

## **ARTICLE XIII – SUBDIVISIONS**

### **13-1 INTENT AND PURPOSE**

#### **13-1-1 Intent:**

It is the intent of the County Commission through the adoption of this Article to more fully avail itself of the power granted under 17-27-601 et. Seq. UCA, relating to the subdivision of land and to do so in a manner which will best promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of the county including among other things, efficiency and economy in the process of development, lessening congestion in the streets, securing economy in government expenditures, and protection of both urban and non-urban developments. Furthermore, nothing in this Article shall conflict purposes listed in 17-27a-102 UCA.

#### **13-1-2 Purpose**

The purposes in adopting this Article shall be:

1. To facilitate the orderly development of the County.
2. To implement the County's Major Street Plan.
3. To facilitate the development of a safe and efficient street system.
4. To facilitate the orderly transfer of the ownership of building sites in a manner consistent with state law.
5. To facilitate the provision of adequate water, sewer, drainage, utilities, fire protection, and other services to developing areas of the County.
6. To establish the rights, duties, and responsibilities of subdivides with respect to the development of land within the County.

### **13-2 SUBDIVISION PLANS AND PLATS REQUIRED – EXCEPTIONS**

#### **13-2-1 Subdivision Plats Required – To be Recorded**

No ~~P~~ person shall subdivide any tract of land within the unincorporated portion of the County; nor shall any person sell, exchange, purchase, or otherwise convey or make an agreement to sell, exchange, purchase, or otherwise convey, a parcel of land which is part of a larger tract, if such sale or agreement would have the effect of creating a subdivision as defined by this Ordinance, unless and until a final plat, prepared in accordance with the provisions of this Ordinance shall have been first approved by the Planning Commission and County Commission and recorded in the Office of the County Recorder.

#### **13-2-2 Exemption From Subdivision Plat Filing Requirement**

Any owner or agent of any owner of real property who seeks to ~~partition~~ subdivide land without recording a plat by virtue of the exemption for agricultural, commercial, manufacturing, and industrial land, shall first acquire a waiver on forms furnished and

signed by the County Zoning Administrator. The Zoning Administrator shall approve said waiver upon satisfactory completion of the application form by the applicant, including, in the case of agricultural land, the recording of satisfactory deed covenants precluding the residential or other non-agricultural use of the land until the recording of a properly approved subdivision plat.

Any sale or other transfer of a parcel of land which has been subdivided into two or more parcels without the owner or agent of the owner first having obtained a waiver from the Zoning Administrator or having recorded an approved subdivision plat, shall be considered prima facie evidence of the illegal subdivision of land and a violation of 13-2 of the Ordinance, and any lot so created shall not qualify as a zoning lot as defined by this Ordinance. Qualification under these provisions shall not constitute a waiver of other requirements, including, but not limited to health, zoning, and building permit requirements.

Notwithstanding the forgoing provisions of this section, in accordance with 17-27a-605 et. Seq. UCA, a MINOR SUBDIVISION as described in section 13-7 of this Ordinance, of less than 5 lots may be approved without a plat provided a subdivision:

1. is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
2. has been approved by the culinary water authority and the sanitary sewer authority;
3. is located in a zoned area; and
4. conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance, and
5. the land use authority certifies in writing that the county has provided notice thereof as required by this ordinance.

### **13-3 PROCEDURE FOR APPROVAL OF A SUBDIVISION**

#### **13-3-1 Pre-Submission Conference**

Any person wishing to subdivide land within the County shall secure from the Zoning Administrator information pertaining to the requirements for subdivisions and the County's plan of streets, parks, drainage, zoning and other General Plan requirements affecting the land to be subdivided.

#### **13-3-2 Prepare Concept Plan**

The sub-divider shall then prepare a concept plan and shall submit three (3) copies of the same to the Planning Commission no less than seven (7) days prior to the next regularly scheduled Planning Commission meeting. Said plan shall be prepared in accordance with County standards. Where a sub divider owns or controls more land than he proposes to

submit for preliminary approval, the Planning Commission may require that a concept plan for the larger area be submitted. Said plan shall indicate the portion proposed to be submitted initially for preliminary approval and the portion to be held for future submission.

