

**Title 52, A Land Use Ordinance
PERRY CITY SUBDIVISION ORDINANCE**

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GENERAL PROVISIONS**

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52.01.010. Intent and Purpose.

The underlying purpose and intent of this Ordinance is to promote the health, safety, and general welfare of the inhabitants of Perry City in the matter of subdivision of land and related matters affected by such subdivision. Any proposed subdivision and its ultimate use shall be in the best interest of the public welfare and the neighborhood development of the area concerned. By following the purpose and intent of this Ordinance, Perry City seeks to:

1. Provide policies, standards, requirements, and procedures to control the design and improvement of all subdivisions in Perry City.
2. Assist in implementing the objectives, policies, and programs of the General Plan by ensuring that all proposed subdivisions, together with provisions for their design and improvement, are consistent with the General Plan and all applicable specific Master Plans and other documents.
3. Preserve and protect unique and valuable natural resources and amenities, including topographic and geologic features, natural water courses, fish and wildlife habitats, historical and cultural places, and scenic vistas and attractions; and to improve public access to and enjoyment of such resources and amenities through the dedication of appropriate public easements thereto.

4. 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 environmental factors; to reduce potential hazards to life and property from fire, flood, erosion, sedimentation, and soil slippage.
5. Encourage the clustering of housing developments in order to preserve and enlarge open space areas.
6. Relate land use intensity and population density to street capacity and traffic access, the slope of the natural terrain, the availability and capacity of public facilities and utilities, and open spaces.
7. Provide lots of sufficient size and appropriate design for the purposes for which they are to be used, 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.
8. Provide adequate systems of water supply, sanitary sewage disposal, storm drainage, street lighting, and other utilities needed for public health, safety, *and general welfare*.
9. Prevent land which is actually or potentially dangerous by reason of flood hazard, inundation, inadequate access, inadequate water supply or fire protection, insufficient sewerage 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.

52.01.020. Scope of Ordinance.

These subdivision regulations shall apply to all subdivisions of land located within the corporate limits of Perry City.

52.01.030. Jurisdiction.

The following regarding jurisdiction within the Perry City Subdivision Ordinance:

1. No person shall subdivide any tract of land which is located wholly or in part in Perry City, except in compliance with this Ordinance. No person shall sell or exchange or offer to sell or exchange any parcel of land which is a 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 a parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this Ordinance; provided, that this Ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this Ordinance.
2. No building permit shall be granted for the construction of any building or other structure located within a subdivision unless and until the final subdivision plat has been approved and recorded.
3. No lot within a subdivision reviewed by the Planning Commission, approved by the Subdivision Land Use Authority, and recorded in the County Recorder's Office in accordance with the provisions of this Ordinance, 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 non-conforming lot without first obtaining the approval of the Planning Commission and the Subdivision Land Use Authority.

4. No subdivision of Land shall occur in Perry City unless and until adequate secondary water has been obtained for the property to be subdivided and plans for an adequate delivery system have been approved by the City Engineer.

52.01.040. Subdivision Using Metes and Bounds Description.

The subdivision of any lot or parcel of land, by the use of metes and bounds description shall not be permitted except as described in the following: Residential subdivisions containing three (3) or fewer lots not requiring public improvements, street dedications, or a financial guarantee shall be permitted. These subdivisions must comply with all of the requirements for conceptual, preliminary, and final approval except for the final plat process, and must meet all of the requirements for the zone in which they are located. No future phase of an existing subdivision will be considered for metes and bounds subdivision. A notice shall also be recorded for each new lot within a metes and bounds subdivision containing the subdivision name, legal description of the lot, and date of final approval.

52.01.050. Lot Line Adjustments.

The adjustment of lot lines within any subdivision may be permitted, provided that the adjustment in no way violates City Ordinances or State Laws and that the adjusted lots comply with applicable requirements of the zone in which they are located.

52.01.060. Variances.

In order to obtain a variance to any of the requirements of this ordinance the subdivider must clearly demonstrate that, because of peculiar physical conditions pertaining to the land to be subdivided and not to other lands in the general area, the literal enforcement of one or more of the regulations of this Ordinance are impractical or will exact undue hardship, and where a subdivision would otherwise be permitted, the *Administrative Law Judge*, after favorable recommendation from the Planning Commission, may consider such variance(s) or variances as may be reasonable and within the general purpose and intent of this ordinance and State Law.

52.01.070. Definitions.

The definitions for the Perry City Subdivision Ordinance are located in Title 41 of the Perry City Municipal Code which states: "The following definitions pertain to the Perry City Land Use Ordinances for the purpose of explanation and defining of terms contained within included ordinances." Title 41 will be amended to include the following definition at the time of the adoption of this Title 52:

1. Subdivision Land Use Authority: The group, board, or council designated and given authority to approve and otherwise act on subdivisions and all matters related thereto, in behalf of Perry City, which currently is the City Council.

52.01.080. Interpretation, Conflict, and Separability.

The following regarding interpretation, conflict, and separability in this ordinance:

1. In their interpretation and application the provisions of these regulations shall be the minimum requirements for the promotion of the public health, safety, and general welfare.
2. Conflict with public and private provisions.
 - a. Public provisions: These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute, or other provision of law, whichever provisions are more restrictive or impose higher standards shall govern.
 - b. Private Provisions: These regulations are not intended to abrogate any easement, covenant, condition, restriction, or any other private provisions, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, condition, restriction, or any other private provisions, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, condition, restriction, or private agreement impose more restrictive or higher standards than the requirements of these regulations, or the determinations of the Planning Commission or the Subdivision Land Use Authority in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations hereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Nothing contained therein shall empower or require the City to enforce such private agreements or restrictions.
3. Regarding separability, if any part or provision of these regulations or application thereof to any person or circumstance is adjudged invalid by any court or competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

52.01.090. Saving Provision and Conditions.

The following are definitions of saving provisions and conditions:

1. Saving Provision: These regulations shall not be construed as abating any action now pending under, or by virtue of prior existing subdivision regulations; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.
2. Conditions: Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State to Perry City. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission and Subdivision Land Use Authority for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the City and to the safety and general welfare of the future lot owners in the subdivision and of the community at large. Any matter upon

which action may or shall be taken under the provisions of this Ordinance may, at the discretion of the Subdivision Land Use Authority, unless otherwise provided for in the subdivision ordinance, be referred to the Planning Commission for its study, consideration, and recommendations.

