

# **Title 9 – Land Management Code**

## **Chapter 9**

### **SUBDIVISIONS**

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#### **9-9-1: PURPOSE:**

It is the Town's intent to promote the orderly growth and development of the Town and to ensure that all subdivisions within meet local and state codes, and to ensure that the growth conforms to the Town's General Plan, this title and associated design standards. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

#### **9-9-2: SUBDIVISION REVIEW CYCLES:**

- A. For each complete subdivision application, the Town shall review the submitted plat, plans and other application materials through the review cycles established by this section and Utah Code Annotated §10-9a-604.2 et. Seq. to ensure compliance with all requirements of this title, and all other governing laws including, but not limited to, land use regulations, applicable land use decisions, ordinances and standards.
- B. A review cycle shall begin with the Town's receipt of either a complete application for a new subdivision or a complete review response submitted as part of a prior review cycle.
- C. The Town may issue review comments with each review cycle to correct any deficiencies on the submitted plat, subdivision improvement plans and related information, documents, and materials.
- D. The Town shall complete its review and shall issue review comments within the following timeframes:

a. Residential Single Family, Two-Family, or Townhome Subdivision Applications:

i. Preliminary Plat Review

1. The Town shall have a reasonable timeframe to complete its review and to issue review comments on preliminary subdivision plats and other application materials.

ii. Final Plat, Subdivision Improvement Plan Review:

1. Except for properties containing sensitive lands, the Town shall have forty (40) business days after the receipt of a complete application to complete the initial subdivision improvement plan review and issue review comments to the applicant.
2. The Town shall not require more than four (4) subdivision improvement plan cycles.
3. The Town may require additional information relating to an applicant's plans to ensure compliance with Town ordinances and approved standards and specifications for construction of public improvements and/or modification to plans that do not meet current ordinances, applicable standards or specifications, or which contain incomplete information. The Town's request for additional information or modification to plans shall be specific and shall include citations to ordinances, standards, or specifications that require the modifications to the proposed improvement plans, which shall be logged in an index of required modification or additions.
4. In addition to revised improvement plans, an applicant shall provide a written explanation in response to the Town's review comments identifying and explaining the applicant's revisions including any reasons for declining to make revisions, if any. The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design, and an index of required revisions or additions for each required correction. If an applicant fails to address a review comment in their response, the review cycle shall not be considered complete and a subsequent review cycle may not begin until all comments are addressed.

5. If an applicant makes a material change to a subdivision improvement plan the Town shall have the discretion to restate the review process at the first review of the subdivision improvement plan review, but only with respect to the portion of the subdivision improvement plan that the material change substantially affects. Unless a change or correction is necessitated by the applicant's adjustment to a subdivision improvement plan or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in the Town's subdivision improvement plan review is waived, unless a modification or correction is necessary to protect the public health and safety or to enforce state or federal law.
6. If an applicant does not submit a revised subdivision improvement plan within forty (40) business days after the Town requires a modification or correction to the subdivision improvement plan, the Town shall have an additional twenty (20) business days to respond to a revised subdivision improvement plan.
7. After the applicant has responded to the final review cycle and the applicant has complied with each modification requested in the Town's previous review cycle, the Town may not require additional revisions if the applicant has not materially changed the subdivision improvement plan, other than changes that were in response to requested modifications or corrections.
8. If, on the fourth or final review, the Town fails to respond within twenty (20) business days, the Town shall upon the request of the applicant, and within ten (10) business days after the day on which the request is received, assemble an appeal panel in accordance with Utah Code Annotated §10-9a-508(5)(d) et. Seq. to review and approve or deny the final revised set of subdivision improvement plans.

iii. Final Plat; Subdivision Ordinance Review:

1. Except for properties containing sensitive lands, the Town shall have thirty (30) business days after the receipt of a complete subdivision application to complete the initial

subdivision ordinance review and issue review comments to the applicant.

2. If, on the final review, the Town fails to respond within twenty (20) business days, the Town shall, upon request of the applicant, and within ten (10) business days after the day on which the request is received, advise the applicant in writing, of the deficiency in the application and of the right to appeal in the determination to the Town's Appeal Authority.

b. All other Plats And Subdivision Improvement Plans:

- i. For all other plats and subdivision improvement plans, the Town shall have a reasonable timeframe to complete its review and to issue review comments.

(ord. 24-014, 10-8-24)

### **9-9-3: SUBDIVISION PROCESS:**

Subdivision of land shall comply with the provisions of this chapter and Utah Code Annotated [§10-9a-601](#) et seq. Until a final plat is recorded according to these provisions, the following may not occur; lots transferred; sold or offered for sale; contracted for sale; deeded or conveyed; building permit issued on said lots; terrain altered; any vegetation removed from the proposed subdivision site; or engaging in any site development. The steps of the subdivision process are as follows: (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

- A. **Pre-application Conference:** Prior to submission of formal materials for a proposed subdivision, an applicant shall participate in a pre-application conference with the Planning and Zoning Department. (Note that this conference is not mandatory for applications for subdivision applicants for single-family, two-family, or townhouse developments). This will provide the applicant an opportunity to consult with and receive assistance from the Town regarding the regulations and design requirements applicable to the subdivision of the property prior to a significant investment in technical/engineering and legal work. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

1. **Single Family, Two Family, Townhome Exception:** If the proposed subdivision application is for a residential single family, two-family, or townhome development, an applicant shall not be required to attend a pre-application conference. However, an applicant may request a pre-application conference to be conducted by the Town pursuant to Utah Code Annotated §10-9a-604.1 et. Seq. The applicant's request shall be submitted to the Planning and Building Department along with any applicable applications or materials that are ordinarily required by this code including any applicable fees as outlined in the Town's Consolidated Fee Schedule. (ord. 24-014, 10-8-24)

**B. Concept Plan Review:**

1. **Purpose:** The concept plan is intended to be an informal and abbreviated submittal, to allow the applicant and Town Staff to determine the basic feasibility of the proposal before the applicant's incurring time and expenses of a formal subdivision application (i.e., preliminary and final plats). Recommendations, suggestions and interpretations supplied to the applicant during the concept plan review are advisory and shall not be considered binding on the Town.

