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**16.04.010 PURPOSES**

The purposes of this title are to:

- A. Promote the health, safety and general welfare of the residents of the City.
- B. Promote the efficient and orderly growth of the City.
- C. Provide standards for the physical development of subdivisions of land, construction of buildings and improvements within the City; including, but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water and sewer systems, design standards for public facilities and utilities, accesses to public rights-of-way, dedication of land and streets, granting easements or rights-of-way and to establish fees and other charges for the authorizing of a subdivision. (Ord. 18-277, 2-15-2018)

**16.04.020 PROHIBITED ACTS**

The following are prohibited:

- A. **Subdividing Land:** It shall be unlawful for any person to subdivide for the purpose of transferring, selling, conveying or assigning any tract or parcel of land which is located wholly or in part within the City, except in compliance with this title.
- B. **Subdivisions:** It shall be unlawful for any person to sell or exchange, or offer to sell or exchange, any parcel of land which is a part of a subdivision of land, or recorded in the Office of the Millard County Recorder as a subdivision, unless the subdivision has been approved by the City

and meets the provisions of this title.

- C. **Building Permits Prohibited:** Unless waived by the Land Use Authority or City Council, it shall be unlawful for any person to receive a building permit until all improvements, including road base and utilities, are installed on the lot on which the building is to be constructed or until a performance guarantee for such improvements has been accepted by the City. There shall be no human occupancy of any building until the improvements have been accepted by the City and the building and lot fully comply with the subdivision and zoning ordinances of the City. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the subdivision plat has been recorded and the prospective buyer or builder has been advised that occupancy permits will not be issued until the improvements are completed.
- D. **Improved Lot:** It shall be unlawful to build any residential unit on any lot less than the area required by this title, or if not prohibited by the zoning ordinance, of less than five -acres, or any commercial building, except on an improved lot. (Ord. 18-277, 2-15-2018)
- E. **Transfer of Ownership.** It is unlawful to transfer ownership of any parcel of land pursuant to an invalid subdivision. The City may, in its discretion, void such transfers and impose on the transferor a ~~fine of up to \$10,000;~~ Class B Misdemeanor.

**16.04.030 SCOPE OF APPLICATION**

All lots, plots or tracts of land located within a subdivision shall be subject to this title, whether the tract is owned by the subdivider or a subsequent purchaser, transferrer or holder of the land. (Ord. 18-277, 2-15-2018)

**16.04.040 APPROVED AND RECORDED DOCUMENTS REQUIRED**

A subdivision of land is not valid unless its governing document is approved by the Land Use Authority and properly recorded in the County Recorder’s Office.

**16.04.050 DEFINITIONS**

The following definitions shall be used in the interpretation of this Title. All definitions included in the Delta Land Use Ordinance (Title 18) shall also apply to this Title. For purposes of interpreting this Title, in the event of a conflict between the definitions in Title 18 and this Title, the definitions in this Title shall prevail.

- A. **“Improvement plan”:** a plan to complete permanent infrastructure on the subdivision that is essential for the public health and safety, that is required for human occupation, or that is required by applicable law and that an applicant must install in accordance with public installation and inspection specifications for public improvements and as a condition of recording a subdivision plat.
- B. **“Land use application”:** in the subdivision context, an application required by the City and submitted by a land use applicant to obtain a land use approval; this does not mean an application to enact, amend, or repeal a land use regulation.

**Commented [1]:** See §10-9a-604(2-3)

**Commented [JH2R1]:** Utah Code explicitly permits voiding a transfer of land pursuant to an invalid subdivision. We added the fine as well. An alternative to the fine could be making the subdivider liable to future buyers for damages resulting from an invalid transfer of land.

Let us know what you think about this.

**Commented [TA3R1]:** I agree with the assertion that an illegal subdivision MAY be voided. But, in practice, the remedy will generally be denial of permits. Regardless, I think such language should remain.

**Commented [TA4R1]:** I believe that 10-3-703 limits criminal and civil penalties. Criminally, the City is limited to imposing a Class B Misdemeanor. Civilly, the City is limited to “a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.” I also question whether the offence should be an Infraction, a Class C, or a Class B Misdemeanor. As written, a statement of “unlawful” defaults to an Infraction. Thus, if the classification were to be something else, it would need to be stated specifically.

**Commented [JH5R1]:** Todd - thanks for pointing that out. I replaced the fine with the Class B misdemeanor (\$1,000 fine + up to 6 months in prison).

City - let us know if you want to reduce this to a Class C or infraction.

C. **“Subdivision”**: any land that is divided, subdivided, or proposed to be divided into two or more lots 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.

1. Subdivision includes:

- a. The division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
- b. Except as provided below, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

2. Subdivision does not include:

- a. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
- b. A boundary line agreement recorded with the Office of the County Recorder between owners of adjoining parcels adjusting the mutual boundary in accordance with §10-9a-524 of Utah State Code (as amended) if no new parcel is created;
- c. A recorded document, executed by the owner of record revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels or joining a lot to parcel;
- d. A boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [Utah Code Ann. §§ §10-9a-524](#), ~~and, §10-9a-608 of Utah State Code~~, and [Delta Municipal City Code 16.36](#) (as amended) if no new dwelling lot or housing unit will result from the adjustment and the adjustment will not violate any applicable land use ordinance;
- ~~e. A bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division is in anticipation of future land use approvals on the parcel or parcels does not confer any land use approvals, and has not been approved by the land use authority;~~
- ~~j-f.~~ A deed or easement for a road, street, or highway purpose; or
- ~~k-g.~~ Any other division of land authorized by law.

D. **“Review Cycle”**: As used and further defined in Sections 16.12.040 and 16.12.060 of this Title, “review cycle” means the occurrence of:

- 1. The applicant's submittal of a complete subdivision land use application;
- 2. The municipality's review of that subdivision land use application;
- 3. the municipality's response to that subdivision land use application, in accordance with this section; and

**Commented [TA6]:** May need to verify citations.

**Commented [JH7R6]:** This is correct as of this draft.

**Commented [JH8]:** Sections removed for duplicity as Todd suggested.

**Commented [TA9]:** Is there a reason this is included? I think I would like it removed.

4. the applicant's reply to the municipality's response that addresses each of the municipality's required modifications or requests for additional information.

E. “Water Conveyance Facility”: A ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline or other watercourse. “Water conveyance facility” does not mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for culinary or industrial water, or any federal water project facility.

F. Water Conveyance "Facility owner" means an individual, entity, mutual water company, or unincorporated organization:

1. operating a water conveyance facility;
2. owning any interest in a water conveyance facility; or
- 4.3. having a property interest in real property based on the presence of the water conveyance facility located and operating on the real property.

**Commented [TA11]:** Personal Note: Todd, need to adjust other portion of code to conform with this state definition.

#### **16.04.060 SUBDIVISION LAND USE AUTHORITY**

A. The Land Use Authority for preliminary applications under this Title is the Planning Commission (“Planning & Zoning” or “P&Z”). For purposes of subdivision applications, ~~the Planning Commission~~ Planning & Zoning shall be responsible for the following, but may delegate any responsibility to City staff:

1. Rendering land use decisions related to preliminary applications under this Title.
2. Reviewing all applications under this Title in an impartial manner and according to the standards and deadlines described in this Title.
3. Holding a public hearing for preliminary applications when required by this Title.
4. Providing feedback to applicants on their preliminary applications in the manner required by this Title.
5. Scheduling and holding a pre-application meeting with potential applicants as required by this Title.
6. Keeping preliminary subdivision application forms and related informational material up to date and publicly accessible and distributing such forms and materials to potential applicants.
7. Providing notice to entities and parties as required by this Title.

**Commented [TA12]:** I know that we discussed preliminary review going to P and Z - however, looking at it now, I have concerns regarding the timing. By Statute, a response has to be done within 15 days of a complete application. Where P and Z only meets monthly, this seems problematic.

**Commented [JH13R12]:** I will note this in my email, but while UCA 10-9a-604.1 currently says 15 business days, HB476 (passed this year but not yet codified) doubles this to 30 business days for municipalities with a population less than 5,000. I assume that HB476 has not yet been codified because it goes into effect on November of this year.

B. The Land Use Authority for final applications under this Title is the Public Works Director. For purposes of subdivision applications, the Public Works Director shall be responsible for the following, but may delegate any responsibility to City staff:

1. Rendering land use decisions related to final applications under this Title, including approving or denying final applications.
2. Reviewing all final applications under this Title in an impartial manner and according to the standards and deadlines described in this Title.

**Commented [TA14R12]:** In discussing with Staff, I believe the City is going to stick with P and Z and see the City can make it work similar to how is currently is now working.

3. Providing feedback to applicants on their final applications in the manner required by this Title.
  4. Providing notice to entities and parties as required by this Title.
  5. Signing final application approvals as required by this Title.
  6. Ensuring that documents are properly recorded with the County as required by this Title.
- C. As subdivision application decisions are administrative, not legislative, the respective Land Use Authority is authorized to make any land use decision described by this Title without City Council approval.
- D. Except when operating as the Appeal Authority, the City Council shall not require the Land Use Authority to approve or deny an application under this Title.

**16.04.070 APPEAL OF LAND USE DECISIONS**

Any appeal of a land use decision under this Title shall be conducted as described in DCC 18.14.

**16.12 REVIEW AND PLAT REQUIREMENTS**

**16.12.010 COMPLIANCE REQUIRED**

**16.12.020 PRE-APPLICATION MEETING**

**16.12.030 PRELIMINARY APPLICATION REQUIREMENTS**

**16.12.040 –PRELIMINARY APPLICATION REVIEW AND APPROVAL BY PLANNING COMMISSION**

**16.12.050 FINAL APPLICATION REQUIREMENTS**

**16.12.060 FINAL APPLICATION REVIEW AND APPROVAL BY PUBLIC WORKS DIRECTOR**

**16.12.070 FORM LANGUAGE REQUIREMENTS**

**16.12.080 NOTICE TO AFFECTED ENTITIES**

**16.12.090 AGRICULTURAL SUBDIVISION EXEMPTION**

**16.12.1000 GUIDELINES FOR CITY APPROVAL**

**16.12.110 FEES PRIOR TO FINAL APPROVAL OF BUILDING PERMIT**

**16.12.120 MODIFICATION OF REQUIREMENTS**

**16.12.010 COMPLIANCE REQUIRED**

Prior to subdividing any tract of land, a subdivider shall comply with the requirements of this Title, as set out in this Title. (Ord. 18-277, 2-15-2018)

**16.12.020 PRE-APPLICATION MEETING**

- A. A party intending to submit a subdivision application under this Title may request a pre-application meeting with ~~the City the Land Use Authority~~ for the purpose of reviewing any element of the

**Commented [JH17]:** Todd brought up a good point about not specifying that this meeting has to be with the land use authority in case P&Z doesn't have a meeting within the 15-day window. State law says this meeting can be with anyone (staff, engineer, P&Z, etc.).

**Commented [TA18]:** Do we need to specify who this meeting can be with? I am not sure that I like the idea of being able to force a meeting of the Commission.

party's proposed subdivision application (preliminary or final). The proposed application need not be complete for purposes of this meeting and may—if the party desires—be limited to a concept plan.

1. If a party requests a pre-application meeting, ~~the Land Use Authority~~City staff shall schedule the meeting with a representative of the City within 15 business days after the request. The meeting shall be scheduled at the earliest convenient opportunity, and, at the option of the party requesting the meeting, shall occur within 20 business days after scheduling.
2. The Land Use Authority (or a member of the body that makes up the Land Use Authority) shall conduct the meeting, provide feedback on materials as requested by the party, and shall provide or have available on the municipal website the following at the time of the meeting:
  - a. Copies of applicable land use regulations,
  - b. A complete list of standards required for the project, and
  - c. Relevant application checklists.

~~e.~~B. A pre-application meeting shall not be considered a “complete land use application” pursuant to Utah Code § 10-9a-509.