Chapter 52.02.
SUBDIVISION APPROVAL PROCESS

- 52.02.010. Concept Plan Requirements and Procedure.**
- 52.02.020. Preliminary Plat Requirements and Procedure.**
- 52.02.030. Final Plat Requirements and Procedure.**
- 52.02.040. City Engineer to Approve Construction and Improvements.**
- 52.02.050. Submitted As-Built Plans and Auto-Cad Files to City Engineer.**

52.02.010. Concept Plan Requirements and Procedure.

The following criteria regarding concept plan requirements and procedure:

1. Pre-application meeting required: Any person wishing to subdivide land within Perry City shall secure from the City Office information pertaining to zoning requirements, subdivision of land, streets, landscaping, required improvements, the Perry City General Plan, etc. and shall sign a certification form provided by the City, agreeing to comply with all requirements. A meeting shall then be arranged with City staff to discuss a conceptual subdivision proposal. A concept plan must be submitted at the meeting showing the current zoning designation, the proposed layout of lots and streets, the proposed layout of parks, trails, and other open space areas, the availability of secondary water and other general information. City staff shall discuss the proposal with the subdivision applicant in general terms, advising of procedural steps, design and improvement standards, and general platting requirements.
2. The concept plan shall be presented to the Planning Commission at a Planning Commission meeting where they may give comments and recommendations. These comments shall be incorporated with staff comments and addressed on the preliminary plat submitted by the subdivision applicant. The Planning Commission shall not make a formal motion or vote on concept plans, but their comments and recommendations shall be recorded in the meeting minutes and reviewed when a preliminary plat is submitted. The Planning Commission may require a site visit to be arranged if it is determined to be necessary. A concept plan that has been reviewed and has received comments and recommendations by City Staff and the Planning Commission shall be considered valid for six months from the date of the Planning Commission meeting at which it was presented, after which a new concept plan must be submitted through the same process. A concept plan shall in no way give any vesting rights to the subdivision applicant.
3. If a concept plan for a subdivision requires a rezone of any kind, the concept plan may be reviewed subject to the proposed zone change being approved. However, all zone changes must be completed and approved before a preliminary plat submittal will be accepted and the process outlined in Zoning, Title 45 of the Perry City Land Use Ordinances shall be followed.

52.02.020. Preliminary Plat Requirements and Procedure.

Preliminary Plats must be submitted to the Perry City Office at least two weeks prior to the requested Planning Commission meeting. Incomplete submittals will not be accepted. All preliminary subdivision submittals shall contain the following:

1. A completed subdivision application signed by the property owner(s).
2. A non-refundable fee made payable to Perry City. The City Council shall by resolution from time to time, prescribe the amount of such fee, which shall be for the purpose of reimbursing the City for expenses incidental to the checking and approval of subdivision plans.
3. Written approval from agencies / individuals responsible for approving non-city provided services for sewer or septic systems, culinary water, and secondary water.
4. An ownership plat from the County Records Office.
5. Seven (7) full size 24 x 36 and sixteen (16) 11 x 17 copies and a PDF file of the preliminary plat on CD which meet the requirements listed in this ordinance.
6. All preliminary subdivision plats shall be drawn to a scale not smaller than one hundred (100) feet to the inch and shall contain the following:
 - a. The proposed name of the subdivision. The subdivision name shall not duplicate that of any other recorded plat name within the city.
 - b. Sufficient information to locate accurately the property shown on the plan including section ties.
 - c. The individual or company names and addresses of the subdivider, the engineer and registered land surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided.
 - d. Contour map at intervals determined by the City Engineer during review of the concept plan.
 - e. The boundary lines of the tract to be subdivided showing bearings and distances.
 - f. Lot layout with each lot numbered consecutively and a phasing plan if applicable.
 - g. Minimum setback lines for each lot (Buildable Footprint).
 - h. Lots classified as "restricted" by placing the letter "R" immediately to the right of the lot number of said lot and an explanation of why the lot is restricted.
 - i. The location, widths and other dimensions of all existing or platted streets and other important features such as railroad lines, water courses, exceptional topography, easements and buildings within or immediately adjacent to the tract to be subdivided.
 - j. Existing and proposed sanitary sewers, storm drains, water supply mains, water wells, land drains, and culverts within the tract and immediately adjacent thereto.
 - k. The location, widths and other dimensions of proposed public streets, private streets, or private access rights-of-way, alleys, utility easements, parks, other open spaces and lots with proper labeling of spaces to be dedicated to the public or designated as private streets or private access rights-of-way.
 - l. North point, scale, and date.
 - m. The location of test holes on each lot if proposed to be on a septic system.
7. Plans or written statements prepared by a licensed civil engineer regarding the width and type of proposed pavement, cross-section, location, size, and type of proposed sanitary sewers or other sewage disposal facilities, proposed water mains and hydrants and other proposed storm water drainage facilities, and other proposed improvements such as sidewalks, plantings and parks, and any grading of individual lots. Engineering drawings may be required during preliminary approval in subdivisions where roads are proposed over ground that has an average slope of ten percent (10%) percent or greater.

8. Distribution of Preliminary Plan: Once the preliminary submittal is complete, the City Office shall distribute a copy of the preliminary Plan to each of the following (if applicable) for their information and recommendations: City Engineer, City Planner, Fire Marshall, Bear River Health Department, and companies furnishing telephone, electric, sewer, water and/or gas service. The City Office may distribute copies of the preliminary plan to other agencies and organizations to ensure thorough review of the proposed plan.
9. Public Notice: All noticing and publishing shall be in compliance with State Law. When the Planning Commission decides to hold a public hearing, they will so advise the Community Development Department to advertise the hearing and notice of the application for a Subdivision will be mailed to property owners, or other written notice given, as required by state law. The public hearing shall be held after public notice in a local newspaper, as per the requirements of state law. This is a courtesy to adjacent landowners and compliance with this section shall not be a condition precedent to proper legal notice (if not required by state law) and no hearing or action taken thereon shall be deemed invalid or illegal because of failure to give notice to all nearby landowners. The applicant is responsible for the costs of mailing or other written notice.
10. Minor Subdivisions: Subdivisions containing five (5) or fewer lots and meeting all of the requirements for a preliminary and final plat, as approved by City Staff, may receive final approval at the same time as preliminary approval.
11. Preliminary Plan Approval: The preliminary plan shall be presented to the Planning Commission for their recommendation. The Planning Commission's recommendation may be appealed to the Subdivision Land Use Authority by filing an appeal within 15 days from the date of the recommendation. If the Planning Commission's recommendation is not appealed to the Subdivision Land Use Authority, the recommendation shall stand as the City's decision on preliminary approval.
12. Time Limitation for Preliminary Approval: Subdivision applications that have not received preliminary approval within six months of the date of submittal shall be void. Subdivisions receiving preliminary plan approval shall have one (1) year from the date of the approval to receive a recommendation for final approval of the subdivision or phase thereof, from the Planning Commission. An extension for an additional six months may be granted by the Planning Commission upon repayment of the subdivision filing fees and the plan being brought into compliance with City, State, and Federal ordinances current at the time of the extension. The extension request shall be submitted and approved prior to the expiration of the original one (1) year approval period.

52.02.030. Final Plat Requirements and Procedure.

The following regarding final flat requirements and procedure:

1. Preparation of Final Plat: The subdivider shall have one (1) year following the approval of the preliminary plat to submit a final plat, plan and profile drawings and other drawings required by the Planning Commission, and a construction cost estimate, or the preliminary plat shall be null and void and the subdivider must start the subdivision process again. The final plat and package must be submitted to the Perry City Planning Department at least two weeks prior to the requested Planning Commission meeting. Incomplete submittals will not be accepted.
2. The subdivider shall submit seven (7) full size 24x36 and sixteen (16) 11x17 paper copies and one PDF file of the final subdivision plat to the City Planning Department. The final plat will be distributed to the City Engineer, City Planner, and other professional design review consultants.

