~1. The application is accompanied by letters of approval of the exception, and of the proposed water supply system, from the local health officer, the state Division of Environmental Health, the state Section of Forestry and Fire Control, and the State Engineer:~~

~~2. The subdivider shall submit a geologic report containing a specific section on ground water geology prepared by a qualified ground water geologist, which shows:~~

~~a. The probability of success of wells or on-site supply systems throughout the proposed subdivision:~~

~~b. The expected long-term yield of such wells or systems:~~

~~c. The expected depth to usable water:~~

~~d. The expected quality of the anticipated water:~~

~~e. Any expected significant problems of long-term supply, pollution, or long-term maintenance of such wells or systems:~~

~~**25.08.220. Storm Drainage and Flood Plains:**~~

~~**A. Drainage System.** Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the state of Utah and qualified to perform such work, and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall be so identified. If the Final Plat is to be presented in sections, a general drainage plan for the entire area shall be presented with the first section, and appropriate development stages for the drainage system for each section indicated:~~

~~**B. Design.** The drainage and flood plain systems shall be designed to:~~

~~1. Permit the unimpeded flow of natural water courses:~~

~~2. Ensure adequate drainage of all low points:~~

~~3. Ensure applications of the following regulations regarding development in designated flood plains:~~

~~a. Construction of buildings shall not be permitted in a designated floodway with a return frequency more often than a 100-year storm:~~

~~b. Building construction may occur in that portion of the designated floodway where the return frequency is between a 100-year and a maximum probable storm provided all usable floor space is constructed above the designated maximum probable flood level:~~

~~c. Where floodway velocities are generally determined to be under five (5) feet per second and maximum flood depth will not exceed three (3) feet, such uses as cultivated agriculture, nurseries, parks and recreation facilities and accessory parking may be permitted:~~

~~d. Any use of land is prohibited where flooding would create a public health hazard or~~

~~problem. This includes shallow wells, uncased deep wells, sanitary land fills, septic tank and on-lot sewage disposal systems, water treatment plants, and also sewage disposal systems not completely protected from inundation.~~

~~e. Recreation coach, or mobile home parks and similar uses shall not be permitted in any designated floodway:~~

~~f. Any contemplated flood plain encroachment or channeling shall be thoroughly analyzed and its effect on stream flow determined before such encroachment is undertaken. Any construction, dumping, and filling operations in a designated floodway constitutes an encroachment and must be approved by the Planning Commission, before accomplishment:~~

~~g. No lot one (1) acre or less in area shall include floodlands. All lots more than one (1) acre shall contain not less than forty thousand (40,000) square feet of land which is at an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, or, where such data is not available, five (5) feet above the elevation of the maximum flood of record:~~

~~**C. Drainage System Plans.**~~

~~1. The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and "upstream" from the subdivision itself, as well as its effects on lands downstream:~~

~~2. All proposed surface-drainage structures shall be indicated on the plans:~~

~~3. All appropriate designs, details, and dimensions needed to clearly explain proposed construction materials and elevations shall be included in the drainage plans:~~

~~**25.08.230. Irrigation Systems.**~~

~~A. Where an existing irrigation system consisting of open ditches is located on or adjacent to or within one hundred (100) feet of a proposed subdivision, complete plans for relocation or covering, or other safety precautions shall be submitted with an application for preliminary approval of a plat:~~

~~B. In all urban subdivisions in which the smallest lot is less than one (1) acre, all irrigation systems shall be underground:~~

~~C. All pressure irrigation systems in or within one hundred (100) feet of a proposed subdivision shall be identified and otherwise color coded as to pipe and valve color to meet state standards and regulations:~~

~~**Chapter 25.09. Rural, Mountain, Desert, Seasonal Use, And Recreational Subdivisions:**~~