**Commented [JH19]:** We can specify the city clerk if that would be helpful.

**Commented [JH20]:** This deadline is not required by state law. Technically the law only says that the meeting needs to be “scheduled” within 15 business days. Whether this means that the meeting needs to OCCUR within 15 days or merely be put on the calendar is up for interpretation. To take a stance on this ambiguity and also give the city more flexibility, we added this second sentence.

**Commented [TA21R20]:** I agree with your reading, but my concern remains regarding “who” this is being scheduled with, and something that the City needs to consider.

**Commented [JH22R20]:** We left it open to “a representative of the City” for now.

City - any preference on who you want to run these meetings? One option would be to leave it vague and then tell applicants informally that if they want to wait until the next P&Z meeting, then they can talk with the P&Z, but otherwise they get someone else.

#### **16.12.030 PRELIMINARY APPLICATION REQUIREMENTS**

To considered complete, a preliminary subdivision application must include at least the following elements:

- A. **Land Use Application.** An approved land use application that describes how the property will be used after it is subdivided.
  1. If the intended use is permitted by right under City ordinances, the land use application must include citations to the specific ordinance(s) that the applicant believes authorizes the intended use.
  2. If the intended use requires a conditional use permit or is otherwise conditioned on City approval, the land use application must include an *approved*, City-issued permit authorizing the intended use. Should an applicant seek a use permit concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the use permit is issued.
  3. If the intended use is prohibited under City ordinances and requires a variance, the land use application must include an *approved*, City-issued variance authorizing the intended use. Should an applicant seek a variance concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the variance is issued.
- B. **Compliance Agreement.** Prior to any final approval of a subdivision, the subdivider shall enter

into an agreement with the City, which shall be in substantially the following form:

1. This agreement is made by and between \_\_\_\_\_ (hereinafter "subdivider") and the City of Delta, Utah, a Municipal corporation (hereinafter "Delta City"). Subdivider hereby acknowledges receipt of a copy of Delta City's subdivision ordinance. Subdivider hereby acknowledges that he or she has read the subdivision ordinance (or that an agent of subdivider has), and that he or she understands the provisions of the subdivision ordinance and that he or she will fully and completely comply with the provisions and requirements therein contained to the best of his or ability. Dated: \_\_\_\_\_ Subdivider: \_\_\_\_\_
2. The form of a corporate or partnership signature shall include a provision for a notary in which the subdivider represents that the person signing for the corporation or partnership has the authority to execute the agreement for the corporation or partnership. (Ord. 18-277, 2-15-2018)

**C. Preliminary Plat.**

1. **Scale Of Plat:** The preliminary plat shall be drawn to a scale of not smaller than one hundred feet to the inch (100' = 1") and shall be on standard twenty-four-inch by thirty-six-inch (24" x 36") paper.
2. **Content Of Preliminary Plat:** The preliminary plat shall show:
  - a. The proposed name of the subdivision, which must be distinct from any subdivision name on a plat recorded in the County Recorder's office;
  - b. ~~Where the plat submitted covers only a part of the subdivider's tract, or is part of a larger vacant area, the plat shall show the location of the subdivision as it forms part of the larger tract or parcel of land. In such case, a sketch of the prospective future street system of the unplanned parts shall be submitted and the street system of the part submitted shall be considered in the light of adjustments and connections with the future street system of the larger area;~~
  - c. The names, addresses, email addresses and telephone numbers of the subdivider, the engineer or surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided as shown in the records of the Millard County Recorder;
  - e. ~~Contour map with contour lines shown at intervals no greater than two feet;~~
  - g. Existing sanitary sewers, storm drains, water supply mains and culverts within the tract or within 600 feet of the boundaries of the proposed or nearest subdivision. If there are no existing sanitary sewer, storm drains or water supply main culverts within 600 feet, the nearest of each such facility shall be shown;
  - h. The location, widths and other dimensions of proposed streets, alleys, easements, parks and other open spaces and lots, with proper labeling of

**Commented [JH23]:** We will plan on creating a form for this that you can use, unless you have one already.

**Commented [TA24]:** I have concerns about the vagueness of this. I think that most tract or parcels within the City that are subdividable necessitate including the who tract in the preliminary. Alternatively, there should be a size limitation here. I think my preference is that is be removed or modified to require a plan for the entire tract or parcel.

**Commented [JH25R24]:** Removed.

**Commented [JH26R24]:** City - this was one of your original requirements. Did you have a specific reason for this requirement? We can revise it if so.

**Commented [TA27R24]:** Nol. It was just a hold over from old code, and was likely more applicable when there were large undeveloped parcels within the City. Most of the city, that is no longer the case.

I think my preference is the more restrictive option of addressing the entire parcel - as very large parcels will be the rare exception, and not the common rule.

**Commented [TA28]:** We have not required this - and wonder if it should be removed.

**Commented [JH29R28]:** Removed.

**Commented [JH30R28]:** City - This was in your old code. If you prefer to have a map with contour lines, we could just say that they need to be at "appropriate intervals".

spaces to be dedicated to the ~~Municipality~~City;

~~i-g.~~ Whether any parcel is reserved or proposed for dedication for a public purpose;

~~j-h.~~ The location, principal dimension and names of all existing or recorded streets, alleys and easements, both within the proposed subdivision and within 600 feet ~~of~~ of the boundary thereof, or if there are none within 600 feet ~~of~~, then the nearest of such, whether recorded or claimed by usage; the location and dimensions to the nearest existing benchmark or monument, and section line; the location and principal dimensions for all watercourses, public utilities and other important features and existing structures within the land adjacent to the tract to be subdivided, including railroads, exceptional topography, airports and air approaches to the airport;

~~k.~~ The location of existing bridges, culverts, irrigation ditches, water conveyance facilities, surface or subsurface drainageways, utilities, public buildings, pumping stations or appurtenances within the subdivision or within 600 feet ~~of~~ thereof or to nearest of each such structures or appurtenances if there are none within 600 feet, and the names, addresses, email addresses and telephone numbers of such facility owners. ~~;~~

~~m-j.~~ Every existing right-of-way and recorded easement located within the plat for underground, water, and utility facilities, as well as the proposed locations of all utility easements and utility lines, including water, irrigation water, sewer, telephone, power, gas and any other utility easements or lines;

~~n-k.~~ A tentative plan by which the subdivision proposes to handle drainage for a 10-year storm event for the subdivision;

~~o-l.~~ Each sheet of the preliminary plat shall contain the name of the project, scale (not less than 100 feet ~~to~~ the inch), sheet number and north arrow;

~~p-m.~~ Boundary lines of adjacent tracts of unsubdivided land, showing ownership and property monuments;

~~q-n.~~ Any known and unrecorded water conveyance facility located, entirely or partially, within the plat;

~~r-o.~~ If any portion of the proposed subdivision is within 300 feet of an Agriculture Protection Area, the notice language found in Utah Code §17-41-403(4);

~~s-p.~~ If any portion of the proposed subdivision is within 1,000 feet of an Industrial Protection Area, the notice language found in Utah Code §17-41-403(4);

**Commented [TA31]:** Question of Hansen: Is this a common standard for what you are seeing from other jurisdictions?

~~t~~q. If any portion of the proposed subdivision is within 1,000 feet of a Critical Infrastructure Materials Protection Area, the notice language found in Utah Code §17-41-403(4);

~~u~~r. If any portion of the proposed subdivision is within 1,000 feet of a Mining Protection Area, the notice language found in Utah Code §17-41-403(4);

~~v~~s. If any portion of the proposed subdivision is within 1,000 feet of a Vested Critical Infrastructure Materials Operation (extracting, excavating, processing, or reprocessing sand, gravel, or rock aggregate where that use is not permitted by City ordinances), the notice language found in Utah Code §10-9a-904;

t. If the subdivision includes a condominium, the requirements found in Utah Code §57-8-13, as amended.

~~w~~u. Signature blocks for the surveyor who prepared the plat, the owners of the land to be subdivided, a representative of each utility company that will service the proposed subdivision, the preliminary-phase Land Use Authority (Planning & Zoning), the final-phase Land Use Authority (Public Works Director), the City Attorney, the Mayor, and a notary.

~~D~~.C. **Preliminary And Final Plat Check Fees:** The subdivider shall pay a nonrefundable plat check fee for each lot within the subdivision pursuant to the City consolidated fee schedule. The fee shall be paid on or before the date the preliminary plat is submitted for approval by the Land Use Authority. The subdivider shall also pay any actual costs incurred by the City for engineering and legal services reasonably incurred by the City rendered in checking the preliminary and final plats for compliance with this ~~t~~ Title.

~~E~~.D. **Studies and Reports.** The subdivider shall provide to the Land Use Authority, not later than the time the subdivision plat is submitted for preliminary approval, the following documents:

~~1~~2. Verification that a record of survey has been filed pursuant to Utah Code §-17-23-17, as amended.

~~2~~3. A preliminary title report from a title insurance company licensed to do business in the State or from a qualified attorney licensed to practice in the State showing the current vested owner of the parcel to be subdivided and the status of title.

~~3~~4. Copies of any required agreements with owners of property adjacent to the proposed subdivision.

~~4~~5. A preliminary soil report prepared by a registered civil engineer, based upon adequate test boring or excavations (if required by the Land Use Authority). (Ord. 18-277, 2-15-2018)

~~5~~6. A traffic study, if one is required by an applicable UDOT Access Management Plan or the City's current Transportation Plan.

**Commented [JH32]:** We already require proof of approval by the utility companies (see the Certifications) section below, so if you think that's enough, we could remove the requirement for the utility companies to sign the final plat.

**Commented [TA33R32]:** My concern here is practicality. I am concerned that the certification from the utility company is actually approving the plat and plan that is being submitted to the City. My concern is applicant telling utility "sigh this, its easy, I am just carving off on parcel" but when in reality that one parcel is party of a 50 lot plat. I guess I do not have trust in the applicant, or the utility company to both understand the complexity of the plan, and make sure that adequate infrastructure are being contemplated. I am open to suggestion to address my concern beyond a "signature block".

**Commented [JH34]:** We added this language based on a comment below from Todd. Technically I'm not sure you need a signature from the Mayor or Attorney since state law requires a "single administrative land use authority" for these approvals. In other words, if the Public Works Director, as the final LUA, approves the plat, the Mayor and Attorney shouldn't withhold signatures. But we can certainly keep it as a formality if you'd like.

**Commented [TA35R34]:** I am fine taking it out - the reason I always viewed it as being in was as a check an balance that the approval should occur. But there will just have to be trust in the LUA approval.

**Commented [JH36]:** Or if you prefer, we can split up these fees so the developer pays for the phases one at a time.

**Commented [TA37]:** Is this common? I can see the value in it, but it is not something that we have been requiring, because the County is not going to record it if the names do not match title ownership.

**Commented [TA38]:** Same question. Is this a common requirement?

~~6.7.~~ An environmental impact analysis study, if the land use authority determines one to be required under 16.12.040.

**F. Improvement Plan.** An improvement plan, created in accordance with applicable portions of chapters 16.16, 16.20, 16.24, and 16.28 of this Title, for all public improvements proposed by the applicant or required by City ordinances.

~~2.~~ ~~Contain an~~ engineer's estimate of the cost of completing the required improvements;

~~3.~~ A certificate from the engineer(s) who prepared the plan, attesting to the plan's accuracy; and

~~4.~~ A phasing plan, if the subdivision will proceed by phased development. This phasing plan shall describe the anticipated timeline for developing, submitting final applications for, and recording final plats for all lots described on the preliminary plat, in compliance with 16.12.050.A.1, 16.12.060.E, and all other requirements of this Title.

~~1-~~

~~1-2.~~ An affidavit from the applicant certifying that the submitted information is true and accurate.

~~2-3.~~ A letter of service commitment. Utility company approval for from each utility company operating within the City certifying that the company will provide utility service to the development and each parcel within the area to be subdivided. Such letter must provide sufficient specificity to show that the utility company has reviewed the preliminary plat, and fully understands the specifics of the proposed subdivision including the number and location of lots, and anticipated utility services required for the subdivision.

