

Mayor Jessop and members of the Hildale Planning Commission:  
(c/o manager@hildalecity.com, mayor@hildalecity.com, planning@hildalecity.com)

August 13, 2024

**RE: INITIAL REVIEW OF HILDALE'S SUBDIVISION CODE**

Thank you for partnering with our firm to update your subdivision code. My team has completed its initial audit of Hildale's subdivision ordinances. While many existing provisions are well designed and relevant, others have fallen out of compliance with state law (specifically with Utah Code §10-9a-6). Still other provisions could be adjusted to enhance administrative efficiency.

The major issues and opportunities for improvement are as follows:

- **Add a new subdivision application review process for 1-2 family residential use.** SB 174 (the recent bill requiring state-wide subdivision ordinance updates) introduces a new review and approval process for subdivision applications involving one- or two-family residential development, as well as duplexes and townhomes to the extent those are allowed by the City's zoning. The City's code will need a new section to implement this process. Key points to keep in mind are these:
  - The state is trying to make reviewing and approving subdivision applications an administrative, not legislative process. Consequently, the City Council cannot be the subdivision land use authority for new subdivision applications (it can be the appeal authority, however). The Planning Commission cannot be the decision maker for final applications but can for preliminary applications. Although these bodies are restricted from making some approval decisions, they can still be involved on the back end in the application review process. The City can therefore continue to consider comments from the Mayor, City Council, and Planning Commission at all stages in the process. If it's important to the City that members of the Planning Commission still make final approval decisions, a potential workaround would be to create a "Subdivision/Development Review Committee" that includes members of the Planning Commission and other City staff. Ideally, this committee would be filled with individuals who have relevant technical backgrounds, such as the City Engineer and City Attorney.
  - The City needs to describe an expedited timeline for review and approval. The City's current code gives the City an unlimited amount of time to review and approve preliminary and final applications. Under the new state law, the City is required to complete an initial review of 1-2 family residential applications within **30 business days** after the developer submits a "complete" application. The City can require modifications

but can take no longer than **120 business days** total to review, including both preliminary and final applications.

- The new law allows only one public hearing in the preliminary review process (and none in the final review process). We recommend that the City make this hearing *optional* at the discretion of the Planning Commission.
  - The new law restricts the City to considering subdivision improvement plans (including construction and engineering drawings) in *either* the preliminary *or* final applications. Many municipalities prefer to consider them in the preliminary phase, as that is when the Planning Commission can be the land use authority. But it's also possible to delegate this responsibility to the City Engineer or other staff.
  - The new law gives the City a maximum of four “review cycles” when considering improvement plans for 1-2 family residential subdivisions. Technically, the City can require more revisions for other elements of a subdivision application, though most municipalities review improvement plans with the plat and other elements together as one application.
  - The new law provides potential subdivision applicants the right to a pre-application meeting with the City. The City's current ordinance does not have a pre-application review option. This will need to be added with the following requirements: (1) the pre-application meeting cannot be *required* going forward, instead made optional for applicants to request; (2) the City must schedule the meeting within 15 days after a request is made; and (3) the City staff must make available (or have online) at the time of the meeting the ordinances, checklists, and application forms the applicant must abide by.
  - The new law requires municipalities to approve subdivision applications for 1-2 family residential use if those applications “check all the boxes” and are compliant with local ordinances. This would replace the City's discretion to approve with conditions or deny applications in some cases. The solution is to make sure that the City's land use ordinances and technical subdivision requirements are thorough and up to date.
- **Add an appeal process for subdivision applications.** The City's ordinances do not specify the process by which subdivision appeals should be handled. The state allows for flexibility on this point, but requires municipalities to have an appeal process. Additionally, making the City Council the appeal authority for subdivision applications is permitted.
  - **Clarify and improve plat requirements.** The City code is relatively thorough in this area, but it is missing a few plat requirements, and a few other requirements could be clarified to guarantee state compliance.