3. After the prints of the final plat, plan & profile drawings, other required drawings and construction cost estimates have been checked and the subdivider has made such changes or corrections as may be noted or required by the professional consultants, the subdivider shall submit seven (7) 24x36 and 11x17 prints of the corrected documents to the City Planning Department. These will again be distributed to the City Engineer, City Planner, and professional design review consultants for their review.
4. After the final plat, plan, other required drawings and cost estimates have been approved by the City Engineer and the City Attorney, they shall be submitted to the Planning Commission for review and recommendation of final approval to the Subdivision Land Use Authority.
5. After approval of the final plat by the Planning Commission, the subdivider shall post a bond, escrow, or other assurance that is acceptable to the City Attorney and City Engineer; which bond or assurance shall be in an amount equal to the estimated cost of construction, plus fifteen (15) percent, guaranteeing that the improvements will be installed and paid for without cost to the city within two (2) years of the final plat being recorded. The subdivider shall sign an agreement with the city guaranteeing all improvements for a period of two (2) years after the date of written acceptance for perpetual maintenance. Evidence of marketable title shall be obtained and provided to the City Planning Department by the subdivider. The performance bond, escrow, or other means of assurance and evidence of marketable title will be submitted to the City Planning Department by the subdivider prior to the recording of the final plat. Bonds will only be released after a final inspection by Perry City Staff.
6. After the final plat has been approved by the Planning Commission, it shall be submitted to the City Attorney for approval as to form. The performance bond, escrow, or other means of assurance and evidence of marketable title shall also be reviewed for acceptability. If all items are acceptable, the final plat shall be signed by the City Attorney.
7. The City Planning Department shall inform the subdivider of the City Attorney's approval of the final plat and the subdivider shall deposit with Perry City the required inspection, permit, and impact fees.
8. After the final plat has been approved by the City Engineer, the Planning Commission, and the City Attorney; and the subdivider has furnished the required performance bond, escrow, or other means of assurance, and all required assessments, the plat shall be submitted to the Subdivision Land Use Authority for approval.
9. If the subdivision is approved by the Subdivision Land Use Authority the City Planning Department shall submit the final plat to the County Recorder for recording. The City Planning Department shall notify the subdivider at the time the final plat is submitted to the County Recorder and it will be the responsibility of the subdivider to pay the required recording fee to the County Recorder. No subdivision shall be recorded in the office of the County Recorder, and no lot included in such subdivision shall be sold or exchanged, and no offer shall be made to sell or exchange any such lot, unless and until the plat is approved and recorded. The subdivider, by designating the location for easements for all utility lines and installations thereof, shall agree, as one of the conditions for the approval of any plat, that he will at his own expense, remove or relocate any obstruction that in the opinion of the City Engineer, makes such location impractical for use. After the final plat has been recorded and prior to the commencement of work of any nature within the subdivision (unless otherwise approved by the City Engineer; see the other provisions of this Chapter), the subdivider shall provide the names and addresses, license numbers, and verification of insurance of the contractors, subcontractors, and suppliers who shall

perform any work or services or supply any material which shall be used within said dedicated areas.

10. The final mylar plat shall be prepared by a licensed civil engineer with a legal description of parcels certified by a licensed land surveyor. The final plat shall be so drawn that the north arrow shall point to the top or to the right top of the sheet, whichever accommodates the drawing best. All lines, dimensions and markings shall be made on the final plat with approved waterproof black "India Drawing Ink". The actual map drawn shall be drawn to a scale no less than 60 feet equals one (1) inch. The subdivider shall submit the final plat on a reproducible mylar copy as well as an electronic Auto CAD file. Plan and Profile drawings shall be on a reproducible mylar copy as well as an Auto CAD file. The drawings shall be required to display all required and authorized signatures with the exception of the Mayor and the County Recorder when submitted to the Subdivision Land Use Authority for approval. Prior to commencement of construction of any nature, four (4) copies of plan and profile drawings and any required detail drawings of all proposed new streets and alleys, showing the design of all curb and gutter, sidewalks, water systems, sewer systems, etc., shall be submitted for approval to the City Engineer. Such drawings shall be prepared electronically using Auto CAD and printed on standard approved quality mylar plan and profile sheets. The final plat mylar format shall contain the following information including but not limited to:
 - a. A subdivision name, approved by the Planning Commission and checked with Box Elder County for duplication and the general location of the subdivision by political subdivision description in bold letters at the top of the sheet.
 - b. A north point and scale on the drawing, and the date.
 - c. Accurately drawn boundaries, showing the proper bearings and dimensions of all boundary lines of the subdivision, properly physically tied to an established government land survey monument or to approved city monuments, all such ties to be verified by a licensed land surveyor.
 - d. Subdivision boundary lines should be drawn heavier than street and lot lines.
 - e. All bearings shall be calculated and shown to the second of an arc. All dimensions of the final plat shall be calculated and shown to the one (1) hundredth of a foot. The subdivider shall submit to the City Engineer for review purposes calculated coordinates of all: Subdivision perimeter property corners, street center line intersections, P.C.'s (point of curvature) and P.T.'s, (point of tangency) major radius points, major angle points of interior lot lines and such major interior lot line intersection points as may be required by the City Engineer.
 - f. Curve data shall be shown on all street center line curves and property line curves and shall include the following information: Length of curve, delta angle, radius of curve, length of tangent, and length and bearing of long chord.
 - g. The names, widths, lengths and bearings on center lines of proposed streets and easements; the boundaries, bearings and dimensions of all parcels within the subdivision, as intended to be dedicated to the use of the public; the dimensions and bearings of all lot lines and the numbers of all lots, blocks, and parts reserved for any reason within the subdivision shall be shown. All lots and blocks are to be numbered consecutively under a definite system approved by the Planning Commission and consistent with County Recorder procedures. All proposed streets shall be named or numbered in accordance with and in conformity with the adopted street naming and numbering system of the city. All lots shall be assigned

addresses and shall be included on the plat (including both addresses of corner lots).

- h. The standard mylar subdivision plat shall include the following: (example available at City Office)
 1. Legal description of land to be included in subdivision.
 2. Registered land surveyor's "Certificate of Survey".
 3. Owner's dedication which shall include land designated as streets the same to be used as public thoroughfares forever, and also dedicate to Perry City those certain strips as easements for public utility and drainage purposes as shown there on. The same to be used for the installation, maintenance and operation of public service lines and drainage as may be authorized by Perry City together with a perpetual easement in favor of Perry City over common areas to accommodate public services, including but not limited to the right of police and fire personnel to enter upon any part of the common areas, and to allow the city to repair or replace facility improvements thereon if the lot owner or homeowners association fail to do so.
 4. Notary public's acknowledgment(s) and corporate acknowledgment(s), as appropriate.
 5. Perry City Planning Commission's Chairperson signature of approval.
 6. City Engineer's signature of approval.
 7. Subdivision Land Use Authority's signature of acceptance and approval signed by the Mayor and attested by the City Recorder.
 8. City Attorney's signature of approval.
 9. County Recorder's signature of recording. It is necessary that all dimensions and bearings on the final plat shall show proper closures as approved by the City Engineer, and no plat will be accepted that shows a plus or minus distance for closure.
 10. Easements for public utilities, surface drainage, secondary water lines, etc. shall be shown as approved by the City Engineer. The City Engineer block of approval on the plat requires special wording. A copy of the wording is available at the City Planning Department.
 11. Bear River Health Department's signature of approval (if applicable).
 12. Fire Marshall signature of approval.