~~3-4.~~ The signature of each owner of record of land described on the preliminary plat, signifying their consent to the preliminary subdivision application and their intent to dedicate portions of the preliminary plat to the public as described in the application.

~~5.~~ A letter from each Facility Owner of any water conveyance facility located, entirely or partially within 100 feet of the subdivision plat, as determined by DCC § 16.12.080(A)(1) indicating that the facility has no concerns with the applications, or providing the City the facility owners concerns pursuant to DCC 16.12.080(C).

~~4-6.~~ Certification that the surveyor who prepared the plat:

~~a.v.~~ Holds a license in accordance with Utah Code 58-22;

~~b.w.~~ Either

(1) Has completed a survey of the property described on the plat in accordance with state requirements and has verified all measurements; or

(2) Has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

c. Has placed monuments as represented on the plat; and

d. Has employed practices and standards such that error is limited to one foot of error per 5,000 feet of distance traversed.

**Commented [TA39]:** City Staff opinion is to remove and reference to environmental impact studies at the subdivision phase, and instead move the possibility of it to use/building permit case.

**Commented [TA40]:** I have been contemplating how to resolve my concern, and I think this does it. It puts the burden on the applicant and the utility company, but it is my current best idea to know that it is resolved before approval. You will see some other notes from me on this issues, that I wrote before I inserted this provision.

**Commented [JH41]:** This requirement was in the City's old code. Let us know if you don't think it's needed anymore.

**Commented [TA42R41]:** I think it can come out.

~~H.G.~~ **Review Copies.** Fourteen printed copies of the preliminary plat as described in these regulations and an electronic copy of all plans in PDF format.

HISTORY

Amended by Ord. 19-282 on 12/4/2019

**16.12.040 PRELIMINARY APPLICATION REVIEW AND APPROVAL BY PLANNING COMMISSION**

~~I.A.~~ **Condition Of Approval:** ~~The Planning & Zoning Commission~~ shall approve preliminary applications that it finds have been developed in accordance with the standards and criteria specified in this Title and all other ordinances of the City.

1. ~~The City staff, under the direction of Planning & Zoning Land Use Authority~~ shall circulate for comment and review copies of the proposed preliminary plat to all affected departments and divisions of Municipal government and to any districts that may be required to provide special services.

~~A.~~ **Soil Controls:** ~~The Planning Commission~~ **Planning & Zoning** shall determine from the pre-application meeting or the preliminary application the possible need for environmental impact analysis, which would take into account the soil, slope, vegetation, drainage and other geological characteristics of the site. If the site requires substantial cutting, clearing, grading or other earth moving operations in construction of structures or roads in the proposed development, the Land Use Authority shall require the applicant to provide soil erosion and sedimentation control plans and specifications prepared by a registered civil engineer.

~~A.B.~~ **Application Review:**

1. After the applicant submits a complete preliminary application, the Land Use Authority shall review and provide feedback to the applicant in a series of "review cycles." A review cycle consists of the following phases:
  - a. Phase #1: The applicant submits a complete preliminary application (or, if after the first cycle, submits a revised version of the completed application).
  - b. Phase #2: The Land Use Authority reviews the preliminary application in detail and assesses whether the application conforms to local ordinances.
  - c. Phase #3: The Land Use Authority responds to the applicant, citing any missing requirements or areas of noncompliance and providing a detailed list of necessary revisions to the applicant, within the specified time as listed in Table A. For any required modification or addition to the application or request for more information, the Land Use Authority shall be specific and include citations to ordinances, standards, or specifications that require the modification or addition and shall provide the applicant with an index of all requested modifications or additions.

**Commented [JH43]:** Does the City have any specifications about what size these should be? Other cities have gone with something like 17"x24". Alternatively, if the City prefers to go paperless, we can remove the printed copy requirement.

**Commented [JH44R43]:** We can also require printed copies of the whole application, not just the preliminary plat, if you prefer.

**Commented [TA45R43]:** Per Meagan comment below, I think we want paper digital copies.

Actual final plat to be recorded, maybe just include some generic language that it shall be per current county recorder requirements?

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**Commented [46]:** §10-9a-604.2

**Commented [JH47]:** I assume that in practice, the city clerk or individual members of P&Z will be circulating these documents.

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- d. Phase #4: The applicant revises the application, addressing each comment or requirement the Land Use Authority made. The applicant must submit both revised plans and a written explanation in response to the municipality’s review comments, identifying and explaining the applicant’s revisions and reasons for declining to make revisions, if any. If the applicant fails to respond to a comment made by the Land Use Authority in its review, the review cycle is not complete and will remain open until the applicant addresses all comments.
2. At the preliminary stage, the Land Use Authority is limited to the maximum number of review cycles, hearings, and review days described in Table A ~~a maximum of four review cycles and one public meeting~~ to provide feedback and request modifications of the preliminary application. If the Land Use Authority finds that a preliminary application is compliant, it shall approve the application. If no further revisions are needed, the Land Use Authority may end the review process early and approve or deny the preliminary application.
- a. This provision notwithstanding, for any subdivision application that affects property within an identified geological hazard area, the City is exempt from limits on the number of permitted review cycles and the City’s deadlines for reviewing and responding (Phases #2 and #3).
  - b. If the applicant makes a material change to a preliminary or final application not requested by the City at any point in the review process, the Land Use Authority may restart the review process, but only with respect to the portion of the application that the material change substantively affects.
  - c. If an applicant takes longer than 20 business days to submit a revised subdivision improvement plan responding to the City’s requests for modifications and additions (in Phases #1 and #4), the City shall have an additional 20 business days to review and respond to the revised application (Phases #2 and #3 of the next review cycle or issuing an approval decision).
  - d. If an applicant takes longer than 180 calendar days to submit a revised application and respond to the City’s requests for modifications and additions (Phases #1 and #4), the application shall, at the option of the Land Use Authority, expire. If an application expires, the applicant must restart the subdivision application process.

**Table A – Review Cycles, Hearings, and Timelines by Subdivision Use Type**

<i>Use Type</i>	<i>Approval Stage</i>	<i>Max Review Phases</i>	<i>Max Public Hearings</i>	<i>City Turnaround Deadline**</i>
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1-2 Family Residential*	Preliminary	4	1	30 Business Days
	Final	1	0	30 Business Days
All Other Uses	Preliminary	5	1	30 Business Days
	Final	2	0	30 Business Days
*Includes single-family homes, duplexes, and townhomes.				
**Describes the total time (per review cycle) the City may take to complete both Phase #2 and Phase #3.				

**Commented [JH48]:** Note that state law does not mandate any review restrictions/deadlines for the final phase. We put a limit of one review phase just to keep things moving. Let us know if you'd like more time or reviews here.

**Commented [JH50]:** Note also that the City can do whatever it wants with commercial, multi-family, and other zoning uses. We can make these review deadlines as long as you want.

**B. Public Meeting and Notification Of Adjacent Property Owners:** Unless waived by the Land Use Authority, at least seven\_ days prior to the public meeting at which the Land Use Authority will consider the application, the applicant shall mail to all property owners of property located within 500 feet\_ of the boundary of the proposed subdivision, written notice of the time, date and place where the Land Use Authority will consider giving preliminary approval to the subdivision. The written notice shall also advise the property owner that he or she has the right to be present and to comment on the proposed subdivision at the Land Use Authority public meeting. The applicant shall provide the Land Use Authority with the names of all persons to whom the notice was mailed at least three days prior to the meeting at which the preliminary plat is to be considered. (Ord. 18-277, 2-15-2018)

1. The purpose of these public meetings is to ask questions of the applicant and receive commentary on the technical aspects of the application from affected entities, interested parties, and the public.
2. If the Land Use Authority elects to hold a public meeting, the meeting must occur before the end of the Land Use Authority's preliminary review period (end of Phase #3 of the last preliminary review cycle). Scheduling issues shall not extend the review and approval deadlines in this Chapter.
3. The Land Use Authority shall not hold a public hearing during the review period for a final subdivision application.

**Commented [52]:** Because this requirement in the City's existing code requires notification of property owners, it seems like the meeting will function essentially like a public hearing (with commentary from the public). If that's the case, then the City is limited to onle one of these. Alternatively, we could remove this requirement or make it optional.

**Commented [TA53R52]:** I am unclear to me if we should keep this requirement. I think my concern is that this notice requirement makes this process political in nature, as opposed to administrative, which I think is the primary purpose of the statute revisions.

**Commented [JH54R52]:** I agree with Todd.  
City - let us know if you would like to keep or remove this.

**C. Approval Or Disapproval Of Preliminary Application:** ~~The Planning Commission~~ **Planning & Zoning** shall approve the preliminary application if it finds that the application complies with the requirements of City ordinances.

**Commented [TA55]:** Should this be done administratively? Or does it need to go to the Commission?

**D. Approval For One Year:** Approval of the preliminary plat by the Land Use Authority shall be valid for 12 months unless an extension is granted by the Land Use Authority upon application by the subdivider. If the final plat has not been recorded within the 12\_ month period, the preliminary plat shall again be submitted to the Land Use Authority for reapproval; ~~however, preliminary approval of a large tract or phased development application shall not be voided if the first section or phase of a final plat is submitted for final approval within one year.~~

**Commented [JH56R55]:** Either way. We could even have the City Council approve extensions. My thought with making P&Z handle it is that there might have been ordinance changes since the preliminary approval.

City - do you have a preference?

**E. Review Period End.** When a preliminary application's review period ends, the Land Use Authority shall approve or deny the respective application within 20 business days.

**Commented [TA57R55]:** This came up recently. The City wants the Code Enforcement Authority authority to extend a preliminary approval, OR, for him to refer it to P and Z for consideration. In other words, he cannot deny it, he can approve, or refer. I have deleted a section, I don't like the ambiguity of "large tract."

1. If the Land Use Authority has not approved or denied the application within 20 business

days after the allotted review cycles are complete, the applicant may request a decision. After such a request, the City shall, within 10 business days:

- a. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Utah Code §10-9a-511(5)(d) to review and approve or deny the revised set of plans; or
- b. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to the designated Appeal Authority.

HISTORY

Amended by Ord. [22-292](#) on 2/16/2022

**16.12.050 FINAL APPLICATION REQUIREMENTS**

A. The final application shall ~~be comprised of~~ **comprise** the same elements as the approved preliminary application, with the following additions and exceptions:

**1. A Final Plat.**

a. ~~If development of a proposed subdivision is proceeding according to a phasing plan, the applicant may submit a separate final plat for each phase of development. The final plat for each phase must, without material deviation, depict the relevant portion of the preliminary plat that was approved by the Land Use Authority during the preliminary application review process. Immaterial changes (e.g., formatting) necessary to comply with the recording requirements of the County Recorder's Office are permitted.~~

~~b. In all other cases, the final plat should be the version of the preliminary plat approved by the Planning & Zoning Commission Land Use Authority during the preliminary application review process, plus any other immaterial changes (e.g., formatting) necessary to comply with the recording requirements of the County Recorder's Office.~~

**2. Certifications.**

- a. As applicable, formal, irrevocable offers for dedication to the public of streets, City uses, utilities, parks, easements, or other spaces.
- b. If the plat is to be part of a community association, signed and binding documents conveying to the association all common areas.
- c. An affidavit from the applicant certifying that the submitted information is true and accurate.
- d. The owner's Certificate of Dedication;
- e. ~~The City Council's approval shown by the signature of the Mayor and attested by the City Recorder;~~

**Commented [TA58]:** Do we need to specify that it can be some portion of the preliminary plat. i.e., one lot at a time, phases, etc.

**Commented [JH59R58]:** Good catch. In addition to the new language here, we also added a requirement that the preliminary improvement plan contain a phasing plan if a phased development will occur.

**Commented [TA60R58]:** I like both changes.

g.f. Completed and signed forms as per DCC 16.12.080.