### **13-3-3 Obtain Planning Commission Approval of Concept Plan**

The Planning Commission shall review the concept plan and shall act to: (a) approve the plan, (b) disapprove the plan, (c) approve the plan subject to modification, or (d) where considered necessary or desirable, act to table further consideration of the plan for a determined amount of time. Approval for the concept plan shall not be construed to constitute approval of the subdivision but shall be deemed as an expression of acceptance of the basic concept and feasibility of the proposed subdivision which the sub-divider may use as a guide in the preparation of the preliminary plan.

### **13-3-4 Prepare Preliminary Plan and Improvement Drawings**

Upon approval of the concept plan by the Planning Commission, the sub-divider shall prepare a preliminary plan of the subdivision and shall submit three (3) copies of the same to the Planning Commission not less than seven (7) days prior to the next regularly scheduled Planning Commission meeting. Said plan shall contain:

1. A preliminary layout plan.
2. Preliminary drawings showing the location and type of proposed public improvements, and, as applicable, evidence of suitability of the soil for septic tank purposes.
3. Copies of proposed documents, when applicable.
4. Evidence of payment of preliminary review fee.
5. Evidence of ability to satisfy water requirements.
6. Any other material or information required by the Planning Commission.

All plans, documents and other data shall be prepared in accordance with County standards. Failure to submit all required material prepared in accordance with said standards shall be grounds for denial.

### **13-3-5 Obtain Planning Commission Approval of Preliminary Plan**

The Planning Commission shall review the preliminary plan and shall act to: (a) approve the plan, (b) disapprove the plan, (c) approve the plan subject to modification, or (d) where considered by the Planning Commission to be necessary or desirable, act to table further consideration of the plan for a determined amount of time. Approval or denial of the plan shall be based upon compliance with the General Plan and upon a finding of conformance with the submission guidelines set forth in Section 13-6 of the Article. The action of the Planning Commission shall be written on the face of two copies of the plan, one of which shall be retained in the files of the Planning Commission, and one of which

shall be returned to the sub-divider. If the plan is disapproved, the Planning Commission shall express its reasons therefore to the sub-divider.

Upon approval of the preliminary plan, the Planning Commission shall be committed to grant approval of the final plat, subject to full compliance with any conditions attached, unless, in the opinion of the Planning Commission, preliminary approval was given based on inaccurate or incomplete representations or that changes have occurred in conditions relating to the property, not known or present at the time approval was given, which would result in a violation of applicable provisions of Section 13 of this ordinance, if the project were carried out as initially approved. Approval of the preliminary plan shall remain valid for a period of one year. Said approval may be extended or reaffirmed by the Planning Commission, for a period not to exceed one year, upon receipt of a written request from the owner.

### **13-3-6 Prepare and Submit Final Plat, Engineering Drawings, and Documents to Planning Commission.**

Upon approval of the preliminary plan by the Planning Commission, the sub-divider shall prepare the final, plat, final engineering drawings, and documents and shall submit copies of the same to the Planning Commission not less than seven (7) days prior to the next regularly scheduled Planning Commission meeting said plats, drawings, and documents shall include:

1. The original mylar and three (3) prints of the final plat.
2. Final engineering drawings.
3. Documents indicating full compliance with the water and sewer requirements for each lot.
4. An itemized estimate of the cost of constructing all required improvements, prepared by or under the direction of the County Surveyor. This estimate shall be used as the basis for setting the amount of the performance guarantee.
5. Final copies of performance guarantee documents.
6. A title report, covering the property within the plat area, to identify all interests in the property which may have an effect on the title, and to establish that the land proposed for subdivision is free of boundary conflicts. The purpose of this requirement shall be to ensure that purchasers of lots will have a clear and marketable title.
7. Final copies of all other required documentation, when applicable.
8. Evidence of payment of final plat checking and recording fees.

### **13-3-7 Planning Commission Takes Action on Final Plat**

The Planning Commission shall review the final plat, final engineering drawings, and other required submissions, and shall act to: (a) approve the plan, (b) disapprove the plan, (c) approve the plan subject to modifications or (d) where considered necessary or proper by the Planning Commission, act to table further consideration of the plan for a determined amount of time. If disapproved, the Planning Commission shall state its

reasons therefore to the sub-divider. Upon approval by the Planning Commission, said Commission shall sign the plat and shall forward the plat to the County Commission with the recommendations that the plat be approved and the proposed dedications accepted.

