

ORDINANCE 2004-33

AN ORDINANCE AMENDING TITLE 13, OF THE TOOELE COUNTY CODE, SUBDIVISIONS, MAKING TECHNICAL CHANGES, STREAMING THE APPROVAL PROCESS, CLARIFYING APPLICATION REQUIREMENTS, AND ALLOWING ADDITIONAL DEPARTMENTAL REVIEW

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF TOOELE COUNTY, UTAH AS FOLLOWS:

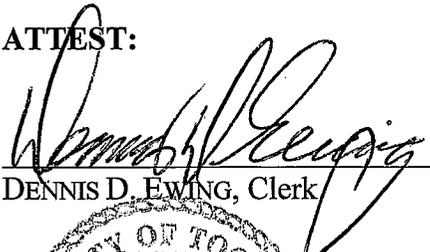
SECTION I - AMENDMENT. The Tooele County Code, Title 13, Subdivisions is hereby amended to read as attached hereto.

SECTION II - REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION III - EFFECTIVE DATE. This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date, if more than 15 days after passage.

IN WITNESS WHEREOF the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 16th day of November 2004.

ATTEST:


DENNIS D. EWING, Clerk

TOOELE COUNTY COMMISSION


DENNIS ROCKWELL, Chairman



APPROVED AS TO FORM:


DOUGLAS J. AHLSTROM

Commissioner Rockwell voted aye
Commissioner White voted aye
Commissioner Lawrence voted aye

TITLE 13
SUBDIVISIONS

Chapter

1. General.
2. Subdivision Application Procedure.
3. Minor Subdivisions.
4. Standard Subdivisions.
5. Major Subdivisions.
6. Planned Unit Development Subdivisions.
7. Design Standards.
8. Cluster Subdivisions.
9. Financial Assurance.
10. Vacation, Alteration, and Amendment of Subdivision Plats.

CHAPTER 1

GENERAL

Section

- 13-1-1. Short title.
- 13-1-2. Purpose.
- 13-1-3. Definitions -- Notice.
- 13-1-4. Penalties.
- 13-1-5. Creation of substandard lots prohibited.
- 13-1-6. Protection of land in an agriculture protection area.
- 13-1-6.5. Notice of shooting range area.
- 13-1-7. Plats required.
- 13-1-8. Agricultural partitions.

13-1-1. Short title.

This title is known as the "Subdivision Ordinance of Tooele County, Utah." (Ord.2000-38, 1/02/01)

13-1-2. Purpose.

The purpose of this title is to provide policies, standards, requirements, and procedures to regulate and control the design and improvement of all subdivisions; ensure that all proposed subdivisions are consistent with the General Plan and applicable specific plans; and to ensure that land is subdivided in a manner that will promote public health, safety, convenience, general welfare and the physical, social and economic development of the area. (Ord.2000-38, 1/02/01)

13-1-3. Definitions -- Notice.

(1) As used in this chapter:

(a) "County" means the unincorporated area of Tooele County.

(b)(i) "General plan" means the document adopted by Tooele County that sets forth general guidelines for proposed future development of land, as set forth in Utah Code Annotated 17-27-301 and 17-27-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

(c) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(d) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(e) "Lot line adjustment" means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

(f) "Municipality" means a city or town.

(g) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(h) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Utah Code Annotated 17-27-804 and this title.

(i) "Record of survey map" means a map of a survey of land prepared in accordance with Utah Code Annotated 17-23-17.

(j) "Special district" means all entities established under the authority of Utah Code Annotated Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

(k) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(l) (i) "Subdivision" means 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.

(ii) "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

(iii) "Subdivision" does not include:

a) a bona fide division or partition of agricultural land for agricultural purposes;

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;

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; or

d) a bona fide division or partition of land for the purpose of siting, on one or more of the resulting separate parcels:

1) an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or

2) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision".

(m) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) The county meets the requirements of reasonable notice required by this title if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the

jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Utah Code Annotated 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice shall be deemed adequate and proper. (Ref UCA §17-27-103)

13-1-4. Penalties.

(1) (a) An owner of any land located in a subdivision, as defined in this chapter, who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded as required in this part violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable county ordinances on land use and development.

(2) (a) The county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceedings to prevent, enjoin, or abate the violation.

(c) The county need only establish the violation to obtain the injunction. (Ref UCA §17-27-804, 17-27-811, 17-27-1003)

13-1-5. Creation of substandard lots prohibited.

No lot shall be created that does not conform to the requirements of this title and the zoning district in which

it is located.

13-1-6. Protection of land in an agriculture protection area.

For any subdivision located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the subdivision shall provide notice on any plat filed with the county recorder the following notice:

Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities. (Ref UCA §17-41-403)

13-1-7. Notice of shooting range area.

For any new subdivision development located in whole or in part within 1,000 feet of the boundary of any shooting range that was established, constructed or operated prior to the development of the subdivision, the owner of the development shall provide on any plat filed with the county recorder the following notice:

Shooting Range Area

This property is located in the vicinity of an established shooting range. It can be anticipated that customary uses and activities at this shooting range will be conducted now and in the future. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from these uses and activities. (Reference UCA §47-3-3)

13-1-8. Plats required.

(1) Unless exempt or not included in the definition of a subdivision, whenever any lands are divided, the owner of those lands shall have an accurate plat made of them that sets forth and describes:

- (a) all the parcels of ground divided, by their boundaries, course, and extent, and whether they are intended for streets or other public uses, together with any areas that are reserved for public purposes; and
- (b) the lot or unit reference, the block or building reference, the road or site address, the road name or coordinate address, the acreage or square footage for all parcels, units, or lots, and the length and width of

the blocks and lots intended for sale.

(2) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgment of conveyances of real estate.

(b) The surveyor making the plat shall certify it.

(c) The county commission may approve the plat as provided in this title. Before the county commission may approve a plat, the owner of the land shall provide the county commission with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(3) After the plat has been acknowledged, certified, and approved, the plat shall be kept in the engineering department until the owner of the land shall file and record it in the county recorder's office. (Reference UCA §17-27-804)

13-1-9. Agricultural partitions.

(1) A lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of this title if the lot or parcel:

(a) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland Assessment Act;

(b) meets the minimum size requirement of applicable zoning ordinances; and

(c) is not used and will not be used for any nonagricultural purpose.

(2) The boundaries of each lot or parcel exempted under Subsection (1)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under this title, shall be recorded with the county recorder.

(3) If a lot or parcel exempted under Subsection (1)(a) is used for a nonagricultural purpose, the lot or parcel shall comply with the requirements of the subdivision plat provisions of this title. (Reference UCA §17-27-806)

CHAPTER 2

SUBDIVISION APPLICATION PROCEDURE

Section

- 13-2-1. Diligence.**
- 13-2-2. Application procedure.**
- 13-2-3. Concept plan requirements.**
- 13-2-4. Design stage preliminary plat requirements.**
- 13-2-5. Design stage infrastructure design and engineering drawings requirements.**
- 13-2-6. Final plat requirements.**

13-2-1. Diligence.