- **Add a requirement for the City to notify water conveyance facilities and the Utah Geospace Resource Center.** At various points in the subdivision proposal, review, and approval processes, Utah Code §10-9a-603 requires the municipality to notify various entities and receive feedback from them on specific timelines. The City should also specify who is responsible for identifying and contacting the owners of these facilities.
- **Acknowledge and incorporate the state-wide plat exemption for agricultural land** as found in Utah Code §10-9a-605(2). This exemption allows agricultural land to be subdivided without a plat and with fewer restrictions as long as the land’s use will remain agricultural.
- **Add/refine definitions.** The City’s definition section in its subdivision chapter will need to be added to and edited to incorporate SB 174 changes. For example, one important definition to add is “subdivision application”.
- **Add application requirements.** The City’s success with complying with the new state law will depend on having a crystal clear description of what a “complete” application looks like.
- **Add a process and requirements for minor subdivision approval.** While City’s code mentions plat exceptions for subdivisions with no more than one lot, it could be improved with further elaboration on how these “minor subdivisions” are defined, reviewed, and approved. State law permits minor subdivisions applications (up to ten lots) to proceed without a plat. Making this exception available in Hildale is optional. A primary benefit is that it makes it less expensive for residents to split a lot(s) into smaller parcels. A downside is that a minor subdivision exception could become a loophole for developers.
- **Describe the subdivision amendment process.** The City’s code currently specifies how existing subdivision plats may be amended with a paragraph stating amendments will go through the same process as a new subdivision plat approval. The City may keep this approach and go through the same process as new subdivisions, or the City may specify a more streamlined approach.
- **Update application forms.** Once we have completed the amendment to the City’s subdivision code, we will adjust the City’s application forms to match.
- **Clarify roles and expectations throughout.** While the City’s existing code contains many elements required by state law, many sections could benefit from more explicit language about the City’s limitations and powers and what applicants are expected to do.
- **Add a provision noting that the City may void transfers of land not done in accordance with a valid subdivision plat.** State law provides this remedy. The City’s current penalty is just a class B misdemeanor. The City can also make the subdivider liable for damages that future buyers incur if a land transfer is voided by the City.
- **Specify recording responsibilities.** The City’s code does not currently specify timelines for recording or who should record. This should be updated to match state law.

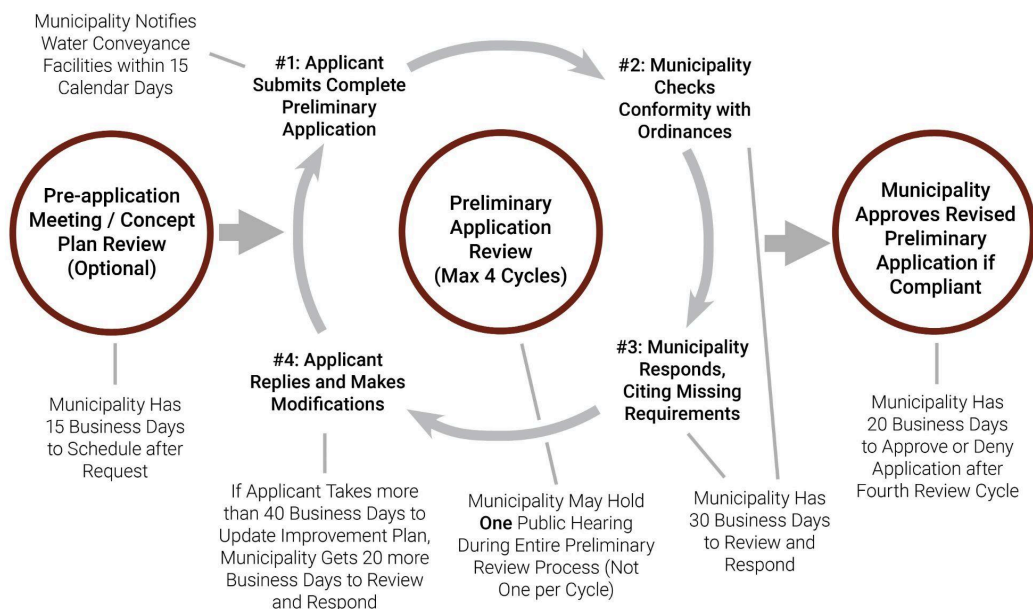
- **Consider moving subdivision and development ordinances out of the City’s current land use title** into a title of their own. Although not required, we think this would help keep the City’s ordinances organized.