### **13-3-8 Sub-divider Post Performance Guarantee**

Upon approval by the Planning Commission, the sub-divider shall post a bond or other financial assurance guaranteeing construction of the required improvements. Said performance guarantee shall be in conformance with the provisions of Article XII of this Ordinance.

### **13-3-9 County Commission Takes Action on Final Plat**

Upon receipt of the final plat, bearing all required signatures, and also submission of evidence of posting of the performance guarantee, the County Commission shall consider the plat and performance guarantee and shall act to approve or disapprove the plat or approve it with modification. If disapproved, the County Commission shall state its reasons therefore to the sub-divider. If modifications are required such modifications must first be referred to and accepted by the Planning Commission.

If approved, the plat shall be signed by the Commission and returned to the Zoning Administrator for recording. The signature of the County Commission on the final plat shall constitute final approval.

### **13-3-10 Final Plat Recorded in Office of County Recorder**

Upon receipt of the executed final plat and the receipt of all outstanding submissions and fees, the Developer shall submit said plat for recording in the Office of the County Recorder.

## **13-4 DESIGN AND DOCUMENTATION REQUIREMENTS**

The layout and design of all subdivisions and the content of required submissions shall be in accordance with the following and also with the minimum county standards and specification as provided under 13-6 provided, in the event of conflict the more stringent shall prevail.

### **13-4-1 General Design – Access**

1. The overall design shall provide good vehicular access and circulation.
2. Each lot shall abut upon and have access to a designated county road in conformance with the frontage requirements for the zone in which the subdivision is located.
3. The design shall recognize and accommodate significant environmental conditions including but not limited to drainage channels, flood plain area, canals, wetland, and adverse soil.

4. Each lot within the subdivision shall contain a buildable area which is sufficient in size to accommodate the dwelling or other main building and also all attendant facilities (i.e. septic tank filter field). The buildable Area shall not be situated within a designated flood channel or a recognized flood hazard area.

#### **13-4-2 Conformity With Zone Requirements**

Each lot in the subdivision shall conform to the zone requirements for the zone in which the subdivision is located.

#### **13-4-3 Culinary Water**

Satisfactory evidence of an adequate supply of culinary water for each lot shall be submitted with each application for approval of a subdivision as follows:

For subdivision utilizing central system:

- A. Written evidence from a recognized water supply agency indicating:
  1. that the agency agrees and has the ability to supply the residential culinary water to the development,
  2. that the petitioner has satisfied all requirements of said agency relating to conveyance of water rights, payment of fees, etc. and
  3. each lot has been granted a permanent, non-revocable water connection.
- B.
  1. Evidence satisfactory to the County that the transmission lines, storage reservoirs, and other system elements have adequate pressure and capacity to meet culinary water needs of the project at levels not less than specified by the State Health Department.
  2. Individual well or spring system: Approval from the State Engineer, authorizing the use of water from the proposed source for domestic purposes: also, written evidence to the effect that water from well sources or spring is available in adequate quantities and conforms to minimum quality standards for culinary use as evidenced by a written statement from the health authority.

#### **13-4-4 Domestic Sewage Disposal Requirements**

Each lot shall be served by a central sewage disposal system or by individual waste water disposal systems which have been approved by the local health authority as evidenced by a written statement there from. Where individual disposal systems are to be used, the statement from the health authority shall indicate that tests were conducted on each lot and that all lots meet minimum standards for individual waste disposal systems. No final plat shall be approved which contains one or more dwelling sites for which individual systems are determined to be unsuitable.

### **13-4-5 Roads**

Residential (minor) roads within the subdivision shall have a right-of-way width or not less than 60 feet.

Collector and arterial roads shall have a right-of-way width of not less than 80 feet or as set forth on the Major Street Plan whichever is greater.

All roads shall be designed to provide for safe and convenient access to adjacent property and for snow removal and the disposition of surface water. The layout and improvement of all roads shall be in accordance with the applicable cross-section and construction standards of the County.