3. **Completion Assurance.** A completion assurance for all public improvements required by the approved improvement plan, or a statement that such improvements will be completed before development occurs on the proposed subdivision and before the applicant records the plat, as required by chapter 16.20 of this Title.

#### HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

Amended by Ord. [22-292](#) on 2/16/2022

#### **16.12.060 FINAL APPLICATION REVIEW AND APPROVAL BY PUBLIC WORKS DIRECTOR**

**A. Condition Of Approval:** The Public Works Director shall approve final applications that comply with the standards and criteria specified in this Title and all other ordinances of the City. The Public Works Director shall issue all approvals in writing and shall certify the approved final plat, either by signing the plat directly or by attaching a signed certification to the plat.

**A-1. ~~The parties described in DCC 16.12.030(-C)(-2)(-v)- shall each sign the final plat or attach a signed certification to the final plat prior to recording.~~**

#### **B. Approval of Final Application:**

1. The final application shall be submitted to the Public Works Director for final approval. If this final application is complete, the Land Use Authority shall review and provide feedback to the applicant according to the review timelines and requirements in Table A of DCC 16.12.040. If no further revisions are needed, the Land Use Authority may end the review process early and approve or deny the final application.
  - a. As with preliminary applications, if the applicant makes a material change to a final application not requested by the City at any point in the review process, the Land Use Authority may restart the review process, but only with respect to the portion of the application that the material change substantively affects.
  - b. If an applicant takes longer than 20 business days to submit a revised subdivision improvement plan responding to the City's requests for modifications and additions (in Phases #1 and #4), the City shall have an additional 20 business days to review and respond to the revised application (Phases #2 and #3 of the next review cycle or issuing an approval decision).
  - c. If an applicant takes longer than 180 calendar days to submit a revised application and respond to the City's requests for modifications and additions (Phases #1 and #4), the application shall, at the option of the Land Use Authority, expire. If an application expires, the applicant must restart the subdivision application process.
  - d. If the applicant has not submitted a final application within 365 calendar days

**Commented [TA61]:** I think that this signatures should still be required on the final plat, as well as the utility company sign offs? Am I missing something?

**Commented [JH62R61]:** Added this to the requirements for a preliminary plat (signature blocks for all the parties). Also added a section below saying that everyone needs to sign the plat.

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after the Land Use Authority notifies the applicant that it has approved the related preliminary application, the related preliminary approval shall expire. In this case, the applicant shall not submit a final application until the Land Use Authority has issued a new preliminary application approval.

~~e. Before the Land Use Authority approves the final application, the City Engineer and City Attorney shall review the application and provide comments to the Public Works Director.~~

a. With the exception of modifications or corrections that are needed to protect public health and safety, that are needed to enforce state or federal law, or that arise from the review cycle being reset, the municipality waives noncompliant subdivision-related requirements that the Land Use Authority does not identify during the review process.

b. The applicant shall make reasonable changes, unless prohibited otherwise by a contract or deed, to the subdivision application to accommodate the water conveyance facility to the extent required by Utah Code §73-1-15.5, ~~DCC 16.28.050, and any other requirement of this Title, and (insert cite to Delta City code requiring ditches in certain circumstance to be covered currently 16.28.030)~~

C. **Disapproval of Final Application:** If the Land Use Authority disapproves of the final plat, it shall so notify the subdivider in writing stating that the plat has been disapproved and the reasons therefore, based on the ordinances of the City or the laws of the State. The written notice shall be personally delivered or mailed to the subdivider within 10 days after the decision by the Land Use Authority.

D. **Review Period End.** When a final application's review period ends, the Land Use Authority shall approve or deny the respective application within 20 business days.

1. If the Land Use Authority has not approved or denied the application within 20 business days after the allotted review cycle is complete, the applicant may request a decision. After such a request, the City shall, within 10 business days:

a. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Utah Code §10-9a-511(5)(d) to review and approve or deny the revised set of plans; or

b. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to the designated Appeal Authority.

E. **Phased Development Final Applications:** If the subdivision application is for a phased development, the applicant shall obtain final approval in phases. Upon preliminary approval of the entire subdivision, following the process as put forth in DCC 16.12.050, the applicant shall submit a complete final application of Phase 1 of the development. Following this final approval, the applicant shall post completion assurances with the City or complete the required

**Commented [JH63]:** This requirement was in the city's old code. We don't have to keep it if you don't want.

**Commented [TA64R63]:** I don't think its necessary.

**Commented [TA65]:** Todd - Need to review. I think this is to vague, and need to reference code regarding ditches and canals.

**Commented [JH66R65]:** Agreed and fixed.

improvements, record the final plat, complete all required improvements and construction pertaining to Phase 1, and pass City inspection before submitting a final application for Phase 2 or subsequent phases.

F. **Post-Approval Actions:** The final plat, bearing all official approvals as above required, shall be deposited in the Office of the Millard County Recorder for recording at the expense of the subdivider within 365 calendar days after the Land Use Authority approves the final application, provided that the applicant has completed any improvements or posted any performance guarantee required by City ordinances or described in the approved improvement plan. The applicant shall not record the approved final plat until such improvements are completed or guaranteed in compliance with City ordinances and the approved improvement plan.

1. An approved final plat not properly recorded within the timeline specified in this provision is void, unless the Land Use Authority approves an extension.
2. City staff shall submit to the Utah Geospatial Resource Center (so the subdivision can be included in the 911 database), within 30 calendar days after the final application is approved, either:
  - a. An electronic copy of the approved final plat; or
  - b. Preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved final plat.

~~3. The Land Use Authority shall, if requested by the Utah Geospatial Resource Center:~~

**Commented [JH67]:** The City mentioned that most development it has is done in phases. Is this a process that could work for you?

**Commented [TA68R67]:** Yes. But I think this conflicts slightly with the section above and seems to require the final be for all that was in the preliminary.

**Commented [JH69R67]:** Agreed and fixed.

**16.12.070 FORM LANGUAGE REQUIREMENTS**

A. **Owner's Dedication:** The form of the owner's dedication shall be substantially as follows:

**Commented [72]:** We will plan to make template forms for these, unless you tell us otherwise.

*OWNER'S DEDICATION*

*Know all by these presents that we, the undersigned owners of the tract of land described below, having caused the same to be subdivided into lots and streets to hereafter be known as (subdivision name), do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use, and do warrant, defend, and agree to save Delta City harmless against any easements or other encumbrances on the dedicated streets which will interfere with Delta City's use, operation, and maintenance of the streets and do further dedicate the easements as shown.*

*In witness whereof, we have hereunto set our hands this----- day of-----, 20-----.*  
*Signed:*

**ACKNOWLEDGEMENT**

*STATE OF UTAH)*  
*COUNTY OF MILLARD)*

*On this the----- day of-----, 20-----, personally appeared before me, the undersigned*

notary public, in and for the State of Utah and County of Millard, in the State of Utah, the signer(s) of the above Owner's Dedication, in number, who duly acknowledged to me that-----signed it freely and voluntarily and for the uses and purposes therein mentioned.

Notary Public

CORPORATE ACKNOWLEDGEMENT

STATE OF UTAH)  
COUNTY OF MILLARD)

On this the-----day of-----, 20--, personally appeared before me, the undersigned notary public, in and for the State of Utah and County of Millard, in the State of Utah, the signer(s) of the above Owner's Dedication, in number, who duly acknowledged to me that-----signed it freely and voluntarily and for the uses and purposes therein mentioned and that the corporation executed the same.

Notary Public

**B. Professional Surveyor Or Engineer Certificate:** The form of the professional surveyor's or engineer's certificate shall be substantially as follows:

SURVEYOR'S CERTIFICATE

I,-----a registered land surveyor, hold Certificate No.----- as prescribed by the State of Utah, and do hereby certify that by authority of the owners, I have made a survey of the tract of land shown on this plan which is accurately described herewith, and have subdivided the tract of land into lots and streets to be hereafter known as (name of subdivision), and that the same has been surveyed and staked on the ground as shown on this plat.

Signed on this-----day of-----, 20--.

Register Land Surveyor

**C. Occupancy Restriction:** The form of the occupancy restriction shall be substantially as follows:

~~E.~~

OCCUPANCY RESTRICTION

The City of Delta, Utah has an ordinance which restricts the occupancy of buildings within this subdivision. Accordingly, it is unlawful to occupy a building located within this subdivision without first having obtained a certificate of occupancy issued by the building inspector.

**D. Utility Company Approval:** The form of the utility company approval shall be substantially as follows:

~~D.~~

(Name of utility company), a utility company, has reviewed the preliminary and final plats on the (name of subdivision) and approves placing all of its utility lines underground within the utility right-of-way as shown on the plats, and agrees to provide the needed service for the subdivision development, provided the development is constructed and completed in accordance with said plats.

Signed on this ----- day of -----, 20---.

(Name of Utility Company)

By:

Title:

(Ord. 18-277, 2-15-2018)

### 16.12.080 NOTICE TO AFFECTED ENTITIES

A. Unless application is accompanied by a certification from the facility owner. Within-withing 15 20 calendar days after receiving a complete subdivision application under this Title, the City Manager-Recorder or designee shall provide written notice of the proposed subdivision to the facility owner of any known water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat.

1. To determine whether any water conveyance facility is located within 100 feet of a proposed subdivision, the City Manager-Recorder or designee shall review information:

- a. From the facility owner under Utah Code §10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;
- b. From the state engineer's inventory of canals; or
- c. From a licensed surveyor who has consulted with a representative of an existing water conveyance facility that services an area near the land the application concerns.

B. To give the owners of water conveyance facilities time to provide feedback on subdivision applications, the Land Use Authority shall not approve a preliminary (or related final) subdivision application under this Title sooner than 20 calendar days after the applicant submits a complete application. This waiting period does not apply to revised applications the applicant may submit during the application review process.

1. A water conveyance facility owner's failure to provide comments to the Land Use Authority about a subdivision application does not affect or impair the Land Use Authority's authority to approve the subdivision application.

C. The City shall receive and consider comments from each facility owner regarding:

1. access to the water conveyance facility;
2. maintenance of the water conveyance facility;
3. protection of the water conveyance facility;
4. safety of the water conveyance facility; or

**Commented [TA73]:** 10-9a-603(3)(d)

**Commented [TA74R73]:** The way I wrote the certification section, the intent is that the applicant gets certification as part of the application. If so, then I think the city has met its statutory obligation of notice. If not, we leave the language that does put the burden on us to send out the notice.

**Commented [JH75]:** City - This can be whomever you want (clerk, recorder, planner, etc.).

5. any other issue related to water conveyance facility operations, specifically and including the requirements of DCC [6.28.030(H)].

~~4. The City shall require applicant to make reasonable changes, unless prohibited otherwise by a contract or deed, to the subdivision application to accommodate the water conveyance facility to the extent required by Utah Code §73-1-15.5, and any other requirement of this Title.~~

**Commented [TA76]:** Double check this cite is correct in final draft.

- A. Agricultural Exception: Applications to subdivide agricultural land are exempt from the plat requirements of this Chapter if the applications meet the relevant requirements in Utah Code §10-9a-605(2).
- B. Recorded Boundaries: Notwithstanding clause A, the boundaries of each lot or parcel in the agricultural subdivision shall be graphically illustrated on a record of survey map that, after receiving both a preliminary and final approval in accordance with this Chapter, shall be recorded with the County Recorder.
- C. Use Must be Agricultural: If a lot or parcel exempted under this Section is used for a nonagricultural purpose, the Planning & Zoning Commission may require the plat requirements of this Chapter and deny any building or development permits for such parcels until compliance with the plat requirements of this Chapter.-

**16.12.110 FEES PRIOR TO FINAL APPROVAL OF BUILDING PERMIT**

- A. **Fees Specified:** Prior to final approval or issuance of a building permit, as determined by the City Council, upon recommendation from the Land Use Authority, there shall be collected for each lot the following fees:
  - 1. For each connection to the Municipal water system, the amount set by resolution of the City Council for water hookup fees.
  - 2. For each connection to the Municipal sewer system, the amount set by resolution of the City Council for sewer hookup fees.
  - 3. In addition to all other fees required by this or any other ordinance of the Municipality, there is hereby an impact fee equal to seven percent of the fair market value of the subdivision valued as of the date of final approval. The City Council may, at its discretion and in lieu of the seven percent impact fee, permit the subdivider to dedicate seven percent of the land area of the proposed subdivision to the Municipality for public improvements, to be used primarily for the benefit of the subdivision. If the City elects to permit land in lieu of the impact fee, the election shall be made on or before preliminary plat approval is given by the Land Use Authority.
- B. **Use Of Fees:** The fees collected pursuant to this section shall be deposited in a Capital Improvement Fund and used for fire protection; public safety; solid waste; storm drainage; street improvement, lighting or snow removal; or recreation capital improvements, with priority given

**Commented [TA77]:** This is an issue for the City. The question is whether the requirement is lateral to each lot, or whether the City is going to require payment of water acquisition, hookup, etc.