Each development shall be actively pursued to completion. Any application that exceeds the time limits stated in this title will be deemed null and void and all vested rights are waived by the subdivider for that development. Any extension must be requested prior to the expiration of the original approval. Should an application become void, the applicant must reapply at the concept stage.

13-2-2. Application procedure.

(1) Each application for a subdivision shall have all required submittals before it is accepted as a complete application. No application for the next stage shall be accepted until such time that the planning commission has approved the application for the stage of the development currently under consideration.

(2) There shall be no presumption of approval of any aspect of the process.

(3) No application shall be accepted for any approval stage if the time limit has expired on the previous approval stage.

(4) The planning commission may request specific information found to be incomplete in its review and table further action until the information is submitted.

(5) A denial shall include written findings of fact and decision. Denial may be based, in addition to other reasons of good cause, upon incompatibility with the general plan, lack of a culinary water supply, insufficient fire suppression system, geological concerns, location, incompatibility with surrounding land uses, the inability of county service or utility providers to provide public services, or the adverse effect on the health, safety, and general welfare of the county and its residents.

13-2-3. Concept plan requirements.

(1) The concept plan shall show:

(a) the general location of the subdivision, the property boundaries, adjoining properties with ownership;

(b) lot and road layout indicating general scaled dimensions;

(c) county, township, range, section, quarter section, blocks, the number of lots and true north;

(d) a vicinity map showing significant natural and man-made features on the site;

(e) the acreage of the entire tract and the acreage of the portion to be developed;

(f) the area for which approval will be requested for the first phase of development except for a minor and standard subdivisions;

(g) an area plan showing the total area on a single sheet for subdivisions requiring more than one sheet at the required scale;

(h) the sites, if any, for multi-family dwellings, shopping centers, community facilities, industry, or other uses exclusive of single-family dwellings;

(i) total development area, and the number of proposed dwelling units.

(j) easements and rights-of-way;

(l) parcels of land that are to be dedicated for schools, roads, parks, or other public purposes; and

(m) an approval signature block for the planning commission chair.

13-2-4. Preliminary plat requirements.

(1) The design stage preliminary plat shall be prepared and certification made as to its accuracy by a registered land surveyor licensed to do such work in the State of Utah. Every detail of the plat shall be legible. A poorly-drawn or illegible plat is cause for its denial. A traverse shall not have an error of closure greater than one part in 10,000.

(2) The general location of the subdivision, adjoining properties with ownership shall be shown on the plat.

(3) The bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line. 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.

(4) If a plat is revised, a copy of the old plat shall be provided for comparison purposes.

(5) All blocks and lots within each block shall be consecutively numbered. Addresses shall be issued by the Department of Engineering and shall be shown on the plat with the corresponding lot number.

(6) For all curves in the plat, sufficient data shall be given to enable the re-establishment of the curves on the ground. The curve data shall include the radius, central angle, tangent, and arc length.

(7) Show all fence and deed lines.

(8) Excepted parcels shall be marked, "Not included in this subdivision."

(9) All public lands shall be clearly identified.

(10) All public roads shall be clearly marked as "dedicated public road."

(11) All private roads shall be clearly marked as "private road."

(12) All roads shall be identified by names approved by the department of engineering.

(13) All easements shall be designated as such and dimensions given.

(14) The 100 foot radius wellhead protection zone on all existing wells within and outside of the subdivision where the protection zone falls within the boundary of the subdivision.

(15) All lands within the boundaries of the subdivision shall be accounted for, either as lots, walkways, streets, or as excepted parcels.

(16) Bearings and dimensions 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.

(17) Parcels not contiguous shall not be included in one plat, neither 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 acknowledgments.

(18) Lengths shall be shown to hundredths of a foot. Angles and bearings shall be shown to seconds of arc.

(19) Surveys shall tie into the state grid or other permanent marker established by the county surveyor and shall give the name and the date on survey monuments found.

(20) Bearing and distance tie in to the historic and dependant survey and at least one established monument must be shown on the plat. If no historic monument can be located, it must be stated upon the plat.

(21) County, township, range, section, quarter section blocks, and true north shall be included on the plat.

(22) Graphic scale of the plat.

(23) Existing ground contours at 20 foot intervals.

(24) The plat shall be labeled "Preliminary plat."

(25) The name of the subdivision as approved by the county recorder.

(26) If the subdivision does not have a public water system connection, the amount of water allocated to each lot in acre feet.

(27) approval signature blocks for:

(a) any improvement, service and special districts where all or part of the development is located;

(b) the county engineer;

(c) the county planner; and

(d) an approval signature block for the planning commission chair

13-2-5. Infrastructure design and engineering drawings requirements.

(1) Infrastructure design and engineering drawings and documents shall be submitted in the design stage, and shall include:

(a) plan, profile and typical cross-section drawings of the roads, bridges, culverts, sewers, and drainage structures;

(b) a grading and drainage plan indicated by solid-line contours superimposed on dashed-line contours of existing topography;

(c) the general location of trees over six inches in diameter measured at four and one-half feet above the ground, and in the case of heavily-wooded areas, an indication of the outline of the wooded area and location of trees which are to remain;

(d) proposed and existing sewage system layouts;

(e) proposed future road layout in dashed line for any portion of the property to be developed in a later phase;

(f) water courses and proposed storm water drainage systems including culverts, water areas, streams, areas subject to occasional flooding, marshy areas or swamps;

(g) areas within the 100 year flood plain;

(h) soil types and soil interpretations taken from the National Cooperative Soils Survey;

(i) a signature block for the county engineer on each design and construction drawing;

(j) when the subdivision is located within the jurisdiction of a service or improvement district or area, a signature block for such service or improvement district or area;

(k) geologic maps and investigation reports regarding area suitability when land configurations dictate lot configuration and buildable space; and

(l) a design report stamped by an engineer licensed in the State of Utah as may be required by the planning commission or the department of engineering.

(2) All drawings shall be drawn to a scale not less than one inch equals 100 feet, and shall indicate the basis of bearings, true north, the name of the subdivision, township, range, section, and quarter section, and lot numbers of the property.

(3) Poorly-drawn or illegible design and engineering drawings are cause for denial.

(4) To change any aspect of the design of the off-site improvements, a new set of infrastructure design and engineer drawings shall be submitted for approval. A signed set of drawings are to be on site at all times during construction. All construction must conform to the plans approved.

13-2-6. Final plat requirements.

(1) The final plat shall be prepared and certification

made as to its accuracy by a registered land surveyor licensed to do such work in the State of Utah. Every detail of the plat shall be legible. A poorly-drawn or illegible plat is cause for denial. A traverse shall not have an error of closure greater than one part in 10,000.