**2. Review Process:**

- a. **Submittal Requirements:** See [chapter 4](#).
  - b. After determining a complete application has been received, the Planning and Zoning Department shall distribute copies of the submitted application to other necessary Town Departments and may include affected entities who may contribute comments or suggestions on the proposed subdivision which are deemed to be in the best interest of the public. Town staff shall review the documents submitted to determine if they meet the standards for review outlined in this section. The application and staff comments are then forwarded to the Planning Commission if requested by the applicant.
  - c. **Optional Planning Commission Review:** Within a reasonable time after the Planning and Zoning Department review, the concept plan may be presented to the Planning Commission at a regular meeting. During this review, the Planning Commission may provide additional comments and input as they pertain to this title to assist the applicant in preparing the preliminary plat application.
3. **Standards For Review:** The applicant shall demonstrate that:
- a. The proposed subdivision conforms to the Town's General Plan and other applicable master plans adopted by the Town; this title including the Design Standards found in chapter 12; Public Works Standards, and other relevant sections of the Town's Code.
  - b. **Appropriate Use:** The proposed uses for the property are appropriate to the zone district and the layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, and visual impacts.
  - c. **Public Services:** Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, electric, telecommunications, trails, trainsit, snow storage areas, police and fire protection, and recreation. If adequate services do not exist at the time of application, provisions must be made for expansion of services concurrent to the subdivision development at the expense of the applicant.
    - i. **Water:** The proposed water source supplying the subdivision is connected to the Town's water distribution system and has adequate

supply, capacity, and method of distribution. (amd. ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-24)

- ii. **Sewer:** The proposed sewage system servicing the subdivision is connected to the Town's sewer system and will be designed to meet the standards and regulations set forth by the Town and State. (amd. ord. 15-004, 4-8-2015, amd. ord. 24-014, 10-8-24)

- iii. **Fire Protection:** The proposed method for fire protection complies with this title and other regulations as applicable.

(amd. ord. 24-014, 10-8-24)

- 4. **Vested Rights:** Submission of a concept plan does not constitute the beginning of any vested rights for the applicant. Vested rights shall accrue only upon the filing of a complete preliminary plat application with all required information and fees. However, if there is a compelling, countervailing public interest or the Town has initiated proceedings to amend this title or other applicable ordinances at the time of the preliminary plat application, then there shall be no vesting as it pertains to the compelling, countervailing public interest or pending ordinance change. (amd. Ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)
- 5. The Planning and Zoning Administrator shall notify the applicant in writing of review findings, including any design or engineering feasibility issues, inadequacy of submittals, noncompliance with local regulations, and/or the need for other information which may assist the Town during subsequent evaluations. Review findings shall not constitute an approval or disapproval of the proposed subdivision, but rather shall operate in such a manner as to give the applicant guidance as to the requirements and constraints for the applicant's proposed subdivision. (ord. 24-014, 10-8-24)
- 6. Once concept plan recommendations have been received from the Town, the applicant may apply for preliminary plat approval consistent with the concept plan. (ord. 24-014, 10-8-24)
- 7. A concept plan application and Town approval is recommended but shall not be required for subdivision applications intended for single-family, two-family, or townhome development. (ord. 24-014, 10-8-24)
- 8. If the applicant does not proceed with the preliminary plat review application within six (6) months of completing the concept plan review, the applicant shall resubmit the proposed concept plan and the Planning and Zoning Administrator shall determine whether the concept plan review process shall be repeated. One (1) extension not to exceed six (6) months may be granted by the Planning and Zoning Administrator if the Town's ordinances regulating subdivisions have not changed, and if the applicant requests the extension in writing prior to the expiration of the initial approval. (ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

### **C. Preliminary Plat:**

1. **Purpose:** The purpose of the preliminary plat is to review in greater detail the proposed subdivision's design in order to minimize changes and revisions which might otherwise be necessary on the final plat and associated subdivision improvement plans. The preliminary plat, and all information and procedures relating thereto, shall in all respects be in compliance with the provisions of this title and any other applicable ordinances. (amd. ord. 24-014, 10-8-24)
2. **Standards For Review:** The applicant shall demonstrate that:
  - a. Compliance with the Town's General Plan and Ordinances. The proposed subdivision conforms to the Town's General Plan and other applicable master plans adopted by the Town; this title including the Design Standards found in chapter 12; Public Works Standards; and other relevant sections of the Town's Code.
  - b. Appropriate Use: The proposed uses for the property are appropriate to the zone district and the layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, and visual impacts.
  - c. Public Services: Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, sanitation, electric, telecommunications, transit, snow storage area, police and fire protection, and recreation. If adequate services do not exist at the time of application, provisions or plans for expansion of services concurrent to the subdivision development.
    - i. Water: The proposed water source supplying the subdivision will be connected to the Town's water distribution system and has adequate supply, capacity, and the method of distribution will be designed to meet the requirements of the Town; (amd. ord. 15-004, 4-28-2015, , amd. ord. 24-014, 10-8-24)
    - ii. Sewer and Sewer Treatment: Provisions has been made for a public sewer collection system that is connected to the Town's sewer system and meets Town requirements, including sufficient capacity for sewer treatment. (amd. ord.15-004, 4-28-2015, , amd. ord. 24-014, 10-8-24)
  - d. Fire Protection: The proposed method for fire protection complies with this title and other regulations as applicable. (ord. 24-014, 10-8-24)
3. **Review Process:**
  - a. **Application:** The subdivider shall file an application for preliminary plat approval. See [Chapter 4](#) of this title for the information required to be included on or with the preliminary plat.