## A Note on the New Review and Approval Process for 1-2 Family Residential Applications:

The Utah Legislature designed the SB 174 (and the recent HB 476) process to streamline residential development and—in theory—help with Utah’s housing affordability crisis. The law does this by (1) limiting the City to four “review cycles” of back and forth with a developer when considering subdivision improvement plans and one public hearing in the preliminary review phase, (2) instituting review deadlines, (3) prohibiting the City from considering subdivision improvement plans in both “preliminary” and “final” application phases, (4) making subdivision decisions administrative, and (5) requiring the City to approve applications that are compliant with local ordinances.

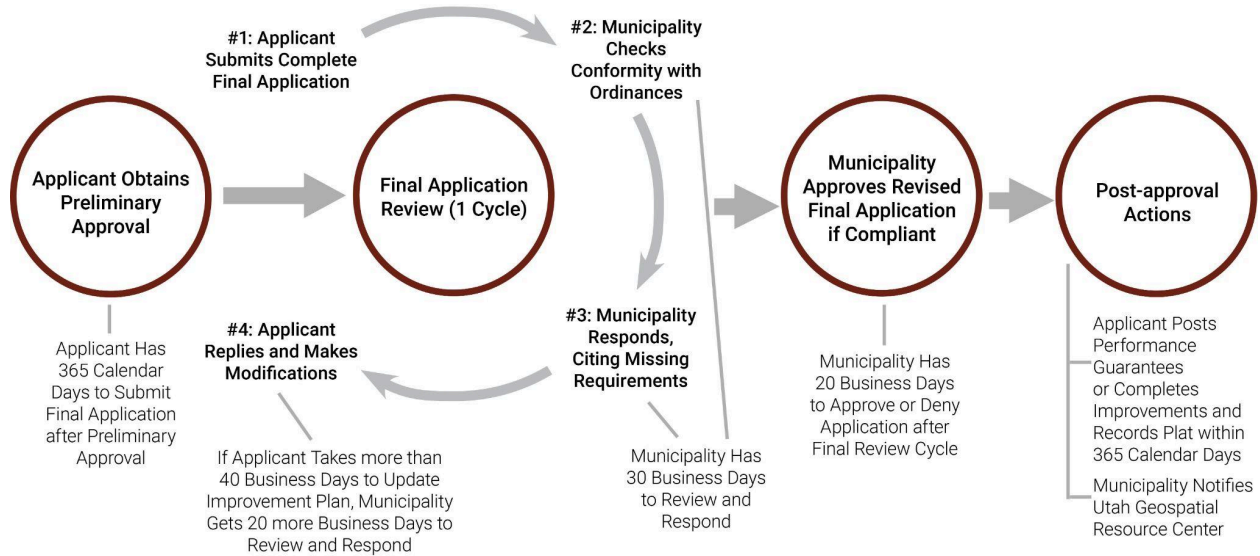
The City’s current ordinance uses a two-phase review process for residential subdivisions: an applicant must get both a preliminary approval and a final approval. This is a common approach. One way the City could become compliant with the new law is to adapt its current approach to reviewing 1-2 family residential subdivision applications to match the process described in the following flowcharts.