(2) The bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line. 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.

(3) If a plat is revised, a copy of the old plat shall be provided for comparison purposes.

(4) All blocks and lots within each block shall be consecutively numbered. Addresses shall be issued by the department of engineering and shall be shown on the plat with the corresponding lot number.

(5) For all curves in the plat, sufficient data shall be given to enable the re-establishment of the curves on the ground. The curve data shall include the radius, central angle, tangent, and arc length.

(6) Excepted parcels shall be marked, "Not included in this subdivision."

(7) All public lands shall be clearly identified.

(8) All public roads shall be clearly marked as "dedicated public road."

(9) All private roads shall be clearly marked as "private road."

(10) All roads shall be identified by names approved by the department of engineering.

(11) All easements shall be designated as such and dimensions given.

(12) All lands within the boundaries of the subdivision shall be accounted for, either as lots, walkways, roads, or as excepted parcels.

(13) Bearings and dimensions 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.

(14) Parcels not contiguous shall not be included in one plat, neither 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 acknowledgments.

(15) Lengths shall be shown to hundredths of a foot. Angles and bearings shall be shown to seconds of arc.

(16) Surveys shall tie into the state grid or other permanent marker established by the county surveyor.

(17) The plat shall be labeled "Final Plat."

(18) The information on the final plat shall include:

(a) the name of the subdivision, true north arrow and basis thereof, and date;

(b) names of the owner or owners of record under the signature lines in the owners dedication;

(c) square footage of each lot under one acre or the lot acreage if one acre or larger;

(d) township, range, section and quarter section if a portion;

(e) graphic scale;

(f) the State plane coordinate on the subdivision boundary;

(g) survey monuments;

(h) the total water allocation in acre/feet for each lot for its allocation of water;

(i) the 100 foot radius wellhead protection zone on all existing wells;

(j) signature blocks for:

(i) any improvement, service and special districts or areas where any part of the platted property is located;

(ii) the county engineer;

(iii) the county surveyor;

(iv) the county attorney;

(v) the county health department;

(vi) the county treasurer indicating at the time of signing that the property taxes due and owing have been paid in full;

(vii) the county fire warden;

(viii) the county or township planning commission chair recommending the subdivision; and

(ix) the county commission chair and attest by the county clerk.

CHAPTER 3

MINOR SUBDIVISIONS

Section

13-3-1. Purpose.

13-3-2. Approval process.

13-3-1. Purpose.

(1) A minor subdivision is a division of land into no more than four lots. A minor subdivision shall not:

(a) include the construction and dedication of new infrastructure;

(b) be a part or a phase of a larger subdivision;

(c) be allowed further division of land within three years from final approval; and

- (d) include commercial or industrial uses.
- (2) All lots shall front on a county road or an approved private road.
- (3) Land may be dedicated along existing county roads to increase the right of way to current county standards.
- (4) A minor subdivision shall be filed on a plat drawn and stamped by a licensed surveyor, and shall not be done by deed alone.

13-3-2. Approval process.

(1) The application for a minor subdivision shall be submitted to the department of engineering. When the staff determines that the application is complete and all signatures are on the plat, the application shall be placed on the planning commission agenda. The planning commission shall discuss and review the application at a work meeting/ The planning commission shall then recommend approval or denial at a planning commission business meeting, from where it will be forwarded to the county commission with the recommendation.

- (2) A minor subdivision application shall include:
 - (a) the application form;
 - (b) one 24" X 36" final plat on Mylar drawn by a surveyor licensed in the state of Utah;
 - (c) seven 24" X 36" prints of the plat, for distribution to:
 - (i) department of engineering, two copies;
 - (ii) the county health department;
 - (iii) Tooele County School District;
 - (iv) the soil conservation district within which the subdivision is located;
 - (v) the county recorder; and
 - (vi) the county fire warden.
 - (d) eight 8½" X 11" copies of the plat for distribution to each planning commission member; and
 - (e) an additional 8½" X 11" copy of the plat in each of the following circumstances:
 - (i) when a proposed subdivision lies wholly or partially within one mile of the corporate limits of a municipality;
 - (ii) when the subdivision is located wholly or partially within the boundary of an improvement or special district or area;
 - (iii) when applicable for review by any State or federal agency;
 - (iv) for each servicing utility;
 - (v) for the Utah State Department of Transportation if the property being subdivided abuts a state highway; and

- (vi) when the subdivision is located wholly or partially within the boundary of a township planning commission district.
- (f) proof of ownership demonstrated by a title search;
- (g) utility approval forms;
- (h) evidence of water rights for all lots;
- (i) a letter showing a completed Tooele County Health Department Subdivision Feasibility Study deeming the project feasible;
- (j) names and addresses of the owners of all properties adjoining the proposed subdivision;
- (k) a plat map from the recorder's office showing the property and all adjoining properties around it;
- (l) approval of the subdivision name from the recorder's office;
- (m) geologic maps and investigation reports regarding area suitability when land configurations dictate lot configuration and buildable space;
- (n) if the applicant is not the owner of record, a notarized statement that the applicant has been authorized by the owner to make application; and
- (o) a letter from the local fire district acknowledging fire protection can and will be provided to the subdivision.

- (3) All signature blocks excepting those for the planning commission and county commission shall be signed by each approving authority before the plat is taken to the business meeting.
- (4) Upon planning commission recommendation and signature, the plat shall be forwarded to the county commission for placement on their agenda.

CHAPTER 4

STANDARD SUBDIVISIONS

Section

- 13-4-1. Application.**
- 13-4-2. Approval process.**
- 13-4-3. Design stage application.**
- 13-4-4. Utility and agency response.**
- 13-4-5. Final plat stage application.**

13-4-1. Application.

A standard subdivision is a division of land into no more than fourteen lots. It may be phased for development. Infrastructure and public facilities may be dedicated. (Ord.2002-20, 8/13/02)

13-4-2. Approval process.

A standard subdivision shall be processed in two stages:

- (1) the design stage, which will go to planning commission work and business meetings; and
- (2) the final plat, which will be placed on the planning commission business meeting agenda.

13-4-3. Design stage application.

(1) A complete application for design stage approval of a standard subdivision shall be submitted to the department of engineering.

(2) Within 14 days after the applicant or authorized representative submits a complete application, a pre-design conference shall be set up with the applicant, the department of engineering staff, all servicing utility companies, the Tooele County School District, county health department, county recorder, and any other private or public body that has jurisdiction or an interest in providing public or utility services to the subdivision.

(3) After the pre-design conference, the applicant shall submit to the department of engineering all construction drawings, design reports and the preliminary plat. When it is determined that these items are complete, the submittal will be placed on the planning commission work meeting agenda for review. After the planning commission has reviewed the material and being satisfied with the submittal, it shall place the submittal on the next business meeting agenda where it shall recommend approval or denial to the county commission. The submittal will then be forwarded to the county commission with the recommendation.