**Commented [TA78]:** I see that this language is in the currently existing code, however 1) we have not historically charged these impact fees; and 2) I do not think that any attempts to charge these fees would be legal or survive challenge. Generally, this section needs substantial review by the City.

**Commented [JH79R78]:** City - what do you think?

**Commented [TA80R78]:** Question remains for the City to decide whether to charge hook up fees at the time of subdivision, or the time of use. However, regardless of the outcome of that question, my preference is to just include language here of what specifically has to be done, and then refer fees to the Delta City Uniform Fee Schedule.

to the needs of the persons residing in the subdivision.

- C. **Accumulation Permitted:** The City may accumulate in separate accounts revenue for the purpose of acquiring or constructing the capital improvements until such time as there are sufficient revenues to purchase or construct the capital improvements.
- D. **Postpone:** The Building Official may postpone the fees required by this section, but such fees shall be collected prior to the time and as a condition of issuing each building permit. Any fee so postponed shall be subject to any fee increase passed by the City Council and the applicant for the building permit shall pay the increased fee. (Ord. 18-277, 2-15-2018)

#### **16.12.120 MODIFICATION OF REQUIREMENTS**

- A. **Permitted:** Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas or the existence of other unusual physical conditions, strict compliance with the provisions of this title would cause an unusual and unnecessary hardship on the subdivider, ~~the Planning Commission~~ **Planning & Zoning** and the City Council may waive, modify or adjust the requirements of this title. In granting the change, ~~the Planning Commission~~ **Planning & Zoning** or City Council may impose such additional conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived, adjusted or modified. Any changes authorized shall be entered into the minutes of ~~the Planning Commission~~ **Planning & Zoning** and the City Council, together with the circumstances that justified the changes granted. The decision of the City Council shall prevail when in conflict with the decision or recommendations of ~~the Planning Commission~~ **Planning & Zoning**.
- B. **Conditions Imposed:** Any additional conditions imposed by the Land Use Authority or City Council in those cases where either body modifies or waives any requirements under paragraph A, shall be reduced to writing and approved by the Land Use Authority and by the City Council. The decision of the City Council shall prevail when in conflict or variance of the written conditions approved by the Land Use Authority. The written conditions so approved shall be recorded by the City Recorder or City Attorney, together with the legal description of the real property affected thereby, in the Office of the Millard County Recorder.
- C. **Waiver Of Specific Requirements:** The City Council and Land Use Authority may, consistent with the requirements of this section, waive the requirements of DCC 16.04.020 paragraph D and DCC 16.12.030, DCC 16.12.050, and DCC 16.20.050, upon approval by the Land Use Authority and the City Council of a plat meeting the following requirements:
  - 1. All lots within the subdivision plat shall meet the area and width requirements of the zone in which the subdivision is located.
  - 2. The lots in the subdivision shall make up less than the full frontage of a block as designated in the Amended Plat of Delta Townsite (Plat A).
  - 3. The number of lots within a subdivision plat approved under this section shall not exceed three lots.
  - 4. All lots shall be part of a platted block in the Delta City Townsite Survey, Plat A, and

**Commented [TA81]:** My recommendation is to remove this section. I do not think there should be a mechanism to modify the requirements - other than a variance, which is sufficient to resolve a truly unforeseen circumstance, and which there is already state law for.

**Commented [JH82R81]:** I'm good with this change.

City - thoughts?

shall not be part of a recorded subdivision or part of a block on which no development has occurred or has been approved.

5. Each lot within the subdivision has frontage on a dedicated public street meeting the zoning lot width requirements and the subdivision shall not be traversed by the mapped lines of a proposed street as shown on the official map or maps of the City and does not require dedication of any land for street or other public purposes.
6. All lots shall be connected to or have immediate access to the City water system and to the City sewer system, unless connection to the sewer system is waived by the City Council pursuant to the ordinances of the City.
7. All lots shall be proposed for development of single-family residences, duplexes or twin homes only.
8. The Land Use Authority, upon examination of the plat, may require that any or all of the improvements required under this title be installed as a condition of plan approval, in which case the applicant shall meet all of the bonding requirements contained in DCC 16.28.
9. The subdivider shall execute an agreement providing that the subdivider and any successors in interest shall not oppose creation of such Municipal improvement districts or other districts for installation of gutter, sidewalk, street improvements, storm drainage, lighting, fencing or other improvements otherwise required under this title at such time as the City Council may determine that it is in the best interests of the residents of the City to create such a district. The agreement providing for non-opposition shall be recorded in the Office of the Millard County Recorder, against each lot contained within the subdivision and shall constitute a covenant running with the land.
10. In the event that more than two lots are proposed for division, a plat shall be prepared by a licensed surveyor and shall be approved according to the conditions set out in this title, as modified by paragraph A, and shall be approved by the Land Use Authority and the City Council.
11. Such waiver shall become effective upon recordation of said plat in the Office of the Millard County Recorder. (Ord. 18-277, 2-15-2018)

## **16.16 ACCEPTANCE OF DEDICATIONS AND IMPROVEMENTS**

### **16.16.010 DEDICATION**

### **16.16.020 TIME OF ACCEPTANCE**

#### **16.16.010 DEDICATION**

The subdivider shall dedicate the streets, easements and other public improvements to the City at the time the final plat is approved by the City. The dedication shall be deemed an offer by the subdivider, which

shall be irrevocable until one year after all of the improvements are completed. The City shall accept the offer of dedication only if it finds that the subdivider has constructed, installed and maintained the public improvements required by this title and that the improvements comply with the minimum requirements of this title at the time of acceptance. (Ord. 18-277, 2-15-2018)

**16.16.020 TIME OF ACCEPTANCE**

Unless the City Council extends the time for acceptance of the dedicated public improvements, the dedication shall be accepted on action by the City Council, or at the expiration of one year following the completion of the public improvements. In the event the City Council does not accept the dedicated public improvements, the subdivider shall be so advised in writing of the reason for the nonacceptance. (Ord. 18-277, 2-15-2018)

**16.20 SUBDIVISION IMPROVEMENTS REQUIRED**

[16.20.010 APPLICATION TO REQUIRED IMPROVEMENTS](#)

[16.20.020 IMPROVEMENTS MADE PRIOR TO RECORDING FINAL PLAT](#)

[16.20.030 DEVELOPMENT SEQUENCE](#)

[16.20.040 GUARANTEE OF IMPROVEMENTS](#)

[16.20.050 RELEASE](#)

[16.20.060 ORDERLY DEVELOPMENT REQUIRED](#)

**16.20.010 APPLICATION TO REQUIRED IMPROVEMENTS**

The improvements required by this title apply to all subdividers and to all persons that purchase, lease, rent or receive any interest in any land which is located within a subdivision. (Ord. 18-277, 2-15-2018)

**16.20.020 IMPROVEMENTS MADE PRIOR TO RECORDING FINAL PLAT**

- A. The improvements required by this title shall be constructed, installed and maintained by the subdivider until the dedication is accepted by the City and the final plat recorded in the Office of the Millard County Recorder, unless the construction, installation and maintenance is guaranteed in the manner provided in DCC 16.20.040. Improvements shall not be installed or constructed until their location and specifications have been approved by the Public Works Director. (Ord. 18-277, 2-15-2018)
- B. As determined by the Code Enforcement Officer, ~~the Planning Commission~~ Planning & Zoning, or the City Council, any public improvement contained or shown in a preliminary plat that is reasonably necessary for the orderly development of the subdivision may be required to be constructed, installed, or guaranteed in the manner provided in DCC 16.20.040 prior to the approval of a final plat.
- C. The following public improvements are deemed improvement related to public safety, and the construction, installation, or guarantee in the manner provided by DCC 16.20.040 of any and all

such improvements contained or shown in a preliminary plat is required before the approval of any final plat associated with the subdivision:

1. Improvements related to canals, ~~and~~ ditches, and water conveyance facilities.
2. Full completion of roads such that half roads or dead-end roads will not exist.

#### HISTORY

Amended by Ord. [21-290](#) on 7/21/2021

#### **16.20.030 DEVELOPMENT SEQUENCE**

Unless waived by the Public Works Director, underground utilities (such as cable television, electrical power, natural gas, and other such buried utilities), water, pressurized irrigation, sewer laterals, storm drains and fire hydrants shall be installed prior to surfacing the streets and installing road base, curb, gutters and sidewalks. (Ord. 18-277, 2-15-2018)

#### HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

#### **16.20.040 GUARANTEE OF IMPROVEMENTS**

In lieu of the actual completion and acceptance by the City of the improvements required by this title and before approval of the final plat, the subdivider may guarantee the installation and construction of the required improvements such that they will be completed within two years from the date of approval of the final plat and shall also warrant that the improvements shall be maintained in a state of good repair, free from defective material or workmanship, for a period of 12 months from the date of completion. Guarantees shall be made by one or more of the following methods:

- A. **Bond:** The subdivider shall furnish and file with the City Recorder a bond, with corporate surety, in an amount equal to the cost of the improvements not previously installed, as estimated by the Public Works Director, to assure the installation and construction of such improvements within 24 months following the approval of the subdivision plat by the City Council, which bond shall be approved by the City Council and City Attorney, and which bond shall guarantee that the improvements shall be maintained in a state of good repair, free from material or workmanship defects for a period of 12 months from the date of completion. After 12 months following the completion of the improvements for which a surety or cash bond has been filed, the subdivider shall call for inspection by the Public Works Director, such inspection to be made within 10 days from the date of request. If inspection shows that the standards and specifications have been met in completion of such improvements, the bonds therefore shall be released within 14 days from the time of inspection.
- B. **Escrow:** The subdivider shall deposit with any insurance company, bank or savings and loan institution, in an escrow account, an amount of money equal to at least 110% of the costs of the improvements required by this title not previously accepted by the City. The costs of the

improvements not accepted and not installed or constructed shall be determined by the Public Works Director. The escrow agreement shall be subject to approval by the City Attorney and shall be signed by the subdivider, the Municipality and the escrow holder, and shall contain substantially the following language; however, the escrow agreement may contain such additional provisions as the parties deem necessary:

**AGREEMENT**

*The undersigned subdivider hereby promises and warrants that it has on deposit in an escrow account for the benefit of Delta City, the sum of \$ \_\_\_\_\_ which represents at least one hundred twenty five percent (125%) of the estimated costs of the improvements not accepted by Delta City and not constructed or installed by the developer of the subdivision.*

*The undersigned parties hereby agree that the foregoing sum of money shall be used exclusively for the purpose of paying for the costs of materials, and the construction and installation of the improvements required by Delta City's subdivision ordinances. The undersigned further agrees that the money held in an escrow account shall be paid out to the contractors installing and constructing the required improvements only upon an order executed by the subdivider and by an authorized officer of Delta City.*

*The subdivider shall not withdraw from the escrow account any amount in excess of one hundred percent (100%) of the estimated cost of the improvements, but shall pay from other sources any costs for such improvements which exceed 100% of the costs estimated by the Delta City public works director.*

*A sum equal to 25% of the estimated costs of improvements shall remain with the escrow holder for a period of one year after the date on which the Delta City public works director certifies that all improvements are made and completed.*

*If, after two years, all or any part of the required improvements are not installed, constructed and maintained, according to the standards required in Delta City's subdivision ordinance, Delta City shall notify in writing the subdivider and the escrow holder of the defects and shall make demand on the subdivider that the defects be corrected. If the defects are not corrected within 30 days, Delta City may correct the defects and charge to the escrow holder the costs of correcting the defects.*

*The escrow holder shall, upon receiving reasonable proof from Delta City of the defect and that Delta City has incurred the cost of correcting the defect, pay to Delta City from the escrow account the cost of correcting the defect. The escrow holder shall be held harmless by the parties by reason of the payment to Delta City.*

**Commented [JH83]:** We can add these to our list of forms to produce if you'd like.

**Commented [TA84R83]:** Yes

If, after one year after the City Council has accepted the improvements required by its subdivision ordinance, the required improvements remain substantially free from latent defects as determined by the city public works director, Delta City shall certify such fact to the escrow holder and the escrow holder shall release to the subdivider any money still held in the escrow account and the escrow holder shall be discharged of its obligations to Delta City.