52.02.040. City Engineer to Approve Construction and Improvements.

Construction may not begin until the final plat is signed and recorded unless the improvement plans have been approved by the City Engineer and the developer has met with the City Engineer in a pre-construction meeting and an agreement has been reached and executed allowing construction to begin within parameters set by the City Engineer. All improvements must be completed and approved by the City Engineer or the remainder of the incomplete improvements must be bonded for before the final plat is recorded. Land may be cleared and initial grading may be started prior to recording the final plat as long as a storm water pollution prevention plan has been approved and a permit obtained from the Utah Department of Environmental Quality.

52.02.050. Submitted As-Built Plans and Auto-Cad Files to City Engineer.

As-Built plans and an affidavit of payment of suppliers shall be submitted to the City Engineer. After all required facilities and utilities have been satisfactorily installed as a condition of

construction approval, the subdivider shall furnish to the City Engineer a reproducible mylar set and an electronic Auto-Cad file of "as-built" engineering drawings.

Chapter 52.03.
SUBDIVISION DESIGN REQUIREMENTS

- 52.03.010. General Design Requirements.**
- 52.03.020. Streets.**
- 52.03.030. Cul-de-sacs.**
- 52.03.040. Blocks.**
- 52.03.050. Lots and Public Spaces.**
- 52.03.060. Flag Lots.**
- 52.03.070. Storm Water Facilities.**
- 52.03.080. Utilities and Other Improvements.**

52.03.010. General Design Requirements.

All facilities and utilities installed within a subdivision and all improvement drawings submitted to the City Engineer shall conform to the "Perry City Public Works Standards and Technical Specifications," which is herein made a part of this ordinance by reference but may be changed from time to time according to Land Ordinance 07-CC.

52.03.020. Streets.

The following are subdivision design requirements for streets:

1. The arrangement of streets in new subdivisions must accent the General Plan Circulation Guide and generally follow the Perry City Transportation Master Plan, and shall make provision for the continuation of existing streets in areas where adjoining land is not subdivided, at the same or greater width, but in no case less than the required minimum width. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the Planning Commission and Subdivision Land Use Authority, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property.
2. Any road deemed a local or collector road by comparison to the Transportation Master Plan or by Design Review of the Planning Commission and/or the City Engineer shall be fully completed to Perry City Minimum Standards (Refer to Perry City Minimum Standard Drawings for description and details).
3. All streets shall intersect each other as nearly as possible at right angles, but shall in no case intersect other streets at an angle of less than eighty (80) degrees.
4. Minimum street grades of five-tenths (0.5) percent will be required with the maximum grade being ten (10) percent for major streets and twelve (12) percent for minor streets, or as directed by the Perry City Standards.
5. Any break or change in horizontal alignment of a street center-line, not at intersections, shall include a connecting curve. The radius of the curve for the street center lines shall be not less than two hundred fifty (250) feet for collector and major streets, and one hundred (100) feet for minor streets.

6. New street names shall not duplicate those already existing. A street which is obviously a continuation of another already in existence shall bear the same name. Before the street is named, the proposed name must be submitted to and be approved by the Planning Commission. Perry City prefers North, South, East, West numbering to help emergency vehicles find addresses.
7. The dedication and paving of half of the width of a street, from curb to curb in any subdivision, is strictly prohibited. Where subdivision streets parallel contiguous property of other owners, the subdivider may retain a protection strip not less than one (1) foot in width between such street and adjacent property, provided, that an agreement approved by the City Attorney has been made with the City by the subdivider contracting to sell to adjacent owners the one (1) foot or larger protection strip upon payment to the developer by the owners of the contiguous property, the value of one-half the land in the street at the time of the subdivision of such contiguous property when the other side is developed, plus half the cost of improvements at current rates as estimated by the City Engineer.

52.03.030. Cul-de-Sacs.

Cul-de-sacs will generally be discouraged except under one or all of the following circumstances:

1. The Planning Commission shall have discretion in determining if proposed cul-de-sacs in developments are suitable. The Planning Commission may vary from the conditions listed in number 2 below if they determine that a proposed cul-de-sac will not impede traffic circulation in a significant manner, a through-road has already been provided in the vicinity of the cul-de-sac, or topography limits road design in a development.
2. The maximum length of a cul-de-sac shall be four hundred (400) feet and shall require a turn-around at the dead end with a radius that shall be a minimum of fifty (50) feet or as allowed by Perry City Standards or approved by the City Engineer.
3. All public streets, permanent cul-de-sacs, public easements, and rights-of-way within the corporate limits of the City shall be required to be dedicated for public use. If surface drainage is directed into the cul-de-sac or a road intended to have no future outlet, necessary catch basins, storm drain piping and drainage easements shall be provided. Such drainage systems shall be designed to handle the 100 year, two (2) hour storm events and incorporate sufficient backup into the design to minimize plugging of such facilities and flooding to adjacent properties. Such drainage configurations are not desired and should be avoided if possible.
4. Cul-de-sacs which contain 9 or fewer residents will not have rural mail boxes. Mail delivery will be provided by grouping curbside mailboxes or CBUs at a point(s) before and/or after the entrance to the cul-de-sacs.

52.03.040. Blocks.

The following are subdivision design requirements for blocks:

1. The maximum length of blocks shall be twelve hundred (1200) feet and the minimum length of blocks shall be five hundred (500) feet. In blocks over eight hundred (800) feet in length, the subdivider may be required to dedicate, pave with concrete, and fence with four (4) foot high chain link fencing, a walkway through the block at approximately the center of the block. Such walkway shall not be less than six (6) feet clear in width, with barriers installed which will prevent the use of these walkways by any motorized vehicle.
2. The width of blocks shall be sufficient to allow two tiers of lots unless otherwise approved by the Planning Commission and Subdivision Land Use Authority. No lot shall

face a street and back onto another street except in specific and unusual circumstances such as the case of lots backing onto limited access or no access roads, and in no case shall a lot have access to both roads. Unusual and specific circumstances must be approved by the Planning Commission and Subdivision Land Use Authority.

52.03.050. Lots and Public Spaces.

The following are subdivision design requirements for lots and public spaces:

1. The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and conform to requirements set forth herein. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage which would be unusable for normal purposes.
2. All lots shown on the subdivision plat must conform to the minimum requirements of the zoning ordinance then in effect for the zone in which the subdivision is located, and shall also conform to the minimum requirements of Perry City's water supply and sewage disposal ordinances.
3. Each lot shall face and abut on a street dedicated by the subdivision plat or an existing publicly dedicated street. Side lot lines shall intersect lot lines at right angles or radially unless otherwise specifically approved in unusual circumstances by the City Engineer.
4. Lots in subdivisions may be approved if they meet minimum square footage requirements for the zone in which they are located and if they face and abut a right of use road deemed to have been dedicated and abandoned to the use of public when it has been continuously used as a public thoroughfare for a period of ten (10) years (UCA 27- 12- 89). A farm access road not used by the general public does not qualify. The houses on these lots shall be set back a minimum of sixty (60) feet from the accepted street center line.
5. Corner lots shall have stipulated additional width as approved by the Planning Commission sufficient for maintenance of required building lines on both streets as defined by Perry City Standards.
6. All remnants of lots below minimum lot size, left over after subdividing a larger tract must be added to adjacent lots or deeded to adjacent parcels rather than allowed to remain as unusable parcels. Remainder parcels must meet the area and frontage requirements of the zone in which they are located.
7. No subdivision shall be accepted and approved for recording until acceptable evidence is submitted assuring marketable title for all property within the legally described boundary of the subdivision.
8. In subdividing property, consideration shall be given to sites for schools, parks, playgrounds, and other areas for public use. Provision for such open spaces may be required and should be indicated on the conceptual plan and the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency.