(4) The design stage application shall include:

- (a) the application form;
- (b) seven 24" X 36" prints of the preliminary plat and infrastructure design and engineering drawings for distribution to the following:
 - (i) department of engineering, two copies;
 - (ii) county health department;
 - (iii) Tooele County School District;
 - (iv) the soil conservation district within which the subdivision is located;
 - (v) county recorder; and
 - (vi) the county fire warden.
- (c) eight 8½" X 11" copies of the preliminary plat and infrastructure design and engineering drawings for distribution to each planning commission member; and
- (d) an additional 8½" X 11" copy of the preliminary plat in each of the following circumstances:
 - (i) when a proposed subdivision lies

wholly or partially within one mile of the corporate limits of a municipality;

(ii) when the subdivision is located wholly or partially within the boundary of an improvement or special district;

(iii) when applicable for review by any State or federal agency;

(iv) for each servicing utility; and

(v) for the Utah State Department of Transportation if the property being subdivided abuts a state highway or road.

(e) Three 24" X 36" prints of the infrastructure design and engineering drawings for distribution to:

(i) the department of engineering, two copies; and

(ii) the county road department.

(f) proof of ownership demonstrated by a title search;

(g) utility approval forms;

(h) evidence of water rights for all lots;

(i) names and addresses of the owners of all properties that border the proposed subdivision;

(j) a plat map from the recorder's office showing the property and all adjoining properties around it;

(k) approval of the subdivision name from the recorders office;

(l) a list of off-site improvements and an estimate of the cost to complete such improvements;

(m) if the applicant is not the owner of record, a notarized statement that the applicant has been authorized by the owner to make application;

(n) the type of water system proposed, historic water use, the estimated number of gallons per day of water system requirements, and a description of water storage requirements for daily fluctuations, irrigation, and fire suppression;

(o) geologic maps and investigation reports regarding area suitability when land configurations dictate lot configuration and buildable space;

(p) a letter showing a completed Tooele County Health Department Subdivision Feasibility Study where the project is deemed feasible; and

(q) a letter from the local fire district showing that they fire protection can and will be provided to the subdivision.

(5) Where generated on a computer, the plat shall also be submitted on a computer disk in a format compatible with AutoCAD version 11 or higher for entry into the County database.

(6) The design stage approval shall be valid for a period of not more than one year. The applicant or

authorized representative may obtain no more than two six-month extensions by petitioning the planning commission. The planning commission may not grant any extension without substantial progress having been demonstrated by the applicant or authorized representative. (Ord.2002-20, 8/13/02)

13-4-4. Utility and agency response.

Failure of any utility or agency to respond to requested approval shall be deemed an approval by such agency.

13-4-5. Final plat stage application.

(1) The applicant or authorized representative shall submit a final plat with all required fees and copies of all materials to the department of engineering to start the final plat stage. When staff determines that the application is complete, and all signatures are on the plat, the application shall be placed on the planning commission agenda. The final plat shall conform in all major respects to the approved design stage plat. A final plat submittal shall not be accepted more than six months from the date of the design and engineering stage approval or approved extension.

(2) The final plat stage application shall include:

- (a) the application form;
- (b) an original 24" X 36" Mylar of the final plat;
- (c) a cost estimate for construction of infrastructure, approved and signed by the county engineer;
- (d) an agreement for subdivision improvements; and
- (e) eight 8½" X 11" copies of the final plat for distribution to each planning commission member.

(3) If generated on a computer, the final plat shall also be submitted on a computer disk in a format compatible with AutoCAD version 11 or later to be entered into the County database.

(4) All signature blocks except those for the planning commission and county commission shall be signed by the appropriate authority before the plat is taken to the business meeting.

(5) Upon planning commission recommendation and signature, the plat shall be forwarded to the county commission for consideration.

CHAPTER 5

MAJOR SUBDIVISIONS

Section

13-5-1. Application.

13-5-2. Approval process.

13-5-3. Phase development.

13-5-4. Concept plan application.

13-5-5. Design stage application.

13-5-6. Utility and agency response.

13-5-7. Final plat stage application.

13-5-1. Application.

A major subdivision is a division of land into 15 to no more than 99 lots. A major subdivision of more than 25 lots shall be phased for development. Infrastructure and public facilities may be dedicated.

13-5-2. Approval process.

(1) A major subdivision shall be processed in three stages:

(a) the concept stage, which will go to a planning commission work meeting where the planning commission shall discuss and review the application and then move the application to the business meeting to make a decision to approve or deny the application;

(b) the design stage, which will go to a planning commission work meeting where the planning commission shall discuss and review the application and then it will be placed on the planning commission business meeting agenda for a decision to approve or deny; and

(c) the final plat, which will be placed on the planning commission business meeting agenda where it shall recommend an approval or denial, which shall be forwarded to the county commission for decision.

13-5-3. Phase development.

(1) The preliminary and final platting of subdivisions containing more than 25 lots shall be done in phases, except as provided in Subsection (3). Development shall be performed so that the phases will be contiguous and the required improvements will be continuous.

(2) When off-site improvements are complete and approved by the county engineer, and the lots are 70 percent sold, the subdivider may submit the next phase for final plat approval.

(3) A preliminary and final plats including more than 25 lots will be accepted only upon the submission of

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 the final plat will be completed within two years;

(4) Where it is prudent to engineer road or utility lines that extend into the next phase, such work may be done if shown in the prior phase.

13-5-4. Concept plan application.

(1) The application for concept plan approval of a major subdivision shall be submitted to the department of engineering. When staff determines that the application is complete, the application shall be placed on the planning commission agenda. A concept plan application shall include:

(a) the application form;

(b) six 24" X 36" prints of the concept plan, for distribution to each of the following:

(i) department of engineering, two copies;

(ii) the county health department;

(iii) Tooele County School District;

(iv) the appropriate soil conservation district within which the subdivision is located; and

(v) the county fire warden.

(c) eight 8½" X 11" copies of the concept plan for distribution to each planning commission member; and

(d) an additional 8½" X 11" copy of the concept plan in each of the following circumstances:

(i) when a proposed subdivision lies wholly or partially within one mile of the corporate limits of a municipality;

(ii) when the subdivision is located wholly or partially within the boundary of an improvement or special district;

(iii) when applicable for review by any State or federal agency;

(iv) for each servicing utility;

(v) for the Utah State Department of Transportation if the property being subdivided abuts a state highway or road; and

(vi) when the subdivision is located wholly or partially within the boundary of a township.

(e) proof of ownership demonstrated by a title search;

(f) utility approval forms;

(g) evidence of water rights for all lots;

(h) names and addresses of the owners of all properties that border the proposed subdivision;

(i) approval of the subdivision name from the

recorder's office;

(j) a plat map from the recorder's office showing the property and all adjoining properties around it; and

(k) if the applicant is not the owner of record, a notarized statement that the applicant has been authorized by the owner to make application.