The applicant shall provide the Town with sufficient information so that it can provide notice by transmittal letter to such affected entities (i.e., public agencies and utilities) as deemed appropriate by the Planning and Zoning Administrator or designee. In the transmittal letter, the Town shall request that each of the affected

entities, as set forth in Utah Code Annotated §[10-9a-103\(3\)](#), as amended, forward a report of its findings and recommendations to the Planning and Zoning Department a minimum of three (3) business days prior to the date of the public hearing set for the preliminary plat approval for the review and consideration of the Land Use Authority. The developer shall pay for all costs incurred. (amd. ord. 24-014, 10-8-24)

**b. Town Staff Review:**

- i. Within a reasonable time, the Planning and Zoning Administrator and/or other relevant Town Staff shall review the preliminary plat application for general compliance with these regulations including the Town's Public Works Standards, Design Standards and other ordinances, when applicable. If the preliminary plat is not complete or not in general compliance, the Planning and Zoning Administrator shall notify the subdivider in writing and specify the respects in which it is deficient. When the submission is complete the Planning and Zoning Administrator, or designee, shall forward the preliminary plat to the Land Use Authority. (amd. ord. 24-014, 10-8-24)
- ii. The Public Works Department and Town Engineer shall review submittals, plans and plats as to engineering requirements for street widths, grades, alignments, snow removal and storage, surface water flow and flood control, and for consistency of the proposed public improvements with this title and other applicable ordinances. (2010 Code, amd. ord. 15-004, 4-28-2015)

- c. **Land Use Authority Review:** The Planning Commission shall hold a public hearing to review and act thereon. If the Planning Commission finds that the proposed preliminary plat complies with the Standards for Review, as well as, all other requirements of this title, it shall approve, or approve with conditions, the preliminary plat. If the Planning Commission finds that the proposed plat does not meet the requirements of this title or other applicable ordinances, it shall deny the proposed preliminary plat. (amd. ord. 24-014, 10-8-24)

4. **Effect Of Approval Of Preliminary Plat:** Approval of the preliminary plat shall in no way relieve the applicant of responsibility to comply with all ordinances, all issues identified during the review by the Town (unless formally waived by the Land Use Authority), and to provide all improvements and easements necessary to meet Town standards and specifications. (amd. ord. 24-014, 10-8-24)
5. **Expiration Of Preliminary Plat Approval:** Application for final plat approval shall be made within twelve (12) months after approval or conditional approval of the preliminary plat by the Land Use Authority. This time period may be extended for no more than one (1) additional six (6) month period of time by the Planning and Zoning Administrator for good cause shown if the subdivider petitions for an extension prior

to the end of the original six (6) month period. Only one (1) extension may be granted. Failure to submit the application for final plat within the allotted time period shall cause the previous approvals to be null and void. Fees previously paid by the applicant shall not be refunded. (ord. 08-016, 8-12-2008, amd. ord. 21-005, 05-11-2021, , amd. ord. 24-014, 10-8-24)

**D. Final Plat:**

1. **Purpose:** The purpose of the final plat review is to obtain formal Land Use Authority approval of the detailed engineering and legal requirements of the final plat prior to recording the subdivision plat pursuant to [UCA §10-9a-604\(b\)\(i\)](#) as amended. The final plat and all information and procedures relating thereto shall be in compliance with the provisions of this title. The final plat and subdivision improvement plans submitted shall conform in all respects to those regulations and requirements specified during preliminary plat review. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)
2. **Standards For Review:** The applicant shall:
  - a. Comply with all conditions of preliminary plat approval. (amd. ord. 24-014, 10-8-24)
  - b. Include acceptable subdivision improvement plans for the water distribution system, final agreements from the water provider, and provisions for perpetual maintenance for the water system. (amd. ord. 24-014, 10-8-24)
  - c. Meet all planning, engineering, and surveying requirements of the Town for maps, data, surveys, analyses, studies, reports, plans, designs, documents, wetlands designations, and other supporting materials.
  - d. Provide evidence to show that there is no encumbrance, lien or conveyance restricting the intended use of the lot.
  - e. Provide evidence from the County Treasurer that all ad valorem taxes applicable to the property have been paid.
  - f. Include all dedications for streets, roadways, easements, trails and/or rights of way, as necessary.
  - g. Provide signature blocks on the plat signed by a representative of public utilities which identify their approval.
3. **Review Process:**
  - a. **Application:** The applicant shall file an application for final plat approval with the Planning and Zoning Department in such form and quantities as prescribed by [Chapter 4](#) of this title. (amd. ord. 21-005, 05-11-2021)
  - b. **Planning and Zoning Department Review:** The Planning and Zoning Administrator shall ensure that the final plat and associated documents have been checked by

the applicable Town Departments (Public Works, Public Safety), Town Engineer and Town Attorney for completeness and general compliance with this title and for incorporation of any changes required during the preliminary plat procedure, and that other applicable approval agencies have granted approval. Such review shall be conducted consistent with section 9-9-2 of this chapter. If the submission is not complete, not in general compliance with, or does not incorporate conditions of previous approvals, the Planning and Zoning Administrator shall notify the applicant in writing and specify the respects in which it is deficient. (amd. ord. 21-005, 05-2021, amd. ord. 24-014, 10-8-24)

- c. **Land Use Authority Review:** Upon receipt of the final plat and Town Staff's recommendation, the Planning and Zoning Administrator shall:
  - i. Approve the final plat as presented;
  - ii. Disapprove the final plat and advise the applicant in writing of the changes or additions that must be made for approval; or
  - iii. Continue the application to allow the applicant to make revisions. The applicant shall be responsible for notifying the Town that the final plat has been revised and is ready for recommendation. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