~~**25.09.010. Special Requirements.**~~

~~The Planning Commission and Governing Body may make special requirements for the regulation of subdivisions in rural, mountainous, or desert areas, or for seasonal or recreational use for protection of the environment; prevention of erosion, pollution, and excessive costs to the public; protection of existing social, physical, or economic values; and protection from fire and other hazards:~~

~~**25.09.020. Method of Applying Special Requirements:**~~

~~Before applying special requirements to rural, mountain, desert, seasonal use, or recreational subdivisions, either more restrictive or less restrictive than those otherwise applicable by this section, the Planning Commission shall cause copies of the subdivision and proposed modifications of standard requirements to be submitted to the state Health Department, the state Board of Forestry and Fire Control, and the local Soil Conservation District Supervisor, for comment and recommendations. The Planning Commission shall then make its recommendation to the Governing Body and such Body shall determine what special requirements shall apply, if any:~~

~~**25.09.030. Minimum Requirements for Rural, Mountain, Desert, Recreational Use and Recreational Subdivision:**~~

~~Notwithstanding any other provisions herein or with this section, the following minimum requirements shall apply to all rural, mountain, desert, seasonal use, and recreational subdivisions:~~

~~A. **Maximum Grades.** No area shall be subdivided which has an average grade in excess of thirty (30) percent, as determined by a topographic map furnished by a registered land surveyor, or by reference to United States Geological Survey 7.5 minute topographic quadrangle maps; the area to be used for residential building lots (as opposed to reserved open spaces) shall not exceed an average grade of twenty (20) percent:~~

~~\_\_\_\_\_ B. Hazards. No subdivision design or plan shall be approved which constitutes the creation of hazardous conditions relating to flooding, pollution, fire or geologic hazards, or excessive damage or danger to environmental values.~~

#### **Chapter 25.10. Cluster Subdivisions:**

##### **25.10.010. Special Provisions:**

###### ~~\_\_\_\_\_ A. Design Standards:~~

~~\_\_\_\_\_ 1. The design of the preliminary plat and final plats of the subdivision in relation to streets, blocks, lots, common open spaces and other design factors shall be in harmony with the intent of zoning regulations, elements of the Master Plan that have been adopted, and design standards recommended by the Planning Commission and approved by the Governing Body.~~

~~\_\_\_\_\_ 2. Streets shall be so designed as to take advantage of open space vistas and to create drives with a rural or open space character.~~

###### ~~\_\_\_\_\_ B. Provisions for Common Open Space:~~

~~\_\_\_\_\_ 1. The subdivider of a cluster subdivision shall submit plans of landscaping and improvements for the common open space. He shall also explain the intended use of the open space and provide detailed provisions as to how the improvements thereon are to be financed and the area maintained. A cluster subdivision must meet the requirements of the zoning ordinance, must assure proper use, construction and maintenance of open space facilities, and must result in a development superior to conventional development in terms of its benefits to future owners of the subdivision, surrounding residents, and the general public.~~

~~\_\_\_\_\_ 2. The Planning Commission may place whatever additional conditions or restrictions it may deem necessary to insure development and maintenance of the desired character, including plans for disposition or reuse of property if the open space is not maintained in the manner agreed upon or is abandoned by owners.~~

~~\_\_\_\_\_ C. Guarantee of Common Open Space Improvements. As assurance of completion of common open space improvement the subdivider may be required to file with, and in a manner satisfactory to, the Governing Body a surety or cash bond guaranteeing such completion within two (2) years of such filing. Upon completion of the improvements for which a surety or cash bond has been filed, the subdivider shall call for inspection by the Planning Commission. If inspection shows that landscaping and construction have been completed in compliance with the approved plan, the Planning Commission shall recommend that the bonds therefore shall be released. If the bonds are not released, refusal to release and reason therefore shall be given the subdivider, in writing.~~

~~\_\_\_\_\_ D. As assurance of continuation of common open space use in accordance with the plans approved by the Planning Commission, the subdivider shall grant to an association of lot owners or to the local jurisdiction an "Open space Easement" on and over the Common Open Space, prior to the recording of the final plat, which easement will not give the general public the right of access, but will provide that the Common Open Space shall remain open.~~