(2) The concept plan approval shall be valid for a period of not more than six months. The applicant or authorized representative may obtain no more than two six-month extensions by petitioning the planning commission. The planning commission may not grant any extension without substantial progress having been demonstrated by the applicant or authorized representative.

13-5-5. Design stage application.

(1) Within six months of concept stage approval or within an approved six month extension, a complete application for the design stage of a major subdivision shall be submitted to the department of engineering.

(2) Within 14 days after the applicant or authorized representative submits an application, a pre-design conference shall be set up with the applicant, the department of engineering staff, all servicing utility companies, the Tooele County School District, county health department, county recorder, and any other private or public body that has jurisdiction or an interest in providing public or utility services to the subdivision.

(3) After the pre-design conference, the applicant shall submit to the department of engineering all construction drawings, design reports and the preliminary plat. When it is determined that these items are complete, the submittal will be placed on the planning commission work meeting agenda for review. After the planning commission has reviewed the material and being satisfied with the submittal, it shall place the submittal on the next business meeting agenda.

(4) The design stage must be completed within one year unless an extension of no more than six months is granted by the planning commission.

(5) The design stage application shall include:

(a) the application form;

(b) seven 24" X 36" prints of the preliminary plat and infrastructure design and engineering drawings, for distribution to each of the following:

(i) department of engineering, two copies;

(ii) the county health department;

(iii) Tooele County School District;

(iv) the appropriate soil conservation district within which the subdivision is

- located;
- (v) Tooele County Recorder; and
- (vi) the county fire warden.
- (c) eight 8½" X 11" copies of the preliminary plat for distribution to each planning commission member; and
- (d) an additional 8½" X 11" copy of the preliminary plat in each of the following circumstances:
 - (i) when a proposed subdivision lies wholly or partially within one mile of the corporate limits of a municipality;
 - (ii) when the subdivision is located wholly or partially within the boundary of an improvement or special district;
 - (iii) when applicable for review by any State or federal agency;
 - (iv) for each servicing utility;
 - (v) for the Utah State Department of Transportation if the property being subdivided abuts a state highway; and
 - (vi) when the subdivision is located wholly or partially within the boundary of a township;
- (e) a list of off-site improvements and an estimate of the cost to complete such improvements;
- (f) the type of water system proposed, historic water use, the estimated number of gallons per day of water system requirements; and a description of water storage requirements for daily fluctuations, irrigation, and fire suppression;
- (g) geologic maps and investigation reports regarding area suitability when land configurations dictate lot configuration and buildable space;
- (h) a letter showing a completed Tooele County Health Department Subdivision Feasibility Study deeming the project feasible; and
- (i) a letter from the local fire district acknowledging it can and will provide fire protection to the subdivision.

(6) Approval of the design stage shall be valid for not more than one year. The applicant or authorized representative may obtain no more than two six-month extensions by petitioning the planning commission. The planning commission may not grant any extension without substantial progress having been demonstrated by the applicant or authorized representative.

13-5-6. Utility and agency response.

Failure of any utility or agency to respond to requested approval shall be deemed an approval by such agency.

13-5-7. Final plat stage application.

(1) The applicant or authorized representative shall submit a final plat and copies of all required material to the department of engineering to start the final plat stage. When staff determines that the application is complete and all signatures are on the plat, the application shall be placed on the planning commission agenda. The final plat shall conform in all major respects to the approved design stage plat. A final plat submittal shall not be accepted more than one year from the date of the design stage approval.

(2) An application shall include:

- (a) an application form;
- (b) an original 24" X 36" Mylar of the final plat;
- (c) cost estimate for construction of infrastructure signed by the county engineer;
- (d) agreement for subdivision improvements; and
- (e) eight 8½" X 11" copies of the plat for distribution to each planning commission member.

(3) The final plat shall also be submitted on a computer disk in a format compatible with AutoCAD version 11 or later to be entered into the County data base.

(4) All signature blocks excepting those for the planning commission and county commission shall be signed by the appropriate approving authority before the plat is taken to the business meeting.

(5) Upon planning commission recommendation and signature, the plat shall be forwarded to the county commission for consideration.

CHAPTER 6

PLANNED UNIT DEVELOPMENT SUBDIVISIONS

Section

13-6-1. Application.

13-6-2. Approval process.

13-6-1. Application.

- (1) A planned unit development is required for:
 - (a) a division of land into 100 or more lots;
 - (b) a master planned community being presented with mixed uses; or
 - (c) commercial or industrial land divisions.
- (2) A planned unit development shall follow the procedures in Chapter 5 of this title.
- (3) Re-zone recommendations shall be forwarded to the county commission at completion of the concept stage.
- (4) Infrastructure and public facilities may be dedicated in a planned unit development. A planned unit

development shall have a public water system serving all lots be created that provide for fire flow storage of water to supply hydrants that comply with the current state-adopted fire code and NFPA guidelines for the type of occupancy and level of development.

(5) A planned unit development shall be filed on a plat drawn and stamped by a licensed surveyor.

13-6-2. Approval process.

(1) A planned unit development shall be processed in three stages:

(a) the concept stage which will go to a planning commission work and business meeting;

(b) the design stage preliminary plat, which will be placed on the planning commission business meeting agenda, while the design and engineering infrastructure drawings will be reviewed and approved by the department of engineering staff; and

(c) the final plat which will be placed on the planning commission business meeting agenda.

(2) Planned unit developments may be excused from statutory time limits imposed by Chapter 5 if the planning commission agrees to receiving progress updates by the developer every six months.

CHAPTER 7

DESIGN STANDARDS

Section

- 13-7-1. Application.
- 13-7-2. Lots.
- 13-7-3. Roads.
- 13-7-4. Frontage on arterial and collector roads.
- 13-7-5. Sidewalks, curbs and gutters.
- 13-7-6. Blocks.
- 13-7-7. Monuments.
- 13-7-8. Easements.
- 13-7-9. Utilities to be underground.
- 13-7-10. Sewer systems.
- 13-7-11. Sanitary sewer mains, laterals, and house connections — Future.
- 13-7-12. Water supply.
- 13-7-13. Storm drainage and flood plains.
- 13-7-14. Fire mitigation standards.

13-7-1. Application.

(1) All subdivisions shall comply with the design standards set forth in this Chapter.

(2) The design and development of subdivisions shall preserve insofar as possible the natural terrain, natural

drainage, existing topsoil, and trees.

(3) Land subject to hazardous conditions such as slides, mud flow, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods and polluted or non-potable water supply shall not be subdivided until the hazards have been eliminated or will be eliminated by the construction of the subdivision.

13-7-2. Lots.