(Authorized Signatures for Subdivider, escrow holder & Delta City)

- C. Irrevocable Letter Of Credit:** The subdivider shall file with the City an irrevocable letter of credit from a duly chartered State or national bank or savings and loan institution, which letter shall contain provisions substantially similar to that required in the escrow agreement. The form of the irrevocable letter of credit shall be substantially as follows:

Name of Bank *and* Address

**IRREVOCABLE LETTER OF CREDIT**

To: Delta City, Utah Date:

City Council Letter of Credit No.:

Gentlemen:

We hereby establish our irrevocable letter of credit in your favor for the account of (insert name of subdivider, subdivider's address) up to the aggregate amount of \$ [insert amount available by your draft(s)] drawn at sight on (insert name of bank, address of bank) accompanied by (here insert terms which give municipality control over payments). The terms would ordinarily read: "A statement signed by an officer of Delta City dated not later than [insert estimated completion date plus a couple of months leeway] as follows: 'We certify that the on-site improvements related to [insert name of subdivision] have not been completed in accordance with Delta City ordinances and that this drawing represents the amount necessary to complete those on-site improvements.' We hereby agree with drawers, endorsers and bona fide holders that all drafts under and in compliance with the terms of this credit will be duly honored upon presentation and delivery of documents as specified to the drawee or drawn and presented for negotiation on or before (insert completion date above set forth) at our bank."

Very truly yours,

Authorized Bank Officer

- D. Deposit With Municipality:** The subdivider shall deposit with the City a sum equal to 110% of the costs of the required improvements not installed, constructed or accepted by the City. The subdivider shall have the right to draw against the account with the City sums up to 100% of the total account, which shall be paid to the order of the persons installing, constructing or maintaining the improvements. The City shall hold the additional 10% to guarantee that the improvements are installed, constructed and maintained until accepted by the City. The City may, after making written demand on the subdivider, install, construct or repair the improvements and pay such costs from the subdivider's account. The written demand shall state

that the subdivider has 15 days to make the necessary installation, construction or repair, which time may be extended by the City at its sole discretion. The demand shall further state that the City will make the necessary repairs if the subdivider does not do so within the time permitted and deduct the costs thereof from the amount deposited. The City shall refund any sums remaining in the subdivider's account after the City Council accepts the improvements.

- E. **Covenant:** As an alternative to the foregoing, the subdivider may execute and acknowledge in a form capable of recording in the Office of the Millard County Recorder a written agreement with the Municipality by which the subdivider covenants that he will not sell, lease or convey any of the subdivided property to anyone whomsoever unless he shall first, as a condition precedent thereto, satisfy the foregoing requirements of paragraphs A, B, C, or D. The agreement shall specifically provide that it shall be deemed to be a covenant running with the land to secure the installation of all the improvements required by this title, together with a payment of all costs, including reasonable attorney fees, which the City may incur in enforcing any of the terms and provisions of the agreement. The lien may be released by the City when the subdivider complies with the requirements set forth in the foregoing requirements of paragraphs A, B, C, or D.
- F. **Trust Deed:** As an alternative to any of the foregoing guarantee arrangements, the subdivider may, upon approval from the City Council and the City Attorney, provide the City with a first trust deed or trust deed to lots within the subdivision with an unencumbered fair market value equal to at least 110% of the estimated cost of the improvements required by this title. The trust deeds shall name Delta City as beneficiary and shall be in a form approved by the City Attorney and acceptable for recording in the Office of the Millard County Recorder. The value of the lots described in the trust deed shall be determined by a qualified MAI appraiser and based on an appraisal, or update of a prior appraisal, completed not more than one month prior to the date of recording the trust deed. The description of the lots included in the trust deed shall be provided by the subdivider at no cost to the City. If the subdivider elects to use this trust deed provision, the subdivider shall provide, at his cost, an ALTA lenders' policy of title insurance insuring that the City has the first trust deed position on the lots given as security. The subdivider shall also reimburse the City for all attorney fees expended in completing and recording the trust deed. The City shall release to any persons, as directed by the subdivider, land of value equivalent to the value of the required improvements installed and approved by the Public Works Director. The value of such installed improvements shall be determined by the Public Works Director. In no event shall the City be required to release any portion of the land under the trust deed if such release would leave land of less than 50% of the value of the improvements installed until one year after completion of the required improvements. In the event that the subdivider fails to complete the required improvements within a period of two years after final acceptance, the City may cause the lots to which it holds trust deeds to be sold and may apply the proceeds to make the required improvements. In the event that the required improvements fail to be maintained for one year after completion, or are found to have latent defects, the City may cause the lots to

which it holds trust deeds to be sold and to apply the proceeds to make the required improvements. The City shall not sell any lots to which it holds trust deeds without first making written demand on the subdivider, in which the subdivider shall be advised of the reasons he or she has failed to install, construct or maintain the required improvements. The written demand shall state that the subdivider has 15 days to make the necessary installation, construction or repair, which time may be extended by the Municipality at its sole discretion, and that the City will make the necessary installation, construction or repair if the subdivider does not do so within the time permitted and that the City will sell the lots to which it holds trust deeds to cover the costs to the City. The City shall pay to the subdivider any proceeds it receives from the sale of lots which exceed the costs to the City of installing, constructing or repairing the required improvements. (Ord. 18-277, 2-15-2018)

#### **16.20.050 RELEASE**

The City Council is authorized from time to time, at the request of the subdivider or his successors in interest, to release of record from the burden of the covenant and lien aforesaid all lots and parcels of land or portions thereof for which the covenant and agreement has been fully performed by any of the methods of guarantee above set forth in DCC 16.20.040. (Ord. 18-277, 2-15-2018)

#### **16.20.060 ORDERLY DEVELOPMENT REQUIRED**

Whenever the subdivider shall develop a subdivision, such development shall be in an orderly manner and in such a way that the required improvements will be continuous and all of the improvements will be made available for the full, effective and practical use and enjoyment thereof by the purchaser, grantee, assignee, transferee or lessee of any of the lands subdivided within the time set in this title or in phases as specified. (Ord. 18-277, 2-15-2018)

#### **16.24 DESIGN STANDARDS**

##### **16.24.010 STREET DESIGN**

##### **16.24.020 SECOND ACCESS REQUIREMENT**

##### **16.24.030 INTERSECTING ANGLES OF MINOR STREETS**

##### **16.24.040 STREETS CONFORM TO MAJOR STREET PLAN**

##### **16.24.050 MINIMUM WIDTH**

##### **16.24.060 ALLEYS**

##### **16.24.070 CUL-DE-SACS AND DEAD-ENDS**

##### **16.24.080 NATURAL DRAINAGE AND OTHER EASEMENTS**

##### **16.24.090 SERVICE ROADS**

##### **16.24.100 PROTECTION STRIPS PROHIBITED**

##### **16.24.110 BLOCK STANDARDS**

##### **16.24.120 LOTS**

**Commented [JH85]:** We will plan to insert our provisions requiring street construction in this section.

**Commented [TA86R85]:** The City is moving forward with a transportation plan. I believe the City would like that transportation (compliance there with) incorporated.

**Commented [JH87R85]:** Noted. Looks like this section does already require compliance, but we have beefed it up a bit.

**Commented [TA88R85]:** Update: Meeting on transportation master plan first week of October.

16.24.130 DEVELOPMENT NOT TO EXCEED CITY RESOURCES

**16.24.010 STREET DESIGN**

Subdividers shall locate streets within the subdivision so that the proposed subdivision streets will adjoin with existing streets. Streets shall be located and designed so that the adjoining land shall not be diminished in value. If the adjoining land is zoned for residential use, streets shall be located so that the adjacent land may be most efficiently subdivided. Partial streets on the boundary of a subdivision shall be permitted only upon approval of the Land Use Authority and City Council. Half streets are prohibited. (Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.020 SECOND ACCESS REQUIREMENT**

No street, or series of connecting streets shall exceed 660 feet in length, as measured from the centerline of intersecting streets to the center of a cul-de-sac, dead-end, or otherwise closed-off road network without providing second access for ingress and egress. The second access must exit to a different location from the first, providing for traffic circulation and flow.

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.030 INTERSECTING ANGLES OF MINOR STREETS**

Minor streets shall approach the major or collector streets at an angle of at least 80 degrees-. (Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.040 STREETS CONFORM TO MAJOR STREET PLAN**

- A. Streets shall conform to the placement, ~~and~~ width, ~~design, and other specifications of designated~~ ~~on~~ the Delta City Transportation ~~Improvement~~ Plan wherever such Plan is applicable.
- B. If a proposed area to be subdivided is not shown in the Delta City Transportation ~~Improvement~~ Plan, the following standards shall apply:
  - 1. Where feasible and according to terrain or existing built features, efforts should be made such that proposed streets shall be continuous and in alignment with existing or platted streets, and according to the typical grid-block road layout of the city center as defined in DCC 16.24.110. "Continuous and in alignment" as used in this section shall mean that streets are to be straight and continue from the existing or platted street with

intersections that conform to the typical grid-block road layout.

2. For territory where such Delta City Transportation ~~Improvement~~ Plan has not been completed at the time the subdivision preliminary plat is submitted to the Land Use Authority, major or collector streets shall be provided as required by the Land Use Authority, with minimum widths of 100 feet for major street right-of-ways and 60 feet to 80 feet for collector street right-of-ways.