52.03.060. Flag Lots.

Flag Lots may be permitted in all zones when reviewed and recommended by the Planning Commission and approved by the Subdivision Land Use Authority. In order for the Planning Commission to give a favorable recommendation for a flag lot they must determine that the proposed flag lot meets the requirements listed in the section below. It is recommended that subdivisions develop without using flag lots unless difficult circumstances dictate otherwise. All flag lots must meet the following requirements. In order to encourage the more efficient use of

land, flag or L-shaped lots not having frontage on a street as required by the Perry City Municipal Code, but having access to such street by means of fee title access strips, may be allowed in any zone subject to the following conditions:

1. The Planning Commission determines that it is not feasible or desirable to extend a street to serve such lot or lots at that time. Criteria to be used in determining feasibility or desirability of a street shall include, but not be limited to, topography, boundaries, and/or an area in which a road would not open an area of 3 acres or more for development.
2. A flag or L-shaped lot shall be comprised of a staff portion contiguous with the flag portion thereof. Both the staff and flag portions of the lot must be under the same ownership.
3. The staff portion of a flag lot shall front on and be contiguous to a dedicated public or private street. The minimum width of the staff portion of a flag lot shall be 16 feet for one lot and a minimum of 30 feet (15 feet for each lot) for two lots located next to each other. The maximum width shall be 30 feet for one lot and 60 feet for two lots. The maximum length shall be 200 feet and the maximum grade shall be 12% or as designated by the City Engineer and the Fire Marshall.
4. No building, construction, or landscaping except for driveways shall be allowed on the staff portion of a flag lot. Road surfaces on private access ways shall have a minimum twelve (12) foot finished road surface capable of supporting a 20-ton weight capacity with a surface approved by the City Engineer.
5. The front side of the flag portion of the lot shall be deemed to be that side nearest to the dedicated public street on which the staff portion of said lot has frontage.
6. The lot area, exclusive of the staff/access strip, of any flag lot shall be a minimum of 20,000 square feet. Flag Lots in zones that require more than 20,000 square feet must meet the requirements of the zone in which they are located.
7. The flag portion of the lot shall meet all side and rear yard setback requirements of the zone in which it is located. The minimum front yard setback requirement for all buildings shall be 30 feet from the front of the flag portion (end of the staff portion) of the lot.
8. Each lot shall access a street by means of its own access strip. No more than two flag lots may be contiguous to each other. The lot address shall be displayed in a prominently visible location at the street entrance to the access strip.
9. A turn-around area shall be provided at the home location to allow fire-fighting equipment to turn around. This area shall be a year round surface capable of supporting fire equipment. The Fire District shall be given a plan showing the location of the proposed home and may impose other restrictions or guidelines that are deemed necessary.
10. No flag lot shall be allowed which proposes to re-subdivide or include within it (including the access strip) any portion of an existing lot in a recorded subdivision. Likewise, No subdivision shall be vacated, re-subdivided, or changed in order to meet the requirements of this chapter.
11. The maximum number of flag lots in the development shall be determined by design review. The Planning Commission shall impose such other conditions as are reasonable to ensure safety, accessibility, privacy, etc. to maintain or improve the general welfare of the immediate area.

52.03.070. Storm Water Facilities.

The following subdivision design requirements for storm water facilities:

Storm water runoff will be addressed with every development retention/detention basins or other facilities will be considered individually with each submitted design and must be approved by City Engineer. Regional storm water detention basins are preferred over individual development detention basins.

Perry City requires that all projects one acre or larger develop a storm water pollution prevention plan as well as apply for and obtain a storm water permit from the State of Utah Department of Environmental Quality. Developers are required to build regional or individual development detention basins for storm water run off in Perry City and must meet certain requirements prior to the final acceptance of the subdivision or development.

All basins are to be landscaped and must have a pressurized sprinkler system installed and be planted with grass seed or sod.

52.03.080. Utilities and Other Improvements.

The following are subdivision design requirements for utilities and other improvements:

1. All curb and gutter, paving, sidewalks, and utilities shall be extended to the subdivision boundary and installed in all circumstances.
2. Whenever a proposed subdivision which requires a final plat borders on an existing dedicated or right-of use street, the subdivider shall be required to meet with the Subdivision Land Use Authority or their designated representative to determine and negotiate the methods and means required for the improvement of, and the installation of utilities and street improvements in such street.
3. The subdivider shall be required to install standard city street monuments as directed by Perry City Standards at all street center line intersections, at the center of all cul-de-sac turnarounds, and at such other major locations as required by the City Engineer. Installation of such monuments shall be a condition of final acceptance of the streets by the city for perpetual maintenance.
4. All subdividers will be required to use secondary water assigned to the property for irrigation or sprinkler purposes. Should secondary water not be assigned to such property, the developer shall be responsible for the acquisition of such water and subsequent transfer of ownership of those water rights to the appropriate secondary water provider. Secondary water systems must be shown in the plan and profile drawings. Developers must use the Pineview Pressurized Systems for secondary water where available or make arrangements for the extension thereof and installation to their specifications. No development will be allowed without proof to the City Engineer of secondary water and an adequate delivery system for any property within Perry City.
5. All culinary water laterals shall be sized in accordance with the Perry City Public Works and Technical Specifications manual.
6. Subdividers will be required to place concrete collars on all manholes, survey monuments, and valves installed within any portion of any street.
7. Perry City requires total containment around houses or developments prior to any construction and during construction. Temporary fencing is necessary for the purpose of containing all construction debris on location for the contractor or developer to clean up.
8. Monolithic curb and gutter (integral sidewalk) is only allowed by special permission by the Subdivision Land Use Authority after recommendation by the City Engineer when some unusual circumstance occurs. When such combination is allowed the width of the sidewalk shall be at least six (6') feet. Grouping curbside mailboxes or CBU's will be used for mail delivery when monolithic curb and gutter is allowed.

9. Developers who purchase property to sell lots or spec homes are required to clear the entire parcel of property, whether it is developed in phases or not, of fruit trees, large shrubs and trees, and any unsightly debris prior to starting any construction or re-sale of property. If a developer has the desire to use the fruit trees, etc. in production and will maintain watering, spraying, and other necessities for a productive crop, a conditional use permit must be obtained. The conditional use permit is required in an effort to protect surrounding agricultural operations and residents.