### **13-5 PROJECT EVALUATION GUIDELINES**

In conducting its review of the proposed subdivision the Planning Commission and County Commission shall be guided by the following evaluation criteria:

1. Are the plans and documents submitted sufficiently detailed to permit a proper consideration of the project and do they conform to County standards as to content?
2. Does the proposed development conform in all respects to the design standards for subdivision?
3. Are there any conditions present which would render part or all of the sites unsuitable for housing purposes and have these conditions been accommodated in the plan?
4. Will the proposed arrangement of lots and roads produce convenient access and circulation under all weather conditions and not result in the imposition of an undue financial burden upon the County?
5. Will the project, if developed, be consistent with the purpose and intent as stated under 13-1 of the Ordinance?

The Planning Commission may require changes in the plan in order to more fully accomplish the objectives of the zone and this Article, including, but not limited to, the redesign of the road system, provision for extension of the road system into adjacent properties, and the relocation of lot boundary lines, and increase in water line size above the minimum.

### **13-6 IMPROVEMENT REQUIREMENTS**

The developer shall be responsible for installation of all required improvements. Said improvements shall meet minimum County standards and specifications and shall be completed within one (1) year from the date of final approval of the subdivision, except that upon a showing of good and sufficient cause, the County Commission may grant an extension of the time limit not to exceed six (6) months. Financial assurances guaranteeing the construction of all required improvements shall be required as a

condition of approval. Said assurances shall be in accordance with the provisions of Article XII.

### **13-6-1 Streets and Roads**

All streets and roads shall be improved in conformance with the applicable cross-section and construction standards as adopted by the County Commission.

### **13-6-2 Culinary Water**

#### A. Subdivisions utilizing a central water system:

1. Both “offsite” and “onsite” water mains of not less than 6 inches in diameter shall be installed in such a way that each lot may be served therefrom.
2. Water service laterals shall be installed from main line to the outer edge of any road proposed to be dedicated to the County. Said lateral shall include the installation of a meter box and meter setter.
3. The water flowing to said system shall be from a source and through lines which are sufficient in size to provide a volume of flow and level of pressure adequate to meet State Health standards.
4. The quality of materials and procedures of construction shall conform to County standards.
5. Applicant shall provide documentation of culinary service connection(s) from a public water system monitored in compliance with the Utah Safe Drinking Water Act

#### B. Subdivisions utilizing individual wells.

1. Construction of wells will be required as a condition for granting of a building permit.
2. Applicant shall provide documentation of approval from Utah Division of Drinking Water and Division of Water Rights.

### **13-6-3 Sewers**

#### A. Subdivisions utilizing central collection and disposal systems:

1. All systems and facilities shall conform to State Health standards.
2. Applicant shall provide documentation of connection to public sewer system or other disposal system approved pursuant to state law

#### B. Subdivisions utilizing individual waste water disposal systems:

1. Construction of disposal system will be required as a condition for the granting of a building permit.
2. Applicant shall provide documentation of approval of septic system or other approved waste disposal system from the Utah Department of Health.



#### **13-6-4 Permanent Survey Monuments**

No less than two permanent survey monuments shall be installed in each subdivision. The location of the monuments shall be shown on the final plat. Also, all corners on the subdivision and all lot corners in the subdivision shall be marked.

#### **13-6-5 Electric**

Electric power shall be available to each lot. All lines and appurtenant facilities shall be located underground except when the sub-divider can show that the placement underground is not physically feasible.

#### **13-6-6 Telephone Lines**

Telephone lines shall be available to each lot. All lines and appurtenant facilities shall be located underground, except when the sub-divider can show that the placement underground is not physically feasible.

#### **13-6-7 Street Signs**

Street signs shall be installed at all locations indicated on the preliminary plan. The location and design of said signs shall conform to minimum County standards.

#### **13-6-8 Storm Drains and Facilities**

Pipes and other facilities for the disposal of storm water shall be installed where required by the County. The location, size, and design of said facilities shall be in accordance with the County's storm water disposal plans and standards or as directed by the County Surveyor.