### SUBDIVISION APPLICATION FOR 1-2 FAMILY RESIDENTIAL PRELIMINARY REVIEW PROCESS





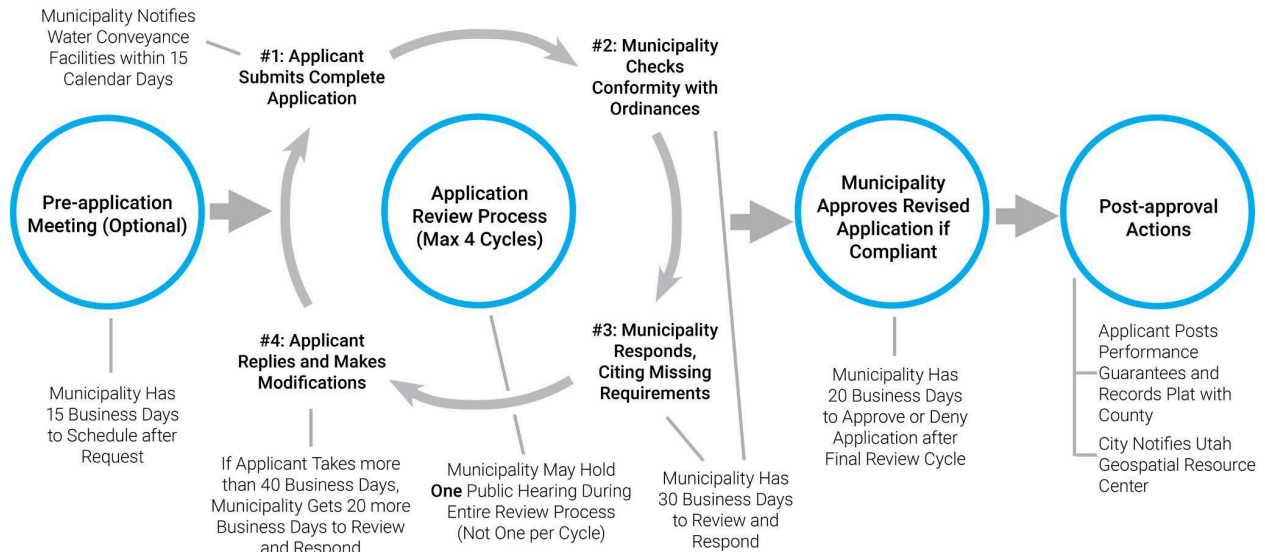
## SUBDIVISION APPLICATION FOR 1-2 FAMILY RESIDENTIAL FINAL REVIEW PROCESS



Another option authorized by the new law is to combine the preliminary and final processes into one. We think this process would be beneficial for the City to consider because it simplifies the process for everyone involved and gives the City maximum flexibility with the limited review cycles. The following flowchart shows an example of how this combined process could work.



## SUBDIVISION APPLICATION FOR 1-2 FAMILY RESIDENTIAL TIMELINE + PROCESS [COMBINED APPROACH]



Before my team and I proceed with our edits, *please let us know your preferences on the following:*

1. Whether you would like to proceed with a two-phase or a combined approach for 1-2 family residential subdivisions.
2. If you prefer to stick with the two-phase approach, please let us know whether you would like to review subdivision improvement plans in preliminary *or* final phases. Note that the Planning Commission cannot be the land use authority for the final phase. Given this, many municipalities choose to review improvement plans in the preliminary phase.
3. Whether you would like the process we develop to apply only to applications for 1-2 family residential use, or whether you would like all subdivisions in the City to follow the same process. If you prefer having one process for all applications, then we can lengthen the review timeline and allow for more review cycles and/or hearings for applications that are not for 1-2 family residential use. We can also make the Planning Commission or City Council the land use authorities for other applications.
4. Whether you would like us to create a new title dedicated to subdivisions or leave everything in the City's current land use title. We think a new title would make it easier for everyone to find and build on these ordinances moving forward.

My team will soon begin drafting an amendment to the City's subdivision ordinances based on your feedback.

Respectfully,

A handwritten signature in black ink, appearing to read 'MHansen', with a stylized, flowing script.

Mike Hansen, Hansen Planning Group