- 4. **Expiration Of Final Plat Approval:** If the final plat is not recorded or the requirements set forth as a condition of final approval are not met by the applicant within twelve (12) months from the date of final plat approval, such approval shall be null and void. This time period may be extended for good cause shown, for one (1) additional six (6) month time period by the Planning and Zoning Administrator. The applicant must petition for an extension prior to the expiration of the original twelve (12) months, or an extension previously granted. Up to two (2) extensions may be granted if each extension will not be detrimental to the Town. If any of the fees charged as a condition of subdivision approval, including, but not limited to, inspection fees, park fees, flood control fees, as well as the amounts the Town uses to estimate bonds to ensure completion of improvements, have increased, the Town may require the applicant pay such increases as a condition of granting the extension. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

- E. **Security Agreement:** Prior to recording a final plat, the applicant shall provide sufficient financial guarantee consistent with [chapter 13](#) of this title. The accompanying agreement may contain such provisions as approved by the Town Attorney and Town Engineer. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)
- F. **Plat Recorded:** After final approval, filing of security agreements and signing of the plat by the Town Manager, Mayor, Town Engineer, Town Attorney, utility companies and other required entities, the plat and covenants, conditions, and restrictions (CC&Rs) shall be

recorded in the office of the County Recorder by the Town Clerk, with all recording costs paid by the applicant. (amd. ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-24)

**G. Acceptance of Subdivision Improvements:**

1. Subdivision improvement or such conditions imposed under this title shall be deemed accepted by the Town only upon complete final inspection by the appropriate Town Departments or officials and the issuance of a Certificate of Acceptance by the Town Manager or designee.
2. **Conditions for Acceptance:** In order for the subdivision public improvements such as streets, sewer, and water to be accepted, the following shall occur:
  - a. Upon substantial completion of the subdivision improvements, the subdivider shall submit a written request for the Town to conduct a substantial completion inspection.
  - b. Within a reasonable time of the request, and weather permitting, the Town shall conduct an inspection of the improvements to ensure that they have been installed per the letter to the subdivider identifying required corrections to be completed prior to the one (1)-year warranty period beginning. At the beginning of the warranty period, the Town shall release all funds, except for a retention bond as allowed per Utah Code Annotated §10-9a-et.seq. During the one (1)-year warranty period, the Town may provide services to the subdivision such as water, sewer, snow removal and garbage collection.
  - c. At the end of the one (1) -year warranty period, the applicant may submit a written request to the Town for a final acceptance inspection of the subdivision improvements. Upon completion of any required corrections or repairs, the Town shall issue a letter of final acceptance and release any retention due to the applicant. (2010 Code, amd. ord. 24-014, 10-8-24)

**9-9-4: SUBDIVISION PLAT AMENDMENTS:**

- A. **Subdivision Amendments; Vacation of Public Streets:** Any landowner whose land has been platted as provided in this title may, upon application to the Town, have such plat, or portion thereof, or any street or alley therein contained , altered, amended, or vacated in compliance with the provisions of this section and Utah Code Annotated [§10-9a-608](#), [§10-9a-609](#), and [§10-9a-609.5](#) et seq. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

- B. **Property Boundary Adjustments; Lot Line Adjustments; Boundary Line Agreements:** Property boundary adjustments including parcel boundary adjustments, lot line adjustments, and boundary line agreements shall follow the process identified in Utah Code Annotated §10-9a-523 and §10-9a-524 et. seq. When subject to review by the Town, applicant(s) shall submit a complete application including the fee as required in the Town's Consolidated Fee Schedule to the Planning and Zoning Department for review. The Planning and Zoning Administrator or designee may approve an application based upon consistency with the provisions of this title. (ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

C. **Minor Plat Amendments:**

1. As provided for in UCA [§10-9a-608\(2\)](#), any plat amendment which meets the following criteria qualifies for the streamlined plat amendment process described in this section:
  - a. Does not increase the number of lots in the subdivision by more than ten (10) lots;
  - b. Does not reduce the number of lots in the subdivision by more than ten (10) lots;
  - c. Does not alter the plat in a manner that changes existing boundaries of other attributes of lots within the subdivision that are not owned by the petitioner or designated as common area;
  - d. Does not require additional public utilities or infrastructure to provide adequate public service to the newly divided lots; and
  - e. Does not create a lot that is smaller than the smallest lot within the existing subdivision plat.

(ord. 21-005, 05-11-2021)

2. **Standards for Review:**

- a. The proposed subdivision and use conform to the Town General Plan, Zoning Regulations, Public Works Standards, Design Standards [chapter 12](#) of this title, and other relevant sections of this title.
- b. The proposed method for fire protection complies with this title, and other regulations as applicable.
- c. The layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, and visual impacts. (amd. ord. 24-014, 10-8-24)
- d. Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, electric,

telecommunications, trails, transit, snow storage areas, police and fire protection, and recreation.

- e. Provide evidence to show that there is no encumbrance, lien or conveyance restricting the intended use of the lot.
- f. Provide evidence from the County Treasurer that all ad valorem taxes applicable to the property have been paid.
- g. Provide signature blocks on the plat signed by a representative of public utilities which identify their approval.