###### ~~\_\_\_\_\_ E. Maintenance of Common Open Space:~~

~~\_\_\_\_\_ 1. As assurance of maintenance of the common open space and other improvements where so required, the subdivider shall cause to be formed, prior to the recording of the final plat, a Lot Owners' or Home Owners' Association and shall establish articles of incorporation, bylaws and covenants outlining the purpose, organization, and operation of the Association.~~

~~\_\_\_\_\_ 2. Such articles of incorporation and covenants shall, among other things, provide:~~

~~\_\_\_\_\_ a. That membership shall be mandatory for each lot purchaser and any successive buyer.~~

~~\_\_\_\_\_ b. That Common Open Space restrictions must be permanent, not just for a period of years.~~

~~\_\_\_\_\_ c. That the Association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.~~

~~\_\_\_\_\_ d. That lot owners must pay their pro rata share of the costs.~~

~~\_\_\_\_\_ e. That the assessment levied by the Association shall become a lien against the property.~~

~~\_\_\_\_\_ f. That the Association must be able to adjust the assessment to meet changed needs.~~

~~\_\_\_\_\_ F. In the event the Lot Owners' or Home Owners' Association does not maintain the Common Open Space and improvements as proposed and indicated at the time of subdivision, the local jurisdiction may, at its option, do or contract to have done the required maintenance and recover the costs incident thereto by means of a lien against the involved properties of the members of said Association.~~

##### **25.10.020. Density Allowed:**

~~\_\_\_\_\_ Lot sizes and dimensions and yard dimensions in approved cluster subdivisions may be reduced as~~

provided in the zoning code and standards of this ordinance and the subdivision regulations may be modified by the Planning Commission and Governing Body as determined desirable and necessary to accomplish the purpose of subdivision cluster design and construction.

**Chapter 25.11. Construction Standards:**

**25.11.010. Construction Standards:**

Construction standards, including drawings, tables, charts, references and other regulations adopted by the Governing Body by resolution, shall constitute subdivision regulations supplementing this section. (See Appendix E):

**Chapter 25.12. Financial Responsibility:**

**25.12.010. Guarantee:**

In lieu of actual installation of the improvements required by this section, and before final plat approval by the Governing Body, the subdivider may guarantee the installation thereof by one, or a combination of one or more, of the methods specified below, in an amount equal to the cost of the improvements as estimated by the local engineer. The guarantee employed shall be approved as to method and form by the Governing Body and by the local attorney. The Governing Body is authorized to prescribe by administrative rule, or regulation, forms and procedures to insure the orderly, regular and efficient processing of applications for the approval of a proposed subdivision and the strict compliance with the requirements of the section. This guarantee requirement shall not apply to sidewalk installations in conjunction with the exception in Section 25.06.080 or when a street is developed for transportation corridor purposes through undeveloped property and a development agreement is entered into between all property owners and the City which obligates adjacent property owners to complete all City required improvements and the Planning Commission and City Council approve the street construction as a benefit for the public good. The development agreement shall stipulate that improvements are required with the issuance of a building permit or subdivision process or land development process.<sup>35</sup>

**25.12.020. Performance Bonds:**

The subdivider may furnish and file with the clerk of the Governing Body a corporate surety bond in an amount equal to the cost of the required improvements as estimated by the local engineer, to assure the actual construction of such improvements within a period of two (2) years immediately following the approval of the plat and subdivision by the Governing Body, which bond shall be approved by the Governing Body and the local attorney.

**25.12.030. Deposit in Escrow:**

The subdivider may deposit in escrow with an escrow holder approved by the Governing Body an amount of money equal to the cost of improvements required as estimated by the local engineer under an escrow agreement conditioned for the installation of said improvements within two (2) years from the approval of the final plat and subdivision. The escrow agreement aforesaid shall be approved by the Governing Body and the local attorney, and shall be filed with the County Recorder.