(1) No single lot shall be divided by a municipal, service or improvement district, or county boundary line.

(2)(a) A lot shall not be divided by a road or another lot.

(b) The board of adjustment may issue a special exception to Subsection (a) if a division of land by a publicly dedicated or maintained road existing prior to January 10, 1975, creates a substandard lot that cannot be absorbed into another parcel or lot under the same ownership on the same side of the road to create standard sized lot or parcel. The special exception must be applied for and issued prior to application for final plat being submitted. Upon issuance of a special exception, the board of adjustment may:

(i) allow a connection across the road to combine with the acreage of a larger parcel increasing the total acreage; or

(ii) make the lot buildable by classifying it as a legal non-conforming lot. If the board determines that the lot is to be a legal nonconforming lot, it shall issue setbacks in proportion to the minimum lot size in the zoning district where the lot is located.

(3) The frontage of a wedge-shaped lot shall not be less than 30 feet in width.

(4) Side lot lines shall be at substantially right angles or radial to road lines.

(5) All lots shall front on a publicly dedicated road except as may be approved in planned unit developments, or upon private roads approved by the planning commission, subject to the standards set in the Tooele County Manual of Road and Highway Design Standards and Title 6, Chapter 20 of the Tooele County Code on Interface area requirements.

(6) All lots shall conform to area requirements of the existing zoning district.

13-7-3. Roads.

(1) Roads shall be designed in accordance with standards adopted by Tooele County.

(2) Roads shall bear the names of existing aligned

roads. There shall be no duplication of road names. All road names shall be approved by the Department of Engineering.

(3) The subdivider shall bear the cost of all road and public safety signs which shall be erected by the County Road Department.

(4) Building permits for any lot within a subdivision shall not be accepted until:

(a) cobble and at least 3" of base course of road material is in and accepted by the county road inspector for any roads within that phase;

(b) if it is required in the infrastructure design and engineering drawings, curb and gutter are installed; and

(c) temporary road signs are installed by the developer with the road names approved on the plat.

(5) No certificate of occupancy shall be issued for any structure until all off-site are accepted by Tooele County.

(6) Temporary road signs shall be maintained by the developer until permanent road signs are installed by Tooele County.

(7) Dead-end stubbed roads shall be terminated with a cul-de-sac and shall be allowed only with the following conditions:

(a) "L", "T" or branch turnarounds shall not be allowed.

(b) Cul-de-sac roads that terminate with a 60-foot radius bulb shall be designed with a maximum trip generation of 120 trips as calculated by the Institute of Transportation Engineers Trip Generation, current edition.

(c) Roads terminating with a loop shall be designed with a maximum trip generation of 400 trips as calculated by the Institute of Transportation Engineers Trip Generation, current edition.

(d) Roads in commercial and industrial zoning districts shall be determined by the engineering department using the Institute of Transportation Engineers Trip Generation, current edition for road load and design for the transportation system.

(e) Cul-de sac and loop end roads shall have intermediate turnarounds (roundabouts) every 1,500 feet and terminate with a skewed loop.

(8) Half roads shall not be permitted.

13-7-4. Frontage on arterial and collector roads.

No residential dwelling lots shall directly access arterial or major collector roads. Subdivision design shall provide local access roads to lots along arterial and major collector roads.

13-7-5. Sidewalks, curbs and gutters.

(1) Sidewalks, curbs and gutters shall be provided in accordance with the requirements of the zoning district or the planning commission.

(2) Sidewalks, curbs and gutters shall be installed in accordance with standards adopted by Tooele County.

13-7-6. Blocks.

Block lengths shall be approved by the planning commission. They shall provide for convenient access and circulation for emergency vehicles.

13-7-7. Monuments.

(1) Permanent reference monuments shall be installed in accordance with standards adopted by Tooele County. They shall be set on the external boundary of the subdivision, at all road centerline intersections and all beginning and end points of curves, to provide line of sight control for re-establishing the survey.

(2) Block and lot monuments shall be set.

(3) At least one second order benchmark shall be set within every subdivision. (Ord.2000-38, 1/02/01)

13-7-8. Easements.

(1) A ten-foot public utility easement shall traverse the front of each lot.

(2) Guying easements at corners may be required. (Ord.2000-38, 1/02/01)

13-7-9. Utilities to be underground.

All power lines, telephone lines, and other normally overhead utility lines shall be placed underground in all subdivisions. The developer shall establish final utility grades prior to utility lines being placed underground.

13-7-10. Sewer systems.

(1) Except as otherwise provided in this section, the subdivider shall provide a piped sanitary sewer system to the property line of every lot in the subdivision. The sewer system shall meet the minimum standards and requirements of the county health department.

(2) On-site wastewater disposal systems will be approved only when an existing sewer system is more than one-half mile away from the boundary line of the subdivision. All on-site wastewater disposal systems shall be approved in writing by the county health department. Subdivisions proposing to use on-site wastewater disposal systems shall submit a feasibility report to the county health department, per Tooele County Health Department Regulation #12. Percolation tests and soil exploration pits shall be required to determine the adequacy of the soil

involved for on-site wastewater disposal systems to absorb sewage effluent. At the time an application is made for a building permit, every individual lot which will be serviced by a septic system will require a soil evaluation test where the proposed drain field will be located. The following requirements shall also be met:

(a) Lands filled within the last ten years shall not be divided into building sites which are to be served by septic systems.

(b) Each septic system shall be installed at a depth and location approved by the county health department.

(c) Land with unacceptable soil evaluations as determined by the county health department shall not be divided into building sites to be served by septic systems.

(d) Land rated as having severe limitations for septic tank absorption fields as defined by the County soil survey, U.S. Department of Agriculture, or Natural Resource Conservation Service, shall not be divided into building sites to be serviced by septic systems unless each such building site contains not less than 20,000 square feet of other soils rated suitable for building construction and installation of a septic system.

(e) An applicant desiring to install septic system in soils having severe limitations shall have additional on-site investigations made, including soil evaluation tests. The applicant shall obtain the certification of a soils scientist that specific areas lying within these soils are suitable for the proposed septic system. The facilities shall meet county health department standards and regulations. To be approved, the county health department must find that proposed corrective measures have overcome the severe soil limitations.

13-7-11. Sanitary sewer mains, laterals, and house connections — Future.

Where county and regional general 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 sewage disposal systems. Whenever individual on-lot 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 those facilities be installed prior to or during the construction of the principal building. No building permit shall be issued until such installation is assured. In all other cases, sewage disposal facilities shall be provided for every lot

or parcel by a complete community or public sewer system.

13-7-12. Water supply.

(1) Standard, major and planned unit development subdivisions shall have a public water supply:

(a) when more than 70% of the lots in the subdivision are less than two acres in area; and

(b) when it is determined by the county health department that conditions exist that a public water supply is necessary to protect the health of the public. The water system shall meet all applicable state and local laws.