(ord. 21-005, 05-11-2021)

### **3. Review Process:**

- a. Planning and Zoning Review: The Planning and Zoning Department and other necessary Town staff shall review the documents submitted for concept plan review to determine if they are complete as required in [chapter 4](#) of this title and meets the Standards For Review. (amd. ord. 24-014, 10-8-24)
  - b. Public Notice: Notice for at least one public meeting at which the Planning Commission will consider the amended plat shall be given to adjoining property consistent with UCA [§10-9a-207](#).
  - c. Planning Commission Review: Upon receipt of the amended plat, the Planning Commission shall examine the plat to determine whether the plat conforms to all applicable Town ordinances and codes and the Standards For Review, and with all requirements imposed as conditions of previous acceptances. The Planning Commission may:
    - i. Approve the amended plat as presented.
    - ii. Disapprove the amended plat and advise the applicant in writing of the changes or additions that must be made for approval; or
    - iii. Table or continue the application to allow the applicant to make revisions. The applicant is responsible for notifying the Town that the amended plat has been revised and is ready for reconsideration.
  - d. Plat Recorded: After final approval and signing of the amended plat by the Town Manager, Mayor, Town Engineer, Town Attorney, utility companies and other required entities, the approved amended plat shall be recorded in the office of the County Recorder by the Town Clerk, with all recording costs paid by the subdivider.
4. Expiration of Amended Plat Approval: If the amended plat is not recorded or the requirements set forth as a condition of final approval are not met by the subdivider

within six (6) months from the date of amended plat approval, such approval shall be null and void.

- D. **Major Plat Amendments:** All plat amendments which do not qualify under subsection (B) or (C) shall be considered major plat amendments and will be considered under the process described in 9-9-2 of this title and consistent with Utah Code Annotated §10-9a-608 and §10-9a-609.

1. At the applicant's request, the Planning and Zoning Administrator may choose to waive the Concept Plan Review process required by section 9-9-2 of this title if it is determined following the pre-application conference that the proposed plat amendments substantially meet the standards for review and that additional conditions are not likely to result from the Concept Plan Review. The applicant will still be responsible for any costs associated with adjustments to the preliminary plat which result from the Preliminary Plat Review.
2. Public Notice Requirements: In addition to the requirements of 9-9-2, notice for the public hearing during the Preliminary Plat Review shall be given to adjoining property owners consistent with 9-1-8 of this title and UCA §10-9a-207.

(ord. 21-005, 05-11-2021)

#### **9-9-5: SUBDIVISION BY METES AND BOUNDS:**

- A. **Purpose:** The intent of subdivision by metes and bounds is to streamline the subdivision review and approval process for previously unsubdivided parcels in coordination with the existing utilities and public infrastructure where no more than ten (10) residential parcels or no more than two (2) commercial parcels will result from the subdivision. (2010 Code, amd. ord. 21-005, 05-11-2021)

- B. **Standards for Review:** When the applicant is prepared to record or sell specific parcels of property not previously subdivided, they must demonstrate to the satisfaction of the Town the following:

1. The proposed parcels conform to the previously approved General Plan and this title;
2. No additional public utilities or infrastructure are required to provide adequate public service to the newly divided lots; (ord. 21-005, 05-11-2021)
3. The utility and/or vehicular access to remaining undeveloped property will not be impaired;

4. The proposed parcels will have access to existing necessary utilities;
5. That remnant parcels which did not previously exist are not created which, due to size, configuration, or location, do not meet current zoning requirements and/or are not able to be developed; and
6. The proposed subdivision meets the criteria for exemption from the plat requirement set forth by the Utah Code Annotated §[10-9a-605](#) et. seq. (amd. ord. 24-014, 10-8-24)

C. **Review Process:** Subdivisions which qualify under this section shall be considered under the Minor Plat Amendment process described in § [9-9-3 \(C\)](#) of this title.

#### **9-9-6: CONVERTIBLE OR EXPANDABLE AREA FOR CONDOMINIUMS:**

Land use approvals depicted with convertible or expandable space shall comply with the requirements of Utah Code Annotated, [§57-8 et. seq.](#) and the declaration associated with the project. Conversions and expansions of units shall go through a plat amendment process unless the original plat approval specifically identifies the proposed conversions and expansions of the project, and the amended plat and declaration are in harmony and conformance with the original project approval. In such cases, the amendment documents may be recorded when they have been reviewed, signed, and approved for recordation by the appropriate Land Use Authority. (2010 Code, amd. ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-24)

#### **9-9-7: WATER RIGHTS ACQUISITION AND CONDITIONS**

A. **Purpose and Findings:**

1. The Town's primary purpose for establishing this ordinance is to acquire the water rights necessary to serve its expanding population. (ord. 2-009, 9-13-2022, amd. ord. 24-014, 10-8-24)
2. The Town supports the 2022 Workforce Housing Plan's recommendations and the associated incentivized inclusionary housing ordinance in [9-9-7](#) of this title and therefore will consider the award of water rights to projects that include affordable/workforce housing units. (ord. 23-007, 8-8-2023)
3. Based on studies done by the Town, the Town likely has enough water rights to provide water to all existing parcels (as of August 11, 2022). The Town does not have many extra water rights to provide water for the potentially hundreds of new

parcels that can be created when the Town expands. (ord. 22-009, 9-13-2022, amd. ord. 24-014, 10-8-24)

**B. Time and Conditions for the Town to award Water Rights:**

1. One hundred (100)-acre feet of water rights (the “Pool”) will be reserved for certain subdivisions on a first come, first served basis. (ord. 22-009, 9-13-2022, amd. ord. 23-007, 8-8-2023, amd. ord. 24-014, 10-8-24)
  - a. Sixty (60) acre feet of the Pool will be reserved for commercial subdivisions.
  - b. Thirty-seven (37) acre feet of water will be reserved for R1, R2, and R3 subdivisions of more than two (2) lots. For R3 subdivisions, the acre feet may only be accessed through a development agreement with the Town.
  - c. Three (3) acre feet of water will be reserved for single-family lot splits (an individual who wishes to divide their parcel into two (2) lots only).
  - d. Once the Pool has been allocated, any applicant wishing to subdivide must follow all the regulations below in this section. (amd. ord. 24-014, 10-8-24)
2. All property that has not previously dedicated water rights shall be required to dedicate water rights at the time of annexation, or if already in Town limits, at the time the property subdivides. (ord. 22-009, 9-13-2022)
3. Subdivisions or developments requesting water rights from the Town shall provide deed-restricted affordable housing units on site in compliance with all provisions of [9-9-7](#) except [9-9-7.B.2.a](#) which is replaced with the following percentages of the total development units and income restrictions:
  - a. Rental Units:
    - i. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for rent must be affordable to households earning thirty percent (30%) or less of Iron County’s Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
    - ii. For subdivisions or condominium projects of ten (10) lots/units or more, ten percent (10%) of the total dwelling units for rent must be affordable to households earning sixty percent (60%) or less of Iron County’s Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD);
  - b. Ownership or ‘For Sale’ Units:
    - i. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for sale must be affordable to households earning eighty percent (80%) or less of Iron County’s Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or