**25.12.040. Default:**

In the event the subdivider defaults or fails or neglects to satisfactorily install required improvements within two (2) years from date of approval of the final plat, the Governing Body may declare the bond or escrow deposit forfeited, and may install or cause the required improvements to be installed, using the proceeds from the collection of the bond to defray the expenses thereof.

**25.12.050. Phased Development:**

Whenever the subdivider shall develop a subdivision in portions, such development shall be in orderly manner and in such way that the required improvements will be continuous and all said improvements will be made available for full, effective and practical use thereof by lessee or grantee of any of the subdivided lands within the time hereinbefore specified.

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<sup>35</sup> Ordinance No. 03-12, dated 4/3/03.

**~~25.12.060. Guarantee for One Year:~~**

~~A. The subdivider or contractor, upon submission of his plans, shall deposit with the clerk of the Governing body a sum in the amount estimated by the local engineer to cover engineering review and inspection of the above improvements.~~

~~B. The subdivider shall warrant and guarantee that the improvements provided for herein, and every part thereof, will remain in good condition for a period of one (1) year after the date of conditional acceptance by the Governing Body, and agree to make all repairs to and maintain the improvements and every part thereof in good condition during that one year period at no cost to the local jurisdiction. It is further agreed and understood that identifying necessity for repairs and maintenance of the work rests with the local engineer, whose decision upon the matter shall be final and binding upon the subdivider, and the guarantee hereby stipulated shall extend to and include, but shall not be limited to the entire street, subgrade, base, and surface and all pipes, joints, valves, backfill and compacting as well as the working surface, curbs, gutters, sidewalks, and other accessories that are, or may be, affected by the construction operations. Whenever, in the judgement of the local engineer, said work shall be in need of repairs, maintenance, or rebuilding, he shall cause a written notice to be served the subdivider, and thereupon the subdivider shall undertake and complete such repairs, maintenance or rebuilding, and upon the date of the service of such written notice, the local government shall have such repairs made, and the cost of such repairs shall be paid by the subdivider.~~

**~~25.12.070. Acceptance and Release of Surety:~~**

~~A. Conditional acceptance of all the improvements shall be in writing from the Zoning Administrator,<sup>36</sup> after written approval has been received from the City Engineer. Full or partial release of the Improvement Bond or escrow may be authorized by the City Engineer upon conditional acceptance of the Zoning Administrator provided, however, that an amount equal to ten percent (10%) of the funds to be released shall be retained by the local engineer until final acceptance by the Zoning Administrator.~~

~~B. Final inspection by the City Engineer shall be made one year after all work has been completed. All defects shall be corrected before final acceptance by the Zoning Administrator.~~

~~C. Final acceptance shall be in writing by the Zoning Administrator, after written approval is received from the City Engineer.~~

**Chapter 25.13. Permits and Fees:**

**~~25.13.010. Permits:~~**

~~From the effective date of this section, the Building Inspector shall not grant a permit, nor shall any officer of the local jurisdiction grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this section or of the subdivision regulations, or on a lot in a subdivision created by judicial decree, until a subdivision plat thereof has been recorded, or approved as required by this section. Any license or permit issued in conflict with such provisions shall be null and void.~~

**~~25.13.020. Fees:~~**

~~At the time of filing the preliminary plat a non-refundable fee must be submitted, payable to the local jurisdiction, in accordance with the currently applicable fee schedule as adopted by resolution of the Governing Body.~~

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<sup>36</sup> Ordinance No. 01-33, dated 8/16/01.