(2) The supply of water from a source other than an approved public water system may be approved only if proof of adequate water rights and proof of water availability, flow and quality meeting the Safe Drinking Water Standards by a water sample from wells on ten percent of the lots rounded up to the next whole number. In the concept stage, the subdivider shall show possession of sufficient water rights to provide domestic use for the total number of dwellings being proposed for the entire development. The design stage for the first phase of development shall include the engineering for the water system, if required, for the entire development to include the water tank and treatment facilities with a fire flow calculation. The county health department shall approve the location of the test wells prior to the subdivider drilling them. The samples shall be taken by, and have a complete chemical analysis performed and approved by the county health department. All non-public drinking water systems shall meet the standards of Tooele Health Department Regulation #5.

13-7-13. Storm drainage and flood plains.

(1) A storm drainage system for the entire subdivision shall be designed by a professional engineer, licensed in the State of Utah and qualified to perform such work. Existing storm drainage features which are to be incorporated in the design shall be identified. If the subdivision has phases, a general storm drainage plan for the entire area shall be presented with the design and engineering stage. Appropriate development stages for the storm drainage system for each phase shall be indicated.

(2) No lot one acre or less in area shall include flood lands. All lots of more than one acre shall contain not less than 40,000 square feet of land at an elevation at least two feet above the elevation of the 100 year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood of record.

(3) Storm drainage systems shall be designed to consider the storm drainage basin as a whole and shall accommodate not only runoff from the subdivision but also, where applicable, the runoff from those areas adjacent to and "upstream" from the subdivision itself, as well as its effects on lands downstream.

13-7-14. Fire mitigation standards.

(1) The zoning administrator, fire warden, and local fire department having jurisdiction shall perform a wildland fire protection analysis of all developments, existing or planned, to determine wildland fire protection ratings. The ratings developed under the analysis shall be the basis for the implementation of fire safe design and construction criteria and fire protection systems. The higher the relative value, the higher the wildland/urban interface and the fire protection hazard rating.

(2) The analysis shall contain, as a minimum, the following components:

- (a) wildland/urban interface or wildland/urban intermix boundaries;
- (b) means of access;
- (c) vegetation (fuel models);
- (d) topography within 300 feet of structures;
- (e) structure hazard rating;
- (f) history of fire occurrence in the area;
- (g) available fire protection in place and proposed; and
- (h) other ratings as they apply.

(3) Subdivision design shall reflect mitigation for those hazards identified in the fire protection analysis and those standards required in Title 6, Chapter 20 of the Tooele County Code.

(4) Except for minor subdivisions, fire suppression water sources shall be reviewed and approved by the local fire department or fire warden. The system shall provide for fire flow storage of water that complies with the current state adopted fire code, local ordinances, local fire department regulations and NFPA guidelines for the type of occupancy and level of development. Any fire hydrants shall be placed in accordance to the National Fire Protection Association standards and shall be identified with a reflectorized marker.

(5) Defensible space for structures and buildings shall be used in all covenants, contracts and subdivisions in conformance with development standards adopted by Tooele County.

(6) Roads and streets shall provide for safe access for emergency equipment and civilian evacuation. They shall be designed for unobstructed traffic circulation during an emergency. All subdivisions with internal roads longer

than 650 feet shall have more than one access route, each of which will provide egress to different locations. The design of access routes shall consider traffic circulation and employ looped road networks. Private roads in existence before January 10, 1975 are exempted from the 650 foot length provided that no more than five lots use it for a primary access.

CHAPTER 8

CLUSTER SUBDIVISIONS

Section

13-8-1. Design standards.

13-8-2. Common open space.

13-8-3. Guarantee of completing improvements.

13-8-4. Continuation of common open space.

13-8-5. Maintenance of common open space.

13-8-6. Density allowed.

13-8-1. Design standards.

The design of a cluster subdivision in relation to roads, blocks, lots, and common open spaces shall be in harmony with the intent of the zoning ordinance and the general plan.

13-8-2. Common open space.

(1) The subdivider shall explain the intended use of the open space.

(2) The subdivider shall submit plans of landscaping and improvements for the common open space and provide detail of how the improvements are to be financed and the area maintained.

(3) Roads in cluster subdivisions shall be designed to take advantage of open space vistas and to create drives with a remote or open space character.

(4) The planning commission may impose conditions or restrictions it deems necessary to ensure development and maintenance of the common open space, including plans for disposition or re-use of property if the open space is not maintained in the manner agreed upon or if it is abandoned by the owners.

13-8-3. Guarantee of completing improvements.

As assurance of completion of common open space improvements, the subdivider shall file with the county treasurer an improvement installation guarantee. Upon completion of the improvements, the subdivider shall call for final inspection by the department of engineering. If the inspection shows that landscaping and construction have been completed in compliance with the approved

plan, the department of engineering shall authorize release of the guarantee. If the guarantee is not released, the reason therefor shall be given to the subdivider in writing.

13-8-4. Continuation of common open space.

As assurance of continuation of common open space use in accordance with the approved subdivision, the subdivider shall grant an open space easement to an association of lot owners or to Tooele County, or place title of the land as open space in perpetuity with a land trust. The subdivider shall show an open space easement on the final plat. The easement need not give the general public the right of access, but shall provide that the common open space will remain.

13-8-5. Maintenance of common open space.

(1) As assurance of maintenance of the common open space and related improvements, the subdivider shall cause to be formed, prior to recording the final plat, a homeowners' association and shall establish articles of incorporation, bylaws and covenants outlining the purpose, organization, and operation of the association.

(2) Such articles of incorporation, bylaws, and covenants shall, among other things, provide that:

(a) membership shall be mandatory for each lot purchaser and any successive buyer;

(b) common open space restrictions must be permanent, not just for a period of years; and

(c) the association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.

(3) In the event the homeowners' association fails to maintain the common open space and improvements as approved, Tooele County may, at its option, perform or contract to have performed the required maintenance and recover the costs incidental thereto by means of a lien against the involved properties of the members of the association, or a civil lawsuit against the homeowners association or the offending property owner.

13-8-6. Density allowed.

Lot sizes and dimensions in approved cluster subdivisions may be reduced as provided in the zoning ordinance, and the standards of the subdivision ordinance may be modified by the planning commission and county commission as determined desirable and necessary to accomplish the purposes of cluster subdivision design and construction.

CHAPTER 9

FINANCIAL ASSURANCE

Section

13-9-1. Improvement installation guarantee.

13-9-2. Default.

13-9-3. Maintenance guarantee.

13-9-4. Acceptance release of surety.

13-9-5. Engineering review and inspection fee.

13-9-1. Improvement installation guarantee.