- ii. For subdivisions or condominium projects of ten (10) lots/units or more, ten percent (10%) of the total dwelling units for sale must be affordable to households earning one hundred percent (100%) or less of Iron County's Median Family income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
- iii. For subdivisions or condominium projects of ten (10) lots/units or more, fifteen percent (15%) of the total dwelling units for sale must be affordable to households earning one hundred and twenty percent (120%) or less of Iron County's Median Family Income based on housing size and determined by the U.S. Department of Housing and Urban Development (HUD).

(ord. 23-007, 8-8-2023, amd. ord. 24-014, 10-8-24)

**C. Amount of Water Rights:**

- 1. Prior to final approval or recordation of the final subdivision plat or other development activity requiring culinary water service from the Town, the applicant shall transfer and dedicate to the Town, the unencumbered, clear title to a sufficient quantity of water rights and/or sources necessary to provide and deliver culinary water to each lot, dwelling unit and/or other use within the new development.
- 2. **Sufficient Quantity of Water Defined:** A "sufficient quantity of water" shall be decided as a result of the applicant's produced water study. The water study shall include open space and all other real property included in the proposed subdivision and/or development. The Land Use Authority, with the recommendation of Town Staff shall review and approve the proposed amount of water based on the buildout study provided by the Town. The Land Use Authority, with the recommendation of Town Staff, may reasonably adjust this amount depending on the type of subdivision and development requested and the water requirements thereof. The Land Use Authority, with the recommendation of Town Staff, may elect to waive the water study requirement and instead require three tenths (0.3) acre feet per residential unit and one and one half (1.5) acre feet per commercial unit.

**D. Acquisition of Excess Water Rights:** If at any time an owner is required to deed water rights to the Town, and if that owner owns more water rights which have been used on the property relating to the land use application than the owner is required to deed to the Town, then the Town shall request that the owner either sell the excess rights to the Town or enter into an agreement with the Town, giving the Town the first right of refusal should the owner decide to sell said water rights in the future.

E. **Type of Water Rights:** Water rights shall be subsurface water rights that have a priority date prior to January 1, 1934, and be available for use in Water Right Area 75.

F. **Transferring Water Rights:** The applicant shall submit a title report showing the type of water right, ownership of the right, and any liens or encumbrances. The applicant shall also provide a title insurance policy in such a sum that is adequate to cover the appraised value of the water rights the policy is covering.

1. A change application with the State of Utah shall be completed at the expense of the party developing the land. Information to be included in the change application will be provided by the Town, including the points of diversion. The change application must be approved by the State Engineer prior to transferring water rights to the Town on the books of the State of Utah Division of Water Rights. This transfer may also be conditioned on approval of the land use application pending before the Town that caused the transfer of water rights.
2. A deed transferring the water rights to the Town shall be completed and held prior to the land use application approval. The deed transferring ownership may be held either by the Town or in an escrow account paid for by the applicant. Once the land use application and change application receive approval from the State, the deed will be recorded.
3. If the Division of Water Rights has not made a final decision on the change application prior to the land use approval, then the land use application will be tabled until a final decision is made.
4. If at any point in this process, the change application is denied by the Division of Water Rights then the request will be denied, and the land use application shall be denied.

G. **Exceptions:**

1. **Public Lands Exception:** If at the time of annexation, the annexed property is owned by the Bureau of Land Management (BLM) or the US Forest Service (USFS), that acreage shall not be subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.
2. **Brian Head Town Exception:** Nothing in this ordinance shall require the Town to deed water or pay a fee if the Town develops land.
3. **Lot Line Vacation Exception:** For purposes of this chapter, lot line vacations shall be considered as “putting water back into the pool”. For example, if two (2) lots

vacate one line and become one property, then the equal amount of water rights for one (1) lot shall be added into the three (3) acre feet of water reserved for single-family residential lots.

(ord. 22-009, 9-13-2022, amd. ord. 24-014, 10-8-24)

## **9-9-8: INCENTIVIZED INCLUSIONARY HOUSING**

A. Purpose and Authority: The purpose of this chapter is:

1. To support the 2022 Workforce Housing Plan's recommendation to implement an inclusionary housing program within the Town;
2. To facilitate and encourage development that includes a range of housing opportunities through a variety of residential types, forms of ownership, home sale prices and rental rates;
3. To increase the number of owner-occupied or 'for sale' housing units for households with an income of one hundred twenty percent (120%) or less (i.e. less than eighty percent (80%) or one hundred percent (100%) for some projects) of Iron County's Median Family Income; and
4. To increase the number of rental housing units for households with an income of sixty percent (60%) or less (i.e. less than thirty percent (30%) for some projects) of Iron County's Median Family Income.
5. To provide for a range of workforce/affordable housing units to ensure the welfare and viability of the Town's resort economy operations.