### **13-7 MINOR SUBDIVISION**

#### **13-7-1 Purpose**

Notwithstanding Section 13-3 above, the following requirements are enacted and enforced to allow the development of Minor Subdivisions in the unincorporated portions of Emery County. The intent of a Minor Subdivision is to allow individual lots and small subdivisions to be processed in a timely fashion while ensuring the needs of the public at large are met.

#### **13-7-2 Minimum requirements**

A Minor Subdivision shall meet the following minimum requirements in order to be considered a minor subdivision:

1. Minor Subdivisions shall be allowed only within the A-1 zone in Emery County
2. Not more than five lots may be created;
3. Each lot shall contain at least 2 acres;
4. Meets and Bounds are acceptable legal descriptions for Minor Subdivisions, so long as they have been provided by a certified Surveyor and a record of Survey is filed in accordance with UCA 17-27a-605(2)(6); however Plats and Plat Maps are acceptable and preferred;
5. The division does not result in remnant land (land that can not be developed due to size, set backs, etc) that did not previously exist;
6. Minor Subdivisions do not require addition of infrastructure above and beyond that which is available generally in the surrounding properties, i.e., curb, gutter, sidewalk would only be required if the adjoining properties have those amenities at the time of application;
7. Developer may present a development plan that, upon approval by the Land Use Authority, allows for staged development – lots may be developed individually, in groups or all at once, so long as the plan and the accompanying schedule is met;
8. Each lot shall have the required frontage on an improved public street, county road or public highway as set forth in this ordinance;
9. Each lot shall meet all other applicable requirements (i.e., setbacks, construction standards, etc.) as set forth in this Ordinance;
10. Streets and roads – While “gravel roads” are an acceptable construction medium for the surface of streets and roads, all streets and roads shall be improved in conformance with the applicable cross-section and construction standards as adopted by the County Commission. Residential (minor) roads constructed within the subdivision shall have a right-of-way width or not less than 60 feet. Streets and roads are defined as such if the roadway serves three or more lots in a subdivision.
11. Driveway Access - The minimum width of a driveway shall be twelve feet (12'). The maximum grade of a driveway shall not exceed ten percent (10%). Twelve percent (12%) grades may be allowed for up to but not to exceed two hundred fifty (250) lineal feet. Any driveway longer than three hundred feet (300') shall have either a designated “turn around” area large enough for a forty foot (40') emergency vehicle to make a complete turn, or shall have twenty four (24') wide passing areas, at least sixty feet (60') in length every five hundred feet (500'). A driveway is defined as such if it serves two or less lots within a subdivision.

### **13-7-3 Granting Authority**

The Land Use Authority for a Minor Subdivision is the Zoning Administrator or his / her appointed designee. Notwithstanding this rule, the Zoning Administrator or their designee may forward any application on to the County Planning and Zoning Commission for approval by a majority vote of the Commission Members.

### **13-7-4 Appeal Authority**

The Appeal Authority for a Minor Subdivision is the Planning and Zoning Commission. If the Minor Subdivision was approved by the Planning and Zoning Commission because

the Zoning Administrator forwarded the application pursuant to section 13-7-3, the Emery County Commission shall serve as the appeal authority.

## **13-8 PROCEDURE FOR APPROVAL OF A MINOR SUBDIVISION**

### **13-8-1 Prepare Concept Plan**

The applicant shall prepare a concept plan and shall submit two (2) copies of the same to the Zoning Administrator. Said plan shall include;

1. A development plan which will include a description of the proposed use including proposed excavation, construction, timelines and such other information as may assist the Zoning Administrator or other Granting Authority in reviewing the application;
2. Proof of ownership or other legal right entitling the Applicant to conduct the proposed use on the property;
3. A surveyed, legal description of the property for which the permit is sought, and/ or a copy of the recorded plat showing the property, and a vicinity drawing or plan showing roads and other landmarks which will aid in identifying the property;
4. A drawing including location of structures in relation to property lines, roads, water utilities, electrical utilities and wastewater facilities (including location of septic field and alternative);
5. A letter from Culinary Water System operator verifying water connection ownership for each individual lot in the subdivision;
6. An encroachment permit or letter from the County or State road department granting access to the property on the associated roadway;
7. A letter of approval from the department of health approving a septic system and providing appropriate design for proposed structures;

Where an applicant owns or controls more land than he proposes to submit for preliminary approval, the Zoning Administrator may require that a concept plan for the larger area be submitted. Said plan shall indicate the portion proposed to be submitted initially for preliminary approval and the portion to be held for future submission.