**Chapter 52.04.
REQUIRED IMPROVEMENTS AND
FINANCIAL GUARANTEES**

- 52.04.010. Type of Guarantee.**
- 52.04.020. Duration of Guarantee.**
- 52.04.030. Releases.**
- 52.04.040. Quality of Work Guarantee.**
- 52.04.050. Required Improvements.**

52.04.010. Type of Guarantee.

The type of performance guarantee may be in the form of a surety corporation bond, escrow or other means of assurance as approved by the council in an amount equal to the cost plus fifteen percent of the required utilities and improvements as estimated by the subdivider's engineer and approved by the City Engineer, or when approved by the Subdivision Land Use Authority, the subdivider may deposit money with the City in escrow or convey a mortgage or other property having a value at least equal to the cost plus fifteen percent of the required improvements as determined by the City Engineer.

52.04.020. Duration of Guarantee.

The following regarding the duration of guarantee:

1. The duration of the surety corporation bond or escrow shall be for two (2) years after final acceptance of all improvements. An extension of time may be granted by the subdivision land Use Authority upon written application by the subdivider, provided such application is submitted at least sixty (60) days prior to the expiration date of the bond and provided the issuer of the bond is willing to extend the time.
2. In the event the subdivider defaults or fails or neglects to satisfactorily install and pay for the required utilities and improvements within two (2) years from the date of the final plat being recorded, the City may declare the bond, escrow or other assurance forfeited, and the City may install and pay for the required improvements or cause them to be installed and paid for, using that portion of the proceeds from the collection of the bond or other assurances or sale of property necessary to defray the costs thereof. If there is a surplus after the improvements have been made, the overage will be returned to the subdivider. If the bond or escrow is not enough, the subdivider is legally obligated to provide the additional cost.

52.04.030. Releases.

The following regarding releases are:

1. Final release of Financial Security: The subdivider shall be responsible for the quality of all materials and workmanship. At the completion of the work, upon written request of the subdivider, the inspection committee appointed by the Subdivision Land Use

Authority shall make an inspection of the public service facilities based on the regulations of the water and sewer ordinances and minimum standards of Perry City and shall submit a report to the Subdivision Land Use Authority setting forth the condition of such facilities. If the condition thereof is found to be satisfactory, all liens have been paid, all work and material within the dedicated areas has been paid for, and signed affidavits and "as-built plans" have been filed with the City, the Subdivision Land Use Authority shall in writing release the bond, escrow or other assurance, and shall accept such facilities on behalf of the City for perpetual maintenance.

2. Partial Release of Financial Security. At the completion of a portion of the work and upon written request of the subdivider, the inspection committee appointed by the Subdivision Land Use Authority shall make an inspection of that portion of the work being requested for financial security release and shall submit a report to the Subdivision Land Use Authority setting forth the condition of said portion of the work. If the condition thereof is found to be satisfactory the Subdivision Land Use Authority shall, in writing, release a portion of the financial security, provided that a minimum of 15% is retained until completion of the warrantee period. The amount of any partial release shall not exceed the individual line items identified in the subdivider's engineer's estimate attached to the financial security.

52.04.040. Quality of Work Guarantee.

The following regarding quality of work guarantee:

1. Within two (2) years following completion of improvements, if the conditions of material or workmanship show unusual deterioration or do not comply with acceptable standards of durability, the Subdivision Land Use Authority shall require the subdivider to repair or replace the faulty facility to an approved standard, or if the subdivider shall fail to perform as directed, the Subdivision Land Use Authority shall declare the subdivider to be in default and shall proceed to make repairs as per this Chapter.
2. Following the presentation to the Subdivision Land Use Authority of "as-built" plans and affidavits of payment or lien waivers of suppliers, the Subdivision Land Use Authority will direct the City Engineer to release the performance bond or other assurances. If, in the opinion of the City Engineer, an excess amount of deterioration has taken place, it will be the responsibility of the subdivider to make necessary repairs, or the City may cause the repairs to be made and paid for by the subdivider or paid for using the bond or other assurance.

52.04.050. Required Improvements.

The following improvements and others not listed but required by the City Engineer shall be installed without cost to Perry City, in accordance with the Perry City Public Works Standards and Technical Specifications. All roads are to be completed before occupancy of any structure is granted. The following applies to all associated improvements inside or outside the boundaries of the development or subdivision: (All improvements must be installed according to the requirements of the Perry City Public Works and Technical Specifications manual).

1. Land for the entire width of a right-of-way shall be dedicated and improved by the subdivider.
2. Base gravel course, street paving;
3. Bridges and culverts as may be needed for ditches, drains, or canals;
4. Street Lighting;
5. Curb, gutter, and sidewalks;

6. Culinary water facilities, including laterals to serve each lot;
7. Secondary water facilities, including laterals to serve each lot;
8. Sanitary sewer facilities, including laterals to serve each lot;
9. Fire hydrants;
10. Storm sewer facilities;
11. Street trees;
12. Electric, gas, telephone and other utilities;
13. Fiber optic conduits;
14. Street signs and traffic control devices;
15. Trails;
16. Seal Coat on paved roads after 1 year;
17. All other improvements not listed but required by the City Engineer.

NOTE: Subdividers will arrange and pay for seal coat on all newly constructed roads one (1) year after the road is constructed. Subdividers will pay Perry City the lesser amount of two estimates (provided in writing to City) for seal coat on all newly constructed roads to use for a seal coat when the City deems it necessary. Cost to be included in construction cost estimate.

NOTE: Developer and/or Contractor will notify Perry City Inspector(s) to check all improvements to verify that minimum standards are met.

Chapter 52.05. CONDOMINIUM PROJECTS

52.05.010. Definitions.

52.05.020. Condominium Projects.

52.05.010. Definitions.

The following definitions apply to condominium projects:

1. Condominium Project: A real estate condominium project, a plan or project whereby two or more units, whether containing any existing or proposed apartment, commercial or industrial buildings or structures or otherwise, are separately offered or proposed to be offered, for sale. Condominium project shall also mean the property where the context so requires.
2. Unit: A separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors (or part or parts of floors) in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with 57-8-13.4, U.C.A., 1953, as amended.

52.05.020. Condominium Projects.

The following are definitions for condominium projects:

1. Condominium Projects - Subdivision. A condominium project shall be considered to be a subdivision, and a Record of Survey Map or supplement thereto prepared pursuant to the condominium Ownership Act 57-8, U.C.A.,1953, as amended, shall be considered to be a subdivision map or plat with respect to such real property or improvements that are to be dedicated to the use of the public, and to those units which are not containing any existing or proposed buildings.
2. Condominium projects shall comply with all the provisions of the Perry City Municipal Code, the building, health, and similar development regulations and ordinances of Perry City, and with Perry City Subdivision Regulations and shall follow the procedure outlined in such regulations for processing subdivisions.

3. A copy of the preliminary Condominium Declaration prepared pursuant to (57-8, U.C.A., 1953 as amended), shall be submitted to the Planning Commission along with the preliminary record of survey, for review and approval with respect to the standards for the maintenance, upkeep and operations of roads, the facilities of utility lines and roads, recreational areas, and open spaces in the project.
4. The developer of a condominium project shall at his own expense install the improvements listed in this Ordinance. In addition, proposed recreation facilities, clubhouses, recreation vehicle parking areas, and landscaping materials in accordance with an approved plan shall be included in the guarantee of improvements provided by the developer to Perry City prior to final approval by Perry City.