(amd. ord. 24-014, 20-8-24)

B. **Applicability & Minimum Project Size; Incentivized Height and/or Density Opportunities Based Upon the Provision of Workforce Housing:**

1. The following bonus density shall be allowed where the workforce housing provisions of this section are met.
  - a. R1: Single-Family Residential – One (1) unit per one third (1/3) acre.
  - b. R2: Medium Density Residential – Ten (10) units per acre.
  - c. R3: Multi-Family Residential – Twenty five (25) units per acre.
2. On-site Option:
  - a. Any new residential or commercial project may increase the allowed base density, or building height, on a site pursuant to the zoning classification bonus standards outlined in 9-9-8(B)(1) subject to the provision of deed-restricted workforce/affordable housing units on site with the following income restrictions:

- i. Rental Units:
    - I. For subdivisions or condominium projects of ten (10) lots/units or more, two and a half percent (2.5%) of the total dwelling units for rent must be affordable to households earning thirty percent (30%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
    - II. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for rent must be affordable to households earning sixty percent (60%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD);
  - ii. Ownership or 'For Sale' Units:
    - I. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for sale must be affordable to households earning eighty percent (80%) or less of Iron County's Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
    - II. For subdivisions or condominium projects of ten (10) lots/units or more, six and a quarter percent (6.25%) of the total dwelling units for sale must be affordable to households earning one hundred percent (100%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
    - III. For subdivisions or condominium projects of ten (10) lots/units or more, seven and a half percent (7.5%) of the total dwelling units for sale must be affordable to households earning one hundred and twenty percent (120%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD).
- b. For developments built by a single developer, all required workforce housing units must be constructed simultaneous to the market rate units. The final twenty percent (20%) of a project's building permits for the market units will not be issued until the workforce housing units are completed.
- c. If the approved workforce housing units are part of a subdivision approval in which individual lots will be sold separately, the following provisions apply:
  - i. All final subdivision plats shall include plat notes specifically identifying those lots that are dedicated for the construction of workforce housing units. These plat notes must include minimum/maximum size of unit requirements, household income requirements (e.g., thirty percent (30%), sixty percent (60%), eighty percent (80%), one hundred percent (100%),

or one hundred twenty percent (120%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD), etc.

- ii. These lots will be required to have a deed-restriction recorded with the final subdivision plat that outlines the requirements and limitations associated with workforce housing.
- iii. The applicant shall provide a performance bond in the amount of the estimated construction costs for the workforce housing units. The Town Engineer or Town Manager will provide the construction cost estimate.
- iv. Whether the developer sells or donates these lots to a private or non-profit organization or decides to build the units themselves, all workforce housing units must be completed and a Certificate of Occupancy (CO) issued within two (2) years of the recordation of the final subdivision plat.

### 3. Cash-In-Lieu Option

- a. Calculation of cash-in-lieu fee: A developer may make a cash payment to the Town in lieu of providing the required number of on-site workforce/affordable units. The cash-in-lieu fee shall be calculated pursuant to the table below by multiplying the number of required workforce/affordable units by the applicable prescribed fee:

| <b>On-Site<br/>Workforce/Affordable<br/>Unit Tenure Type</b> | <b>Per Unit Fee</b> |
|--------------------------------------------------------------|---------------------|
| For Sale                                                     | \$350,000           |
| Rental                                                       | \$200,000           |

*\*Note: Applicants may use the lowest percentage of units applicable as outlined in Section B.2 for calculating the cash-in-lieu amount.*

- b. Remittance and collection of payment: Cash-in-lieu fees shall be collected in conjunction with the administration of the Town's system for planning and building review. All cash-in-lieu fees shall be paid in full prior to the recordation of the final subdivision plat. In the event that a project is phased, the cash-in-lieu fees may be paid with each applicable phase.
- c. Deposit and use of fees: All cash-in-lieu fees collected pursuant to this section shall be remitted to the housing development fund or a similar fund maintained by the Town. These funds shall be used exclusively to support the preservation or development of workforce/affordable housing for the administration and compliance of housing programs.

### 4. Land Donation Option:

- a. A developer may dedicate land to the Town as a third option to satisfy their workforce housing units. The dedication of land shall be subject to the following requirements:

| <b>On-Site Workforce/Affordable Unit Tenure Type</b> | <b>Per Unit Land Dedication</b>                                                        |
|------------------------------------------------------|----------------------------------------------------------------------------------------|
| For Sale                                             | Dedication of land (or lots) that appraise at \$350,000 or more at time of dedication. |
| Rental                                               | Dedication of land (or lots) that appraise at \$200,000 or more at time of dedication. |

*\*Note: Applicants may use the lowest percentage of units applicable as outlined in Section B.2a for calculating the land dedication.*

- b. All land required for dedication to the Town must be deeded to the Town prior to or at the time of the recordation of the final subdivision or condominium plat.
  - c. All land dedicated to the Town must be determined suitable for development by the Town's Planning and Zoning Department. Suitability shall be determined by an assessment of location and accessibility, marketability, slope, soil typology, additional environmental constraints, etc.
5. Proportional Application. Any development proposing a mixture of ownership or 'for sale' dwelling units and 'rental' dwelling units shall have an obligation to satisfy the requirements of sections (1), (2), and (3) above based on the proportion of each use type to the overall development. This applies to on-site units as well as the cash-in-lieu and land donation options.
  6. Rounding or Fractional Units. When calculating the number of on-site workforce/affordable units required pursuant to section (1) above, rounding shall be applied as outline in the following example:
    - a. Example: A new twenty five (25)-unit rental residential development is proposed. Application of a five percent (5%) inclusionary requirement for rental units results in a requirement for one and one quarter (1.25) deed-restricted workforce/affordable rental units. The proposed workforce/affordable housing plan shall (1) provide one (1) deed-restrict workforce/affordable rental unit on-site and pay an additional cash-in-lieu fee for one quarter (0.25) units (see calculation below) or (2) provide two (2) deed-restricted workforce/affordable rental units on-site with no additional cash-in-lieu fee.