## **Chapter 25.14. Penalty.**

### **25.14.010. Penalty.**

~~Any violation of the provisions of this section shall be a misdemeanor. Any person violating provisions of this section shall, upon conviction thereof, be punished by a fine not exceeding two hundred ninety-nine (\$299) dollars or imprisonment in the County Jail for three (3) months, or by both fine and imprisonment.~~

## **Chapter 25.15. Validity.**

### **25.15.010. Validity.**

~~If any section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid, such holding shall not affect the validity of the remaining portion of this section.~~

## **Chapter 25.16. Hillside Development.**

### **25.16.010. Purposes and Objectives.**

~~It is recognized that the general provisions, definitions, procedures, improvements and design requirements, standards and principles set out in the Title 25 of the Brigham City Code require supplementation to protect and preserve the public health, safety, and welfare in regard to hillside terrain areas. When areas are subdivided or developed hillside, such features as special soil and geologic conditions, steep terrain, highly combustible native vegetation, and other conditions may cause serious consequences such as increased fire, flood or erosion hazards, traffic circulation problems, sewage disposal problems, property damage from extensive soils slippage and subsidence, and adverse effects from destruction of natural scenic beauty and unsightly developments. Such consequences may be avoided if special consideration is given to areas where one or more such conditions exist.~~

~~In the administration of the provisions of this section, the Hillside Development Review Board shall strive to achieve the objective of preserving the natural appearance of the hillside areas by encouraging and requiring where necessary the following:~~

~~A. A minimum amount of grading which preserves the natural curves of the land and which does not result in staircase effects:~~

~~B. Retention of trees and other native vegetation (except in those cases where a high hazard results) which stabilizes steep hillside, retains moisture, prevents erosion and enhances the natural scenic beauty:~~

~~C. Construction of roads where the same are necessary on steep hillside in such a way as to minimize scars from cuts and fills and avoid permanent scarring of hillside:~~

~~D. Placement of building sites in such a manner as to permit ample room for adequate landscaping and drainage between and around the buildings:~~

~~E. Grading which will eliminate the sharp angles at the top and toe of cut and fill slopes, both with respect to building sites and to road cross-sections:~~

~~F. Lot site and structure designs which will be appropriate in order to reduce grading and natural topography disturbance:~~

~~G. Cluster type development or other new concepts were appropriate and possible in order to eliminate as far as possible construction on steep or dangerous terrain:~~

~~H. Early temporary or permanent planing, or both, wherever appropriate to maintain necessary cut and fill slopes to stabilize them by plant roots and to conceal the raw soil from view:~~

### **25.16.020. Definitions.**

~~**Average Percent of Slope.** An expression or rise or fall in elevation along a line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a parcel or lot. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is a one hundred (100) percent grade.~~

~~**Building Area.** A portion of a lot, parcel or tract of land which is to be utilized as the building site having an area of at least one hundred (100) feet by seventy-five (75) feet with an average slope of less than twenty-five (25) percent, such building area to be designated as the only area in which building may take place and outlined on the subdivision plat in which the lot is located:~~

~~**Hillside Development Review Board.** A board consisting of members appointed by the mayor of Brigham City with the duties of reviewing and regulating hillside developments in accordance with this section within areas that are included in the restricted category defined below in this section:~~

~~**Lot.** A parcel of land occupied or capable of being occupied by a permitted use, building or group of buildings~~

~~(main and accessory), together with such yards, open spaces, parking spaces and other areas required by Title 25 and Title 29 of the Brigham City Code, having frontage upon a street or upon a right-of-way approved by the Board of Adjustment. Except for group dwellings and Planned Unit Developments, not more than one (1) dwelling structure shall occupy any one (1) lot.~~

~~**Lot, Restricted.** A lot which has (1) an average slope of twenty-five (25) percent or more over a major portion of its areas, or (2) which does not have a building area of at least seventy-five (75) feet by one hundred (100) feet on a buildable portion of the lot with an average slope of less than twenty-five (25) percent, or (3) which has been identified as having potential geologic or other environmental hazards or constraints which require further investigation prior to the issuance of a building permit. The lot shall be increased in areas and with if over the twenty-five (25) percent slope category and shall be regulated and developed in accordance with the requirements of this ordinance and conditions imposed by the Brigham City Planning Commission as part of the requirements of the subdivision regulations.~~