(Ord. 18-277, 2-15-2018)

#### HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

Amended by Ord. [21-290](#) on 7/21/2021

#### **16.24.050 MINIMUM WIDTH**

The minimum street right-of-way width for roads built within the City shall be 60 feet~~2~~, and shall be reserved for minor residential streets, as described in DCC 16.24.040. (Ord. 18-277, 2-15-2018)

#### HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

#### **16.24.060 ALLEYS**

Alleys are not allowed to be part of any subdivision. (Ord. 18-277, 2-15-2018)

#### HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

#### **16.24.070 CUL-DE-SACS AND DEAD-ENDS**

- A. Cul-de-sacs shall not be permitted in the City unless it can be demonstrated to the satisfaction of the City Planning & Zoning Commission that no reasonable alternative to a cul-de-sac exists. If approved, cul-de-sacs shall not be longer than 400 feet from the centerline of the adjoining street to the center of the cul-de-sac. Cul-de-sacs over 150 feet in length must terminate with a turnaround, such that the radius of the right-of-way is not less than 100 feet in diameter. Cul-de-sacs must be designed such that surface drainage is directed toward the edge of the circle, and the drainage system must be designed and installed to sufficiently handle runoff, as required in DCC 16.28.030 paragraph H. If surface water drainage collects within the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided.
- B. Dead-end streets shall not be permitted in the City unless designed to be temporary stubs which will adjoin with future development. Where a street longer than 150 feet in length is designed to remain only temporarily as a dead-end street, an adequate temporary turning area not less than 70 feet in diameter shall be provided at the dead end thereof to remain and be available for

public use so long as the dead end exists.  
(Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.080 NATURAL DRAINAGE AND OTHER EASEMENTS**

The Land Use Authority shall, unless waived in writing for good and sufficient cause shown, require that easements for drainage through a subdivision and adjoining property be provided by the subdivider, and easements of not less than 15 feet total in width or such additional width as the utility companies providing service to the subdivision shall require for water, irrigation, sewers, drainage, power lines and other utilities provided in the subdivision. All utilities should be located underground. This requirement may be waived by the City Council upon recommendation by the Land Use Authority and the utility company which will provide service to the subdivision. Utilities shall be located at the rear and side lot lines whenever possible. (Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.090 SERVICE ROADS**

Service roads paralleling major streets shall be required unless the Land Use Authority approves double frontage lots which may back onto major highways or collector streets as designated on the major street plan. Where lots back onto a major highway or collector street, a buffer planting strip of trees or shrubs shall be provided at a width of ten feet or wider, but in no case less than ten feet. (Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.100 PROTECTION STRIPS PROHIBITED**

Unless specifically approved by the Land Use Authority, protection strips are prohibited. Plats shall not be approved where a proposed subdivision plat, or any proposed or actual street to the subdivision, cuts off access to the proposed or actual street by adjacent property owners. (Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

**16.24.110 BLOCK STANDARDS**

- A. Blocks and road placements shall be consistent with the ~~"The~~ Delta City Transportation Improvement Plan."

B. If a proposed block is not shown in the Delta City Transportation ~~Improvement~~ Plan, the following standards shall apply:

1. **New Developments:** Unless specifically waived by the Planning & Zoning Commission, all new subdivisions shall be built on the block system according to the City's Transportation Plan. Unless otherwise directed by the Transportation Plan, all blocks shall complement and build off the City's existing blocks and roads. Where a new development involves any part of a block planned under the Transportation Plan or required by this Section, the developer seeking subdivision or building permit approval shall build the road around the entire planned/required block.

2. **Length And Walkways:** Block length shall exceed a 330 foot minimum length and shall not exceed 630 feet maximum, as measured from the center of the street to the center of the street, with exceptions of up to 1,300 feet, as approved by the Planning & Zoning Commission. However, exceptions that exceed 630 feet are disfavored. In the case of blocks exceeding 630 feet, the City Council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic. Dedicated walkways six feet wide may be required in the middle of blocks. Where a walkway is required, the subdivider shall surface the full width of the walkway with concrete or asphalt and install a chain-link fence at least four feet high on each side of the full length of the walkway. The chain-link fence shall be owned and maintained by the property owner on whose property the fence is located or which abuts the fence.

3. **Width:** Except in R-R-2 zones, blocks shall be at least two building lots wide.

4. **Irregular Shapes:** Irregular-shaped blocks, indented by cul-de-sacs or containing interior spaces, are prohibited, with the exception for areas where topography necessitates such modifications from the regular block-grid street pattern of the City.

(Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

Amended by Ord. [21-290](#) on 7/21/2021

**16.24.120 LOTS**

A. **Minimum Requirements:** All lots shown on the subdivision plat shall conform to the minimum requirements of this title, the zoning ordinance for the zone in which the subdivision is located, and to the minimum requirements of the Public Works Director and the Board of Health for sewage disposal. The minimum width for any residential building lot shall be as required by this title.

B. **Abut Public Street:** All lots shall abut a dedicated public street or shall have access to a

**Commented [JH89]:** All - Todd mentioned that the City is working on a transportation plan. In the meantime, we added this paragraph based on the discussion we had when first presenting to P&Z about the road/block issues. Let us know if this works as a Band-Aid until the transportation plan is complete.

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dedicated public street through a private right-of-way approved by the Land Use Authority. Streets shall be at least 60 feet wide. In the event a lot abuts a public right-of-way created by use, the subdivider shall improve the right-of-way to the standards required by this title.

- C. **Corner Lots:** Corner lots shall be large enough to ensure sufficient buildable space to accommodate the sight triangle and building setbacks (see also DCC 18.64.090 paragraph B).
- D. **Side Lines:** Side lines of lots shall be at right angles or radial to the street line.
- E. **Remnants:** Remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than being allowed to remain as a lot remnant.
- F. **Ownership:** Where the land in a subdivision includes two or more parcels in separate ownership, and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the Office of the Millard County Recorder.

(Ord. 18-277, 2-15-2018)

#### HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

#### 16.24.130 DEVELOPMENT NOT TO EXCEED CITY RESOURCES

The addition of any subdivision shall not:

- A. Decrease the pressure in the culinary water system at any point within the City to less than 45 pounds per square inch;
- B. Cause the sewer district to exceed its capacity to treat sewage;
- C. Unduly congest traffic; or
- D. Create unreasonable potential for flooding.

#### 16.28 SUBDIVISION IMPROVEMENTS

##### 16.28.010 ENFORCEMENT OFFICIAL

##### 16.28.020 INSPECTIONS

##### 16.28.0340 REVIEW AND CONFORMANCE

##### 16.28.0420 OFF-SITE IMPROVEMENTS

##### 16.28.0530 ON-SITE IMPROVEMENTS

#### 16.298.010 ENFORCEMENT OFFICIAL

The Code Enforcement Officer is hereby designated and authorized as the officer charged with the enforcement of this title. The Code Enforcement Officer shall enforce all the provisions of this title. (Ord. 18-277, 2-15-2018)

**Commented [JH90]:** This content was moved here from above (used to be in the plat requirements).

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**Commented [JH91]:** We moved these sections from elsewhere in the title because they fit the content of this chapter better.

**16.298.020 INSPECTIONS**

The building inspector or Code Enforcement Officer shall inspect or cause to be inspected all buildings, fire hydrants and water supply, and sewage disposal systems in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall have been approved by the Engineer or Public Works Director, at the option of the City. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector. (Ord. 18-277, 2-15-2018)

**Commented [92]:** Note: our plan is to move this section to a later chapter because we think it fits better with the discussion on improvements and standards. Let us know if you disagree.

**16.28.0310 REVIEW AND CONFORMANCE**

Before a permit (including a preliminary subdivision plat approval) shall be issued for a new subdivision, the overall site plan of the development must be submitted to ~~the Planning Commission~~Planning & Zoning for its review.

**Commented [TA93R92]:** No Objection.

- A. The overall site plan must show (as applicable):
  1. Sufficient information to locate accurately the property under review;
  2. The topography represented by contours shown at intervals no greater than two feet;
  3. The proposed streets and lots;
  4. Proposed location(s) of building(s), if any;
  5. Proposed reservations for parks, playgrounds and open spaces;
  6. Size and character of recreation buildings, pergolas, arbors and other structures associated with land and facilities to be used by the occupants of the development;
  7. Proposed location of parking spaces;
  8. Proposed landscape planting plan, including the type and location of plant materials;
  9. Location of existing and proposed utilities and site features, as outlined in DCC 16.28.030.
  10. Tabulations showing:
    - a. Area of land within the development;
    - b. Storm drainage and runoff calculations, as specified in DCC 16.28.030 paragraph H;
    - c. Number of parking spaces provided;
    - d. Percentage of area to be devoted to parks and playgrounds;
  11. Any other data that ~~the Planning Commission~~Planning & Zoning may require.
- B. All lots shown on the subdivision plat shall conform to the minimum requirements of the zoning ordinance for the zone in which the subdivision is located, and to the minimum requirements of the Public Works Director and the Board of Health for sewage disposal. The minimum width for any residential building lot shall be as required by this title. (Ord. 18-277, 2-15-2018)

HISTORY  
Amended by Ord. 19-282 on 12/4/2019

**16.28.0420 OFF-SITE IMPROVEMENTS**

Approval of a preliminary subdivision plat shall not be granted until such time as the Planning & Zoning Commission has established that adequate off-site public facilities exist in the areas affected by the development sufficient to accommodate the development.

- A. The public facilities to which the preceding paragraph applies shall include the following:
  - 1. The City culinary water system, including quantity, quality, treatment, storage capacity, and distribution capacity;
  - 2. The City sanitary sewer system, including treatment, overall capacity, outfall lines, laterals, and collector lines;
  - 3. The City electric power system, including generation, transformation, transmission, and distribution;
  - 4. Streets and roads, including arterial collector, and local roads, sidewalks, curb and gutter, and related transportation facilities and meeting the requirements of the Delta City Construction Standards.

HISTORY

Adopted by Ord. [19-282](#) on 12/4/2019

**16.28.0530 ON-SITE IMPROVEMENTS**

Costs of improvements covered under the provisions of this section are to be paid by the subdivider and are subject to the approval of the City (with exclusions specifically noted in Redevelopment Zone). The owner of any land located in or platted as a subdivision shall install the following improvements in compliance with the specifications determined by City Staff, and to the requirements contained herein:

- A. **Streets On Public Property Or Property Of Utility Companies:** Where it is proposed that streets be constructed on property controlled by a public agency or utility company, approval for the location, improvement, and maintenance of such streets shall be obtained from the public agency or utility company.
- B. **Street Signs:** The subdivider shall furnish and install all necessary street signs.
- C. **Street Lights:** Streetlights of a type approved by the Public Works Director and by the electrical utility company shall be installed at all locations within the subdivision as required by the Land Use Authority or City Council. Installations shall be made by the subdivider and inspected by the Public Works Director. Street Lighting shall be dedicated to the City in the same manner as other improvements to be dedicated under this title and shall be subject to all provisions relating to such improvement.
- D. **Curbs, Gutters, and Sidewalks:** Curbs, gutters, and sidewalks shall be installed by the subdivider on the development side of existing streets, and both sides of the proposed streets in all subdivisions, except the rear of those lots which back on major streets and are not permitted access to such streets. All curb and gutter shall comply with specifications adopted by the City.

Roll type gutters shall not be permitted.

- E. **Culinary Water Supply:** A culinary water supply, which must be approved by the Public Works Director and State Board of Health, shall be made available to each lot in the subdivision and shall be provided in conformance with the standards, ~~rules~~, and regulations of the City. Where an approved public water supply is available, the subdivider shall install water mains and service lines or laterals from such mains shall make connections to the City's public water system, and supply culinary water via mainlines, service lines, or other lateral connections to each lot within the subdivision prior to the installation of road base, surfacing, curbs and gutters, and sidewalks.
1. Lateral line connections shall be clearly identified either by marking on the curb, measuring to a permanent structure or by other means approved by the Public Works Director. The locations shall be clearly shown on the as-built drawings.
  2. Water meters shall be furnished by the City, at the expense of the subdivider. Water laterals and water meters must be at least three feet but not more than five feet below finished grade.
- F. **Fire Hydrants:** The type, size and quantity of fire hydrants shall be approved by the Delta City Public Works Director, in consultation with the Delta City Fire Chief, before being installed by the subdivider. The spacing and placement of hydrants shall be in accordance with adopted fire code, or as otherwise directed by the Fire Chief.
- G. **Sewage Disposal:** Individual sewer disposal systems or public disposal facilities shall be provided and must meet Municipal and State codes and regulations for each lot in the subdivision. The subdivider shall, unless waived by the City Council, connect with the City sanitary sewer system and provide sewer mains and extend laterals from the main sewer line for each lot in the subdivision prior to the installation of the road base, surfacing, curbs, gutters, and sidewalks. (Ord. 18-277, 2-15-2018)
- H. **Canals, ~~& Ditches~~ and Water Conveyance Facilities:** As a means of reducing the safety hazards from open irrigation systems and all water conveyance facilities:
1. All inlets to culverts, pipes, or covered ditches or canals that are within or adjoining a subdivision must have weed/debris catchers and be cemented to prevent erosion. Specifications for inlet construction and weed/debris catchers must be approved by the City Engineer and user company or user.
  2. For all zones other than A-1, A-5, and R-R-2: Open ditches or canals shall not be allowed within or adjoining a subdivision.
    - a. The subdivider shall work with irrigation, drainage or ditch company[s] or owner[s] as to:
      - (1) Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision;
      - (2) The size of pipe and culverts required;