Chapter 52.06. CLUSTER ORDINANCE

- 52.06.010. Intent.**
- 52.06.020. General Regulations.**
- 52.06.030. Minimum Open Space Requirements.**
- 52.06.040. Lot Area Requirements.**
- 52.06.050. Frontage, Yard, and Height Regulations.**
- 52.06.060. Additional Design Standards and Requirements.**
- 52.06.070. Bonus Density.**
- 52.06.080. Open Space Preservation.**
- 52.06.090. Owner Association Required.**
- 52.06.100. Procedure.**

52.06.010. Intent.

The intent of this Chapter is to allow flexibility in neighborhood and subdivision design by permitting the development of homes on lots which are smaller than those normally allowed for the zone in which the subdivision is located, to preserve open space areas, and to promote public policy including conservation and preservation of sensitive lands, and the acquisition of lands and resources for public benefit. This Chapter shall be approved by the Planning Commission and City Council before the Cluster Subdivision proposal becomes a permitted use.

52.06.020. General Regulations.

The Planning Commission may approve a reduction in the minimum lot area required for a lot in a subdivision provided the provisions of this Chapter and the Perry City Subdivision Ordinance, Title 52, are met. A Cluster Subdivision shall meet the requirements of the Perry City Municipal Code, shall assure proper use and maintenance of open space, open space facilities, and other resources for public benefit, and shall result in a development superior to a conventional subdivision in terms of its benefits to future owners of the subdivision, surrounding residents, and Perry City.

52.06.030. Minimum Open Space Requirements.

To encourage quality open space that promotes the intent of this ordinance, the minimum percent of a cluster subdivision left in open space shall be as follows unless the City Council has agreed to allow all of the land in a cluster subdivision to be used as lots in exchange for land elsewhere in the City, a monetary contribution to the City, or other forms of negotiation:

1. In the Agricultural Zones (A) and (AL), a minimum of fifty (50%) percent of any cluster subdivision shall be preserved as permanent open space.
2. In the Rural Residential Zones (R1, A) and (RE ½), a minimum of forty (40%) percent of any cluster subdivision shall be preserved as permanent open space.
3. In the Low Density Residential Zones (R ½) and (R 1/3), a minimum of thirty (30%) percent of any cluster subdivision shall be preserved as permanent open space.
4. In the Environmentally Sensitive Zone (ES), the percentage of permanent open space to be preserved will be determined by Design Review.

52.06.040. Lot Area Requirements.

The following regarding lot area requirements for cluster subdivisions:

1. The minimum lot area in a cluster subdivision shall be 10,000 square feet.
2. Lots smaller than one acre in a cluster subdivision shall be connected to a sewer system.
3. Area regulations for the keeping of animals on a lot within a cluster subdivision shall be the same as the zone in which the cluster subdivision is located.

52.06.050. Frontage, Yard, and Height Regulations.

Yard and height regulations shall be the same as for the zone in which the Cluster Subdivision is located. The minimum frontage may be reduced below that which is normally required in the zone in which the Cluster Subdivision is located as follows:

1. In the Agricultural Zone (A), a minimum frontage of one hundred and fifty (150') feet is required.
2. In the Agricultural Zone (AL), a minimum frontage of one hundred and twenty (120') feet is required.
3. In the Rural Residential Zone (R1, A), a minimum frontage of one hundred (100') feet is required.

52.06.060. Additional Design Standards and Requirements.

Cluster subdivisions shall be designed and platted in conformance to the goals and objectives of the Perry City General Plan. The following regarding additional design standards and requirements:

1. Lots in cluster subdivisions shall be clustered into contiguous groups of not less than five (5) lots and no more than four (4) clusters per sixty (60) lots.
2. Areas designated as flood plain by the Federal Emergency Management Agency or as wetlands by the Army Corps of Engineers shall be left as open space and shall not be counted toward the open space preservation.
3. Areas deemed non-developable by the Perry City Data Base or any State or Federal Agency shall not be used in density calculations to determine the number of lots in a subdivision.
4. The area within existing and proposed public and private road rights-of-way shall not be counted as area to be used in density calculations to determine the number of lots in a subdivision.
5. The procedure for calculating the density of a cluster subdivision is as follows: The total subdivision area (minus) the total right-of-way area within the subdivision (minus) the total area of any lands deemed non-developable (equals) the net developable area or NDA. The NDA is then (divided) by the area requirement of the zone in which the subdivision is located. This will equal the number of lots allowed by right. If a density bonus is granted based on the criteria in Section 52.06.070, the lots allowed by right would be multiplied by the bonus granted. This number equals the total bonus lots and it

is then added to the lots allowed by right to give the final total of lots allowed.

6. Open space preserved in cluster subdivisions shall be a minimum of three (3) contiguous acres.

52.06.070. Bonus Density.

A maximum bonus density of twenty (20%) percent may be approved by the Planning Commission and shall be based on an accumulation of the following:

1. Developing a Cluster Subdivision that the Planning Commission determines has met the intent of this Ordinance, a ten (10%) percent bonus may be granted.
2. Providing road stubs to adjacent property where the Planning Commission determines that streets are needed to provide for current or future traffic circulation up to a five (5) percent bonus may be granted.
3. The common area is open to the public and provides amenities to the general public such as trails or parks, up to a five (5%) percent bonus may be granted.
4. For each five (5%) percent of open space preserved in the subdivision in excess of the minimum required by this Ordinance, up to a five (5%) percent bonus may be granted.
5. Ten (10%) percent of the lots and homes are permanently set aside for affordable housing (as outlined by the Affordable Housing Act of 1990), up to a five (5%) percent bonus may be granted.
6. Preservation of historical sites and buildings (barns, homes, trails, or other structures), up to a five (5%) percent bonus may be granted.
7. Open space is contiguous to permanently preserved open space on an adjoining property, up to a five (5%) percent bonus may be granted.

52.06.080. Open Space Preservation.

The following regarding open space preservation:

1. Open Space shall be maintained in accordance with an open space preservation, maintenance, and improvements plan submitted by the developer and approved by the Planning Commission and City Council. The plan shall detail the intended use of the open space and any proposed improvements to be placed in the open space.
2. To ensure that open space parcels are permanently preserved and maintained, the developers/property owners shall prior to recording of the final plat of the proposed cluster subdivision :
 - a. Grant and convey to Perry City an easement for open space over the required open space parcels; and
 - b. Grant and convey to the lot owners association of the proposed cluster subdivision an easement for open space over the required open space parcels.
3. If a Bonus Density is granted for affordable housing, then the affordable housing lots shall be identified on the subdivision plat. A Deed Restriction shall also be recorded on these lots limiting the sale or rental of the homes to a household with incomes at or below eighty (80%) percent of the median income.
4. The required open space may be owned by up to two (2) lot owners in the subdivision in parcels of not less than ten (10) acres each and provided that no structures or accessory structures are built in the open space with the exception of agricultural buildings

approved as part of the agricultural preservation plan.

5. Guarantee of Common Open Space Improvements: As assurance of completion of common open space improvements, the subdivider shall be required to file with the City Council an approved financial guarantee.