~~**Non-Buildable Area.** The area of a lot which, because of identified potential geologic or other environmentally hazardous conditions, has been determined unsuitable for construction of residential buildings and other structures for human occupancy. Decks, patios, pergolas, storage sheds, private garages and other accessory structures may be allowed however within the designated non-buildable area of a lot.~~

**25.16.030. Applicability:**

~~———— This section shall apply to all lots in subdivisions and all parcels of land developed in Brigham City which fall within the "Restricted Lot" category as defined in this section and to all streets abutting such lots or parcels.~~

**25.16.040. Procedure:**

~~———— Plans of propose development an other information regarding building, construction, filling or excavating of land propose on lots, parcels or tracts of land meeting the standards of the "Restricted Lots" category or containing a designated building area shall be submitted to the Hillside Development Review Board for review in accordance with the standards and conditions of this section prior to or at the time of application for a building permit.~~

**25.16.050. Hillside Development Review Board:**

~~———— A. A Hillside Development Review Board is established and shall consist of the following:~~

- ~~———— 1. Building Inspector~~
- ~~———— 2. Public Works Director~~
- ~~———— 3. Planning Commission Representative~~
- ~~———— 4. City Engineer~~
- ~~———— 5. Police or Fire Department Representative~~
- ~~———— 6. Superintendents of each of the Utility Departments~~

~~———— B. The Chairman of the Review Board shall be the representative of the Planning Commission.~~

~~———— C. Additional members may be appointed to the Hillside Development Review Board by the Mayor when found to be of benefit to the performance of the duties of such Review Board.~~

~~———— D. The Review Board shall select from its members a vice chairman and adopt procedures not in conflict with the provisions of this section, Title 25 or Title 29. Meetings of the Review Board shall be held at the call of the Chairman.~~

~~———— E. The Review Board shall have the power and duty of reviewing and regulating hillside developments in accordance with this section within those lots, parcels or tracts which are categorized as "Restricted" or which contained designated building areas.~~

~~———— F. The Review Board's requirements shall be furnished in writing to the developer and the Building Inspector.~~

~~———— G. The Review Board may authorize variations to the standards stipulated in this section when justification and acceptable adjustments are presented to warrant such change.~~

~~———— H. The Planning Commission shall not issue any approvals and the Building Inspector shall not issue any Building Permits until detailed plans and other information regarding building, construction, filling or excavation of land proposed on lots, parcels or tracts of land meeting the standards of the "Restricted Lot" category or containing a designated building area have been submitted to and approved by the Hillside Development Review Board. Any condition attached to such approval by said Board shall be a condition required with the issuance of the Building Permit, and shall be enforced by the Building Inspector.~~

**25.16.060. Restricted Lot Design, Area and Width:**

~~\_\_\_\_\_ A. Each restricted lot or parcel of land meeting the restricted lot standards shall have an area and width equal to or greater than that required by the applicable zoning district regulations as determined from the applicable slope density tables contained in this section. Such lots shall be sufficient for the buildings, setbacks, yards, and any necessary cuts and fills, drainage facilities and stabilization areas required by the Hillside Development Review Board.~~

~~\_\_\_\_\_ B. All restricted lots shall be designed to provide the maximum in safety and human enjoyment while taking advantage of the best natural contours. Vegetation shall be preserved as much as possible.~~

~~\_\_\_\_\_ C. Each restricted lot shall conform with the lot design standards of the subdivision regulations but increase in proportion to the average percent of slope in accordance with the applicable slope density tables contained in this section.~~

#### **25.16.070. Streets and Roads:**

~~\_\_\_\_\_ Landscaping within the public right-of-way shall be encouraged when appropriate, especially planting of unsightly cuts and fills. Erosion control planting shall be provided when necessary to prevent serious erosion.~~