- (3) The responsibility for the periodic inspection, cleaning and maintenance of such ditches, pipes and culverts.
  - b. The subdivider shall provide the City with a detailed written proposal of such measures that are satisfactory to water users and/or canal companies. Where canals or ditches cross, within or adjacent to public rights-of-way or a proposed public right-of-way, grades and specifications for pipes or culverts must be approved by the City Engineer and user company or user.
- 3. Within A-1, A-5, and R-R-2 zones: Open ditches or canals shall not be allowed except along rear or side lot lines. That notwithstanding, it shall be the preference that ditches and canals be covered or eliminated where possible.
  - a. The subdivider shall work with irrigation, drainage or ditch company[s] or owner[s] as to:
    - (1) Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision;
    - (2) The size of pipe and culverts required;
    - (3) The responsibility for the periodic inspection, cleaning and maintenance of such ditches, pipes and culverts.
  - b. In cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the City Engineer and user company. User improvements relating to canals and ditches are deemed matters of safety.
- I. **Storm Drainage:** The subdivider shall provide adequate surface drainage for the development, including primary on-site drainage adequate to handle a 24 hour, 10 year storm event. Design calculations shall be submitted along with the construction plans. Inlets shall be provided so that surface water is not carried across intersections or for a distance of more than 600 feet—in the gutter. Underground seepage sumps may be approved only after receipt of acceptable engineering calculations.
- J. **Electric Power:** The subdivider shall pay the cost of trenching and installation of electric system extensions to service the subdivision.
- K. **Other utilities:** Utilities including but not limited to electrical, natural gas, telephone and cable television shall be located underground when such underground service does not violate safety standards nor impose any additional maintenance burden on City personnel.
- L. **Landscaping:** The Land Use Authority may require subdividers to provide ground cover where it determines that soil erosion may be a problem, that surface water may flood portions of the City or damage Municipal property or to prevent the growth of noxious weeds which may become a nuisance or fire hazard or danger to the public health. The Land Use Authority may specify the types of ground cover.
- M. **Monuments & Survey:**

1. Permanent monuments shall be accurately set and established at such points as are necessary to definitely establish all lines of the plat, except those outlining individual lots. Monuments shall be of a type approved by the Public Works Director. All subdivision plats shall be tied to a corner or monument of record or established land office survey corner.
2. Survey stakes shall be placed at both front and back lot corners to completely identify the lot boundaries on the ground. Backlot corners shall be marked with a metal pipe or rebar and cap driven into the ground, and front lot corners shall be identified with permanent plugs in the sidewalk or back of the curb, or with a metal pipe or rebar and cap driven into the ground if sidewalks or curbs have not been installed. All stakes shall be in place prior to the issuance of building permits and after the completion of all subdivision improvements, or in accordance with the Sequence of Development and Guarantee of Improvements as outlined in DCC 16.20.030 and DCC 16.20.040.

**N. Bridges:**

1. On-site: The cost and responsibility for the construction of any bridge located within a subdivision, which has been deemed necessary by the Public Works Director, shall be the full burden of the subdivider.
2. Off-site and Adjoining Properties: In the event that any road or street in any subdivision shall terminate at or within 50 feet of any ditch, canal, creek, waterway or other obstruction which, in the opinion of the Public Works Director, requires a bridge or other structures in order to continue the road over or across the obstruction and onto an adjacent tract of land not owned by the subdivider, the subdivider shall deposit with the City Recorder the full estimated cost, as determined by the Public Works Director for constructing a proper and suitable bridge over the same. The Public Works Director shall, on request, furnish to the subdivider a cost breakdown for any such structure. The deposited funds shall then be applied by the City toward ensuring the full completion of the structure.

**O. Site Cleanup & Obstructions In Street:**

1. The construction process shall create no traffic hazards or other nuisances, except as properly planned-for, presented-to, and approved-by the Director of Public Works.
2. Upon construction completion, all lots shall be left free from construction materials and debris.
3. Construction which affects street shoulders, curbs, sidewalks or adjacent driveways must be properly planned-for in order to mitigate hazards toward pedestrians, vehicles, and other users. For example, if driveway access to an existing property is impeded due to the removal of curb and gutter, a temporary ramp must be provided to allow access to the affected property.
4. When making utility connections which require making cuts into existing City streets, the subdivider shall bear the cost of replacing any affected existing features, such as

sidewalk, curb and gutter, and street surfaces, using proper base and fill materials, adequate compaction strengths of asphalt, and sufficient roadway paint striping to the satisfaction and approval of the Public Works Director.

**P. Fences And Cattle Guards:**

1. In locations where a land subdivision abuts or is adjacent to public or private grazing land, a fence of material and quality satisfactory to the Land Use Authority shall be erected around the outer limits of the subdivision on the side abutting such grazing land. Any fencing utilized for the corralling, penning, or holding of animals, including household pets, shall be of sufficient durability, strength, and design so as to prevent any encroachment or damage by such contained animals upon adjacent properties. The Land Use Authority may also require the installation of cattle guards where it deems such is needed.
2. Animal fencing which consists of electrical barriers, razed wire or barbed strands may not be used.

Q. Other improvements, such as parks, trails, open space or other amenities, fencing, etc. as may be required.

(Ord. 18-277, 2-15-2018)

HISTORY

Amended by Ord. [19-282](#) on 12/4/2019

Amended by Ord. [20-288](#) on 12/16/2020

Amended by Ord. [21-290](#) on 7/21/2024

**[16.32 REDEVELOPMENT AREA](#)**

**[16.32.010 REDEVELOPMENT AREA CREATION AND MAP](#)**

**[16.32.020 WAIVER OF CERTAIN SUBDIVISION IMPROVEMENTS](#)**

**[16.32.030 PROHIBITED WAIVERS](#)**

**16.32.010 REDEVELOPMENT AREA CREATION AND MAP**

The City may establish boundaries of a redevelopment area set forth on a map entitled "Delta City Redevelopment Area" and adopted as part of this title. The map shall be kept by the City Recorder. The creation and amendment- of a Redevelopment Area Map shall be made by ordinance. Within a reasonable time after adoption of any such amendment, the City shall place the amendment on the Redevelopment Area Map. (Ord. 18-277, 2-15-2018)

**16.32.020 WAIVER OF CERTAIN SUBDIVISION IMPROVEMENTS**

If the entirety of a proposed subdivision is located within a redevelopment area, ~~the Planning Commission~~ [Planning & Zoning](#) and the City Council may waive the requirements of subdivision

improvements as set out in DCC 16.20 upon approval of ~~the Planning Commission~~ Planning & Zoning and the City Council of the following:

- A. **Within Redevelopment Area:** All area proposed to be subdivided is within a redevelopment area as established by this section.
- B. **Public Streets:** All proposed lots affront and have sufficient access to public streets.
- C. **Adjacent To Existing Improvements:** No portion of the proposed subdivision is adjacent to already existing storm drains, curbs, gutters or any other existing public improvement that is designed or intended as a stormwater drainage system. For the purposes of this paragraph "adjacent" means next to or across the street from; meaning that the possible waiver of public improvements as set out in this section shall not apply if existing storm drains, curbs or gutters are across the street from the parcel proposed to be subdivided.
- D. **Number Of Lots:** The number of lots within a proposed subdivision does not exceed three (3) lots.
- E. **Parcel Area:** The entire parcel proposed to be subdivided does not exceed 62,5000 square feet. For the purposes of this paragraph "entire parcel" shall include any adjoining parcel to the parcel proposed to be subdivided that is under common ownership of the subdivider.
- F. **Prohibited Zones:** No portion of the proposed subdivision is located within the following zones: C-B; H-C; I-1; M-H; P/QP.
- G. **Past Waivers:** No portion of the proposed subdivision has received a waiver of subdivision improvements in the past pursuant to this section, or any other operation of law or circumstance.
- H. **Notice Recorded:** The subdivider will sign and authorize the recording with the Millard County Recorder a notice upon the entire parcel, including adjoining parcels with common ownership to the subdivided portion, that requirements of subdivision improvements under this title have been waived and that no other waiver of improvements will be made by the City for any future proposed subdivision of the parcel or adjoining parcels. The notice shall include an agreement providing that the subdivider and any successors in interest shall not oppose creation of such Municipal improvement districts or other districts for installation of gutter, sidewalk, street improvements, storm drainage, lighting, fencing or other improvements otherwise required under this title at such time as the City Council may determine that it is in the best interests of the residents of the City to create such a district. The agreement providing for non-opposition shall be recorded in the Office of the Millard County Recorder against each lot contained within the subdivision and shall constitute a covenant running with the land. The notice shall be reviewed by the City Attorney, approved by the City Council, and contain an acknowledgment for each party executing the notice in accordance with the provisions of Utah Code 57-2A, Recognition of Acknowledgments Act.

(Ord. 18-277, 2-15-2018)

#### **16.32.030 PROHIBITED WAIVERS**

~~The Planning Commission~~ Planning & Zoning and City Council may not waive the following public

improvement requirements:

- A. **Water Supply:** Any and all improvements applicable to water supply to lots within the proposed subdivision;
- B. **Fire Protection:** Any and all improvements applicable to fire hydrants and fire suppression;
- C. **Sewage:** Any and all improvements applicable to sewage disposal; and
- D. **Sidewalks:** Any and all improvements applicable to sidewalks.
- E. **Canals & Ditches:** Any and all improvements applicable to canals and ditches.
- F. **Roads and Streets:** The paving and construction of roads to City specifications.
  - 1. Paving and road construction shall include the entire width of a the road or street and shall extend the entire length of the block
  - 2. This section should not be interpreted to require curb and gutter.

(Ord. 18-277, 2-15-2018)

#### HISTORY

Amended by Ord. [21-290](#) on 7/21/2021

Amended by Ord. [22-292](#) on 2/16/2022

### **16.36 LOT LINE ADJUSTMENTS**

#### **16.36.010 CONDITIONS AND REQUIREMENTS**

#### **16.36.020 RECORDING REQUIREMENTS**

#### **16.36.010 CONDITIONS AND REQUIREMENTS**

The owners of record of adjacent parcels that are 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 Land Use Authority in accordance with the following:

- A. **No New Dwellings:** No new dwelling lot or housing unit results from the lot line adjustment;
- B. **Consent:** The adjoining property owners consent to the lot line adjustment;
- C. **Remnant Land:** The lot line adjustment does not result in remnant land that did not previously exist;
- D. **Zoning Violation:** The adjustment does not result in violation of applicable zoning requirements of this title;
- E. **Street, Right-Of-Way:** The adjustment shall not impact any street or right-of-way;
- F. **Outside Of Easements:** The proposed adjustment does not move outside of any approved public utility easements, or an agreement with any and all affected utility agencies or entities is formed to maintain or realign the easement; and
- G. **Property Lines Within Zoning District:** The adjustment shall not move a property line that

coincides with a zoning district as set forth in the Delta City Official Zoning Map, or that moves a property line into a different zoning district as is set forth in the Delta City Official Zoning Map.

(Ord. 18-277, 2-15-2018)

**16.36.020 RECORDING REQUIREMENTS**

A. **Notice Of Approval:** Notice of approval shall be recorded in the Office of the Millard County Recorder which:

1. Is executed by each owner included in the exchange and by the Land Use Authority;
2. Contains an acknowledgment for each party executing the notice in accordance with the provisions of Utah State 57-2A, Recognition of Acknowledgments Act; and
3. Recites the descriptions of both the original parcels and the parcels created by the exchange of title.

B. **Conveyance Of Title:** A conveyance of title reflecting the approved change shall be recorded in the Office of the Millard County Recorder.

(Ord. 18-277, 2-15-2018)