(1) In lieu of actual installation of off-site and common open space improvements required by this title, and before final plat approval by the county commission, the subdivider shall guarantee the installation of such improvements by a combination of one or more of the following financial guarantee methods: a corporate surety bond, a deposit in escrow with an escrow holder, a letter of credit with a financial institution, or a deed of trust in the name of Tooele County.

(2) The guarantee shall be in an amount equal to the cost of required improvements as estimated by an engineer retained by the subdivider and approved by the county engineer, or in an amount estimated by the county engineer. The guarantee shall assure the actual construction of such improvements within two years immediately following the approval of the final plat by the county commission.

(3) The guarantee shall be filed with the treasurer.

(4) The guarantee shall be approved as to method, institution and form by the county attorney.

13-9-2. Default.

In the event the subdivider defaults or fails or neglects to satisfactorily install required improvements within two years from date of approval of the final plat, the county commission may declare the bond, escrow, deed of trust, or letter of credit forfeit and may execute thereon and install or cause the required improvements to be installed using the proceeds from the collection to defray the expenses thereof. The subdivider shall be responsible for all costs incurred by the county to complete the required improvements in excess of the proceeds of the guarantee amount.

13-9-3. Maintenance guarantee.

The subdivider shall guarantee all off-site improvements will remain in good condition for a period of one year after the date of final acceptance by the county. The subdivider shall make all repairs to and

maintain the improvements in good condition during that one-year period at no cost to the county. Upon completion of the improvements, the county shall retain at least 20% of the guarantee for a surety to cover the maintenance period. The exact amount retained shall be determined by the county engineer. Identifying necessary repairs and maintenance rests with the county engineer, whose decision upon the matter shall be final and binding upon the subdivider. The guarantee 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 construction operations. Whenever, in the judgment of the county engineer, the improvements shall need repairs, maintenance, or re-building, the county engineer shall cause a written notice to be mailed or given to the subdivider. Upon receipt, the subdivider shall undertake and complete such repairs, maintenance or re-building. If repairs are not completed within the specified time, the county shall have such repairs made and the cost of such repairs shall be paid by the subdivider or by the county using the guarantee.

13-9-4. Acceptance and release of surety.

(1) The subdivider shall submit to the department of engineering a copy of the as-built construction drawings. Acceptance of all improvements shall be in writing from the county engineer.

(2) Final inspection by the county engineer shall be made one year after all work has been completed and before release of the guarantee. All defects shall be corrected before acceptance by the county.

(3) Upon completion of off-site improvements and approval by the county engineer, the financial assurances may be released, at which time the subdivision will be deemed accepted.

13-9-5. Engineering review and inspection fee.

In addition to the improvement and maintenance guarantee, the subdivider shall deposit with the county auditor a sum equal to three percent of the cost of the improvements to cover engineering review and inspection.

CHAPTER 10

VACATION, ALTERATION, AND AMENDMENT OF SUBDIVISION PLATS

- Section**
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13-10-1. Vacating or changing a subdivision plat.

(1) Subject to Subsection (2), the county commission may, with or without a petition, consider any proposed vacation, alteration or amendment of a subdivision plat, any portion of a subdivision plat, or any road, lot or alley contained in a subdivision plat at a public hearing.

(2) If a petition is filed, the county commission shall hold the public hearing within 45 days after receipt of the planning commission's recommendation under Subsection (1) if:

- (a) the plat change includes the vacation of a public road;
- (b) any owner within the plat notifies the County of their objection in writing within ten days of receiving mailed notification; or
- (c) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(3) (a) Before the county commission may consider a proposed vacation, alteration, or amendment, the county commission shall refer the proposal to the planning commission for its recommendation.

(b) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it.

(4) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted may, in writing, petition the county commission to have the plat, any portion of it, or any road or lot contained in it, vacated, altered or amended.

(5) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a road or lot contained in a plat shall include:

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any road that is proposed to be vacated, altered, or amended; and
- (c) the signature of each of these owners who consents to the petition.

(6) A petition that lacks the consent of all owners may not be scheduled for consideration at a public hearing

before the county commission until the notice required by this title is given. The petitioner shall pay the costs of the notice.

(7) Subject to Subsection (1), if the county commission proposes to vacate, alter or amend a subdivision plat or any road or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by this title.

(8) Subject to Subsection (2), if the county commission proposes to vacate, alter, or amend a subdivision plat, or any road or lot contained in a subdivision plat, the matter shall be considered at a public hearing after giving the notice required by this title.

(9) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section. The recording of all other declaration or document that purports to change the name of a recorded plat is void. (Reference §17-27-808 UCA)

13-10-2. Notice of hearing for plat change.

(1) The county commission shall give notice of the proposed plat change by mailing the notice to all owners, addressed to their mailing addresses appearing on the rolls of the county assessor. The county commission shall ensure that the notice includes:

(a) a statement that anyone objecting to the proposed plat change must file a written objection to the change within ten days of the date of the notice;

(b) a statement that if no written objections are received by the county commission within the time limit, no public hearing will be held; and

(c) the date, place and time when a hearing will be held, if one is required, to consider a vacation, alteration or amendment without a petition when written objections are received or to consider any petition that does not include the consent of all land owners.

(2) If the proposed change involves the vacation, alteration or amendment of a road, the county commission shall give notice of the date, place and time of the hearing by:

(a) mailing notice as required in subsection (1); and

(b) publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in Tooele County. (Reference §17-27-809 UCA)

13-10-3. Grounds for vacating or changing a plat.

(1) Within 30 days after the public hearing, the county commission shall consider the petition.

(a) If the county commission is satisfied that neither the public nor any person will be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the county commission by ordinance, may vacate, alter, or amend the plat, any portion of the plat, or any road or lot.

(b) The county commission may approve the vacation, alteration, or amendment by ordinance, amended plat, administrative order, or deed containing a stamp or mark indicating approval by the responsible body or officer.

(c) The county commission shall ensure that the vacation, alteration or amendment is recorded in the office of the county recorder.

(2) Any aggrieved party may appeal the county commission's decision to district court as provided in Utah Code Annotated Section 17-27-1001. (Reference §17-27-810 UCA)

13-10-4. Exchange of title for portions of parcels by adjacent property owners of record.

(1) The owners of record of adjacent parcels described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the zoning administrator or county engineer in accordance with Subsection (2).

(2) The zoning administrator or county engineer shall approve an exchange of title under Subsection (1) if:

(a) no new dwelling lot or housing unit will result from the exchange of title; and

(b) the exchange of title will not result in a violation of applicable zoning requirements.

(3) If an exchange of title is approved under Subsection (2), a notice of approval shall be recorded by the zoning administrator or county engineer in the office of the county recorder which:

(a) is executed by each owner included in the exchange and by the zoning administrator or county engineer;

(b) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(c) recites the descriptions of both the original parcels and the parcels created by the exchange of title.

(4) A notice of approval recorded under Subsection (3) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property. (Reference §17-27-808(7) UCA)