### **13-8-2 Initial Zoning Administrator Review**

The Zoning Administrator shall examine the application to determine:

1. If the application is complete;
2. If the proposed use qualifies as a Minor Subdivision under this Ordinance; and
3. The amount of the application fee according to the current fee schedule.

Following such examination, the Zoning Administrator shall give notice to the applicant of the following, as applicable:

1. If the application is incomplete, what information is necessary to complete it;
2. If the proposed use meets the basic requirements for a Minor Subdivision;

Upon the submission of a completed application, a determination that the proposed use qualifies as a Minor Subdivision, and payment of the required fees, the Zoning Administrator shall, within 10 days, respond to the applicant that the application is administratively complete.

### **13-8-3 Zoning Administrator Approval Process**

No findings shall be made, and no permit issued, until the Zoning Administrator is satisfied that he / she has sufficient information upon which to base his / her actions. The Applicant shall be permitted to address or communicate with the Planning and Zoning Administrator and answer questions concerning the matter, and to submit amendments to the application addressing concerns and issues which may arise, and to suggest solutions to problems identified in the proceedings.

Upon completion of the review, the Zoning Administrator shall take one of the following actions, based upon its findings in the matter:

- a) Approve the Minor Subdivision;
- b) Disapprove the Minor Subdivision;
- c) Approve the Minor Subdivision subject to modification; or
- d) Where considered necessary, forward to the Planning and Zoning Commission for further consideration.

Upon approval, building permits must be purchased and construction must begin within 180 days or the approval of the Minor Subdivision shall expire.

## **13-9 GENERAL REQUIREMENTS**

### **13-9-1 Standards and Specifications**

The Planning Commission shall prepare standards and specifications for the content of subdivision plans and for the layout, design, and construction of subdivisions and required improvements. Said standards and specifications shall be adopted by resolution of the County Commission. All such requirements shall be considered the minimum standards which must be met and shall apply to all subdivisions.

### **13-9-2 Amended Plats**

No change shall be made in a plat which has received final approval unless and until approval for said change has been given by both the Planning Commission and County Commission. Any change in a subdivision for which a final plat has been recorded shall first require that the plat be vacated in accordance with the applicable provisions of the Utah Code and a new plat of the territory approved and filed in accordance with the procedures and requirements of the Ordinance.

### **13-9-3 Work To Be Done By Engineer Or Surveyor**

All engineering work must be done by, or under direction of, a Professional Engineer registered in the State of Utah. All land survey work must be done by, or under the direction of, a Land Surveyor registered in the State of Utah.

### **13-9-4 Variances**

Variances to the strict application of the standards and specifications adopted pursuant to Section 13-7-1 may be authorized by the County Commission after recommendation from the Planning Commission. Such variances will be granted only upon a finding that, because of topographic or other unique physical condition, the standard appealed from:

1. Is unnecessary for the proper development of the subdivision and will not be required in the future.
2. Would cause an unreasonable hardship if adhered to, and
3. May be granted without destroying the intent of the standard or this Ordinance.

Any variances so authorized shall be stated on the final plat.

### **13-9-5 Review Fees**

All costs for processing of subdivision proposals and the administration of the Ordinance shall be borne by the sub-divider. The County Commission, may be resolution establish fees for the purpose and provide for the assessment and collection thereof.

### **13-10 ENFORCEMENT**

No officer of the County shall grant any permit or license for the construction or use of any building or land within a subdivision unless and until said subdivision has been approved and recorded in accordance with the requirements of this Ordinance.

Whoever, being the owner or agent of the owner of any land located in a subdivision within the County, transfers or sells such land without have received approval in accordance with the provisions of this Ordinance, shall be guilty of a misdemeanor for each lot so transferred or sold and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. In addition, the County may enjoin such transfer or sale or agreement by action for injunction or may recover the said penalty by civil action (UCA 17-27-21).

Also, the County may, in addition to other remedies provided by law, institute injunctions, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate or remove any unlawful building, use or act. (See UCA 17-27-23.)