#### **25.16.080. Excavation, Grading and Filling:**

~~\_\_\_\_\_ A. Extensive grading is discouraged because of its detrimental effects on soil stability, erosion, and aesthetics.~~

~~\_\_\_\_\_ B. No excavation shall be made with a cut face steeper in slope than one and one-half (1 ½) horizontal to one (1) vertical, except under one or more of the following conditions:~~

~~\_\_\_\_\_ 1. If the developer proves through soils engineering and engineering geology reports that the material making up the slope of the excavation and the underlying earth materials is capable of standing on a steeper slope:~~

~~\_\_\_\_\_ 2. A retaining wall or other support is provided to support the face of the excavation.~~

~~\_\_\_\_\_ C. An excavation with a cut face flatter in slope than one and one-half (1 ½) horizontal to one (1) vertical may be required if the material in which the excavation is made is such that the flatter cut slope is necessary for stability or safety.~~

~~\_\_\_\_\_ D. No excavation shall be made sufficiently close to the property line to endanger any adjoining public or private property or structures without supporting and protecting such property or structures from settling, cracking or other damage which might result.~~

~~\_\_\_\_\_ E. No cut slope shall exceed a height of twenty-five (25) feet. The Review Board may modify this requirement if it determines that it is justified because of rock or other special conditions.~~

~~\_\_\_\_\_ F. No fill shall be made which creates any exposed surface steeper in slope than two (2) horizontal to one (1) vertical, except where a retaining wall is provided for support or where the developer shows that the strength characteristics of the material to be used in the fill are such as to produce a safe and stable slope and that the areas on which the fill is to be placed are suitable to support the fill.~~

~~\_\_\_\_\_ G. The Review Board may recommend that the fill be constructed with an exposed surface flatter than two (2) horizontal to one (1) vertical if such flatter surface is necessary for stability or safety.~~

~~\_\_\_\_\_ H. Fill slopes shall not exceed thirty (30) feet in height.~~

~~\_\_\_\_\_ I. Fills toeing out on natural slopes which are steeper than two (2) horizontal to one (1) vertical shall not be permitted.~~

~~\_\_\_\_\_ J. Toes of fill slopes shall not be made nearer to a lot boundary than one-half (½) the height of the fill, but need not exceed twenty (20) feet.~~

~~\_\_\_\_\_ K. All fills shall be compacted to a minimum of ninety (90) percent of maximum density over any area to be occupied by a dwelling or accessory building.~~

~~\_\_\_\_\_ L. The natural ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, top soil, and where natural slopes are five (5) horizontal to one (1) vertical or steeper, by benching into sound bedrock or other competent material.~~

~~\_\_\_\_\_ M. No organic material shall be permitted in fills. No rock or similar irreducible material with a maximum dimension greater than eight (8) inches shall be buried or placed in fills within two (2) feet of the final grade.~~

~~\_\_\_\_\_ N. Building foundations shall be setback from the top of slope a minimum distance of five (5) feet for all cut slopes steeper than two (2) horizontal to one (1) vertical. No buildings shall be constructed on cut or fill slopes steeper than two (2) horizontal to one (1) vertical.~~

#### **25.16.090. Drainage and Erosion Prevention:**

~~\_\_\_\_\_ Provision shall be made to prevent any surface waters from damaging the face of an excavation or~~



fill.

**25.16.100. Planting:**

~~\_\_\_\_\_ The face of all cuts and fill slopes shall be planted as soon as practical and maintained with a ground cover to protect the slopes against erosion. Planting shall be designed to blend the slope with the surrounding terrain and development. \_\_\_\_\_~~

**25.16.110. Fire Prevention and Suppression:**

~~\_\_\_\_\_ Fire protection is a fundamental need for safe habitation and use of hillside terrain areas. For the protection of present and future improvements and their uses and occupants, the following fire safety requirements are recommended and where appropriate shall be required:~~

~~\_\_\_\_\_ A. Development shall provide for ready access as to fire and other emergency equipment as per Uniform Fire Code and for routes of escape to safely handle evacuations.~~