52.06.090. Owner Association Required.

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 Association and shall establish articles of incorporation of the Association, by-laws, and covenants outlining the purpose, organization, and operation of the Association. Such articles of incorporation and covenants shall, among other things, provide that:

1. Membership shall be mandatory for each lot purchased and each successive buyer; and
2. Common Open Space restrictions must be permanent, not just for a period of years; and
3. The Association shall be responsible for liability, local taxes and the maintenance of recreational and other facilities; and
4. Lot owners must pay their pro-rata share of the costs; and
5. The assessment levied by the Association can become a lien on the property; and
6. The Association shall be able to adjust the assessment to meet changed needs; and
7. In The event the Lot Owners Association does not maintain the Common Open Space and improvements as proposed and indicated at the time of subdivision, the City 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 Lot Owners Association members.

52.06.100. Procedure.

A preliminary plan of the Cluster Subdivision showing the areas within the subdivision to be permanently reserved for recreation and/or open space, and plans showing the proposed use, improvements and method of maintenance of such areas shall be approved by the Planning Commission and City Council before the Cluster Subdivision proposal becomes a permitted use in the zone in which it is proposed.

Chapter 52.07.

SUPPLEMENTARY REGULATIONS

- 52.07.010. Yard Space for One Building Only.**
- 52.07.020. Every Dwelling to be on a Lot.**
- 52.07.030. Sale or Lease of Required Space.**
- 52.07.040. Permit to Cut Off a Lot with Less Than Minimum Space Requirements.**
- 52.07.050. Yards to be Unobstructed: Exceptions.**
- 52.07.060. Maximum Area of Accessory Buildings in Residential Zones.**
- 52.07.070. Additional Height Allowed.**
- 52.07.080. Maximum Height of Accessory Buildings.**
- 52.07.090. Clear View of Intersecting Streets.**
- 52.07.100. Perry City Standards: Policies and Regulations.**

- 52.07.110. Effect of Official Street Map.**
52.07.120. Minimum Area and Setback Requirements for Lots on Private Rights-Of-Way or Designated Rural Roads.
52.07.130. Storage of Junk and Debris Prohibited.
52.07.140. Access to Property other than a City Street.

52.07.010. Yard Space for One Building Only.

No required yard or other open space around an existing building or which is hereafter provided any building for the purpose of complying with the provisions of this chapter, shall be considered as providing a yard or open space for any other building, nor shall any yard or other required yard or open space on a lot where on a building is to be erected or established.

52.07.020. Every Dwelling to be on a Lot.

Every dwelling shall be located and maintained on a "lot" as defined in Land Use Definitions, Title 41, except as allowed by the Planned Unit Development Procedure (when available).

52.07.030. Sale or Lease of Required Space.

No space needed to meet the width, yard, area, coverage, parking or other requirements of this chapter for a lot or building may be sold or leased away from such lot or building.

52.07.040. Permit to Cut Off a Lot With Less Than Minimum Space Requirements.

No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off or divided from a larger parcel of land for the purpose, whether immediate or future, for building or development as a lot, except by a variance approved by the Administrative Law Judge.

52.07.050. Yards to be Unobstructed: Exceptions.

Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings in a rear yard; the projections of skylight, sills, bolt courses, cornices, chimneys, flues and other ornamental features shall not project into a required setback area more than two and one-half (2 1/2') feet. Open or lattice enclosed fire escapes, fire-proofed walls and balconies opening upon fire towers projecting into a required setback shall not extend more than five (5') feet.

52.07.060. Maximum Area of Accessory Buildings in Residential Zones.

No accessory building or group of accessory buildings in any residential zone shall cover more than twenty (20%) percent of the rear yard.

52.07.070. Additional Height Allowed.

Public or semipublic structures, when authorized in a zone, may be erected to a height as approved by the design review process of the Planning Commission.

52.07.080. Maximum Height of Accessory Buildings.

No building which is accessory to a single-family dwelling or duplex in Zones R-1, R-2, R 1/3, R 1/2, RE 1/2, R1A or other residential zone shall be erected to a height greater than twenty-five (25') feet. Refer to the International Building Code for more specific information as to how to measure, etc.

52.07.090. Clear View of Intersecting Streets.

In all zones which require a front setback, no obstruction to view shall be allowed in the interval from three (3') feet to eight (8') feet in height on any corner lot within a triangle area formed by the lot property lines and a line connecting them at points forty (40') feet from the intersection of the lot property lines with the following exceptions: a reasonable number of trees pruned high enough to permit unobstructed vision to motor vehicle drivers and pedestrians, pedestal-type identification signs, pumps at gasoline service stations, and support poles for roofs over gasoline pumps as approved by the Planning Commission.

52.07.100. Perry City Standards: Policies and Regulations.

Further explanations, descriptions, instructions, etc. may be found in other Ordinances, Resolutions and Policies adopted by Perry City, including but not limited to: Perry City Minimum Standards and Drawings, the International Building Codes, Perry City Criminal Code, Annexation Policy and the Perry City General Plan.

52.07.110. Effect of Official Street Map.

Wherever a front yard is required for a lot facing on a street for which an official map has been recorded in the office of the Box Elder County Recorder or Perry City, the depth of such front yard (front building setback) shall be measured from the property line shown on the official map.

52.07.120. Minimum Area and Setback Requirements for Lots on Private Rights-Of-Way or Designated Rural Roads.

Except where the requirements of this title are reduced by permit of the Planning Commission, the minimum area for a lot fronting on a private right-of-way shall be one (1) acre and the minimum setback of the dwelling or building on said lot shall be sixty (60') feet from the center of the right-of-way.

52.07.130. Storage of Junk and Debris Prohibited.

The following regarding storage of junk and debris:

1. All lots in Perry City shall be maintained in a clean and sanitary condition. The storage of old vehicles, junk and debris is prohibited. The accumulation of any junk, rubbish, waste, weeds or other unsightly material on any lot shall constitute a nuisance and a violation of this chapter.
2. The City Council may order the property owner to remove old vehicles, junk (as defined by the City Council) rubbish, waste, weeds or other unsightly material. If the property owner fails to comply with the City Council's order within a reasonable period of time as

defined by the City Council, the City Council may contract to have the junk, rubbish, waste, weeds or other unsightly material removed at the property owner's expense. If the property owner fails to pay removal costs, Perry City shall place a lien on said property for the amount of removal costs.

52.07.140. Access to Property Other Than a City Street.

Private lanes, private driveways or shared use roads, existing or as approved by the Planning Commission, may only serve agricultural purposes or a maximum of two (2) parcels for residential purposes. A third parcel accessed will constitute a subdivision unless allowed by the Planned Unit Development or Cluster Housing Ordinance when available.

**Chapter 52.08.
ENFORCEMENT AND PENALTIES**

52.08.010. Penalties.

52.08.010. Penalties.

The following penalties apply to the subdivision design ordinance:

1. Any owner or agent of the owner of any land located in a subdivision as defined in this title who transfers or sells, or offers to sell any land in the subdivision before a plat of the subdivision has been approved and recorded as required in this title is guilty of a misdemeanor for each lot or parcel transferred or sold.
2. The City shall record a notice of violation to cloud the title of illegally subdivided property.
3. Any plat of a subdivision filed or recorded without the approvals as required by this ordinance is null and void.

Legislative History

Completely updated and codified with Supplementary Regulations added in: March 27, 2008
New numbering system and codified into new municipal code: 12/11/2008