~~\_\_\_\_\_ B. Firebreak easements separating dwellings or clusters of dwellings from the native vegetation may be required. Such firebreaks would be more properly termed "green belts" because all vegetation need not be removed, but thinned out or landscaped so as to reduce the volume of fuel.~~

**25.16.120. Slope Density Tables:**

~~\_\_\_\_\_ The following tables shall be used to determine the area and width of lots, parcels or tracts of land meeting the criteria for a "Restricted Lot" or those lots with a designated building area on a buildable portion of the lot which has an average percent of slope of twenty-five (25) percent or more over the major portion of its area.~~

~~\_\_\_\_\_ The lower square foot minimum in each of the following tables corresponds to the minimum lot area required in the applicable zoning district in which such lot is located. Lot area and widths shall be increased as percent of slope of the lot or parcel increases.~~

**TABLE 1: "RESTRICTED LOT" REQUIREMENTS**

**A. 6,000 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	6,000	60
26-30	7,800	80
31-35	9,800	90
36-40	12,000	100
41 and over	15,000	105

**B. 8,000 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	8,000	70
26-30	10,200	95
31-35	12,500	100
36-40	15,200	110
41 and over	18,800	115

**C. 10,000 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	10,000	80
26-30	12,400	100
31-35	15,000	110
36-40	18,000	120
41 and over	22,000	125

**D. 12,000 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	12,000	80
26-30	14,500	100
31-35	17,500	110
36-40	21,000	120
41 and over	25,000	125

**E. 20,000 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	20,000	100
26-30	23,500	115
31-35	27,500	130
36-40	32,000	145
41 and over	38,800	155

**F. 40,000 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	40,000	120
26-30	46,000	135
31-35	52,500	150
36-40	60,000	165
41 and over	70,000	180

**F. 43,560 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	43,560	150
26-30	50,000	165

31-35	57,000	180
36-40	65,000	195
41 and over	75,500	210

**TABLE 2: "BUILDING AREA" LOT REQUIREMENTS**

**A. 6,000 square foot minimum lot.**

Avg Percent of Slope	Sq Ft Minimum	Lot Width Minimum
to 25	6,000	60
26-30	6,300	60
31-35	6,900	65
36-40	7,800	65
41 and over	9,000	70

**B. 8,000 square foot minimum lot.**

Avg Percent of Slope	Sq Ft Minimum	Lot Width Minimum
to 25	8,000	80
26-30	8,300	80
31-35	8,900	90
36-40	9,800	90
41 and over	11,000	100

**C. 10,000 square foot minimum lot.**

Avg Percent of Slope	Sq Ft Minimum	Lot Width Minimum
to 25	10,000	80
26-30	10,400	80
31-35	11,200	90
36-40	12,400	90
41 and over	14,000	100

**D. 12,000 square foot minimum lot.**

Avg Percent of Slope	Sq Ft Minimum	Lot Width Minimum
to 25	12,000	80
26-30	12,600	80
31-35	13,200	90
36-40	13,800	90
41 and over	14,500	100

**E. 20,000 square foot minimum lot.**

Avg Percent of Slope	Sq Ft Minimum	Lot Width Minimum
to 25	20,000	100
26-30	20,800	100
31-35	22,400	115
36-40	24,800	125
41 and over	28,000	135

**F. 40,000 square foot minimum lot.**

Avg Percent of Slope	Sq Ft Minimum	Lot Width Minimum
to 25	40,000	150
26-30	41,200	150
31-35	43,600	150
36-40	47,200	160
41 and over	52,000	170

**G. 43,560 square foot minimum lot.**

<u>Avg Percent of Slope</u>	<u>Sq Ft Minimum</u>	<u>Lot Width Minimum</u>
to 25	43,560	150
26-30	44,800	150
31-35	47,400	160
36-40	51,300	170
41 and over	56,500	180