Fractional Unit Calculation:

Twenty five (25) units with a five percent (5%) inclusionary requirement = 1.25 required workforce/affordable units.

One (1) deed-restrict workforce/affordable rental unit shall be constructed on-site or a fee of two hundred thousand dollars (\$200,000) paid.

The remaining one quarter (0.25) unit requirement shall be met with the construction of one (1) workforce/affordable unit or a payment of fifty thousand dollars (\$50,000) (0.25x\$200,000).

**C. Standards for Income-Restricted Units**

1. Design. Restricted units shall be comparable in design, and appearance to the market-rate units in the residential development and shall comply with all size requirements and other design standards of this title including, but not limited to, building code requirements, parking standards, landscaping, etc. These requirements shall apply equally to all dwelling units, market units and workforce/affordable units alike.

a. Minimum Square Footage Standards: In order to assure livability, the standard net livable square footage for workforce/affordable units shall be as follows:

| UNIT TYPE         | MINIMUM SQUARE FOOTAGE |
|-------------------|------------------------|
| Micro Unit/Studio | 400 sq. ft.            |
| 1 Bedroom         | 600 sq. ft.            |
| 2 Bedroom         | 800 sq. ft.            |
| 3 Bedroom         | 1,200 sq. ft.          |
| 4 Bedroom         | 1,400 sq. ft.          |

*\*Note: No development shall have more than ten percent (10%) of all workforce/affordable units designated as 'Micro Unit/Studio' units unless specifically approved by the Land Use Authority. All units must be used as the homeowner's/renter's primary residence and comply with all aspects of this title and the adopted building code.*

(amd. ord. 24-014, 10-8-24)

2. Type. Residential developments that include more than one (1) type of residential unit shall provide income-restricted units in rough proportion to the types and various designs of market-rate residential units constructed. For example, in developments with a mixture of two-bedroom and three-bedroom residential units, the income-restricted units shall be comprised of each residential unit type in the same proportion and living area as the market-rate units. The applicant may request an exception from this requirement for review and approval by the Land Use Authority.

3. For sale or rent. Income-restricted units shall be for sale or for rent in the same proportion as the market-rate units. For example, if fifty percent (50%) of the units in the residential development are for sale, then at least fifty percent (50%) of the income-restricted units shall be for sale unless otherwise approved by the Land Use Authority.
4. Location. Income-restricted units shall be located on the site on which the residential development is proposed and shall have access to amenities equal to that of the owners and renters of the market-rate units, including without limitation: parks, outdoor play areas, pools, exercise facilities, and similar on-site amenities.
5. Timing. Income-restricted units shall be ready for occupancy no later than the date of the initial Certificate of Occupancy for any of the market-rate units in the project. If the market-rate units are to be constructed in phases, then the income-restricted units may be constructed in phases, in proportion to the phasing of the market-rate units.
6. Residency or Employment Requirements: For sale income-restricted units shall be limited to:
  - a. A full-time (aggregate of thirty (30) hours of employment per week) employee of an entity or entities located within Iron County for a minimum of one (1) year (preference is given for a person employed within the Town); or
  - b. An owner of a business or entity with a primary place of business within Iron County for a minimum of one (1) year (preference is given for a business that is located within the Town); or
  - c. A full-time (aggregate of thirty (30) hours of employment per week) worker who is self-employed or works out of their home and can provide proof that a minimum of seventy five percent (75%) of their clients are based within Iron County for a minimum of one (1) year (preference is given for clients located within the Town).
  - d. Remote workers will only be considered if the applicant has been a local, Iron County resident for a minimum of two (2) years prior to application (preference is given for a person that currently lives within the Town).

(amd. ord. 24-014, 10-8-24)

**D. Income Standards for All Workforce/Affordable Housing Units**

1. All units must remain affordable for a period not less than thirty (30) years from the initial issuance of Certificate of Occupancy. At that time, the Town Council shall determine whether to extend the inclusionary housing program and associated deed restrictions.
2. A deed restriction will be recorded on the property that stipulates the income requirements and term requirements for the units provided.

3. Household income shall be defined as the combined income of all individuals, excluding dependents, who are or will be occupying the unit regardless of legal status.
4. For ownership or 'for sale' units: qualified households cannot earn more than one-hundred and twenty percent (120%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD);
5. For rental units: qualified households cannot earn more than thirty percent (30%) or sixty percent (60%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD).
6. The Town Council will adopt income requirements by resolution as frequently as necessary and the requirements will be maintained by the Planning and Building Department.
7. In addition to income, the following standards will apply:
  - a. Net Assets/Net Worth Standard:
    - i. The combined net worth of the persons eighteen years of age and older in the Household shall not exceed four (4) times the AMI for the household size. Assets include business assets, real estate, stocks, bonds, trust funds, cash, and retirement accounts.
    - ii. A one-time gift of up to thirty percent (30%) of the purchase price used for the purchase of a for sale unit may be considered in net assets, and not as income, for the purposes of initial qualification.
    - iii. Disposition of assets: Any member of a household who has assigned, conveyed, transferred, or otherwise disposed of property or other assets within the last two (2) years without fair consideration in order to meet the net asset limitation or property ownership limitation shall be ineligible.
8. The Town's Planning and Building Department will serve as the entity to review and qualify household for the workforce/affordable units.
9. A list of qualified households shall be kept by the Town in order of approved application.  
(amd. ord. 24-014, 10-8-24)

**E. Calculation of Sale Price**

1. The initial sales price for a workforce/affordable ownership unit in any development shall average a price affordable to a household earning eighty percent (80%) or one hundred percent (100%) or one hundred and twenty percent (120%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD), depending on the

proposed unit and AMI configuration the developer proposes to include in the development (see Section B.2.a), The target household income sale price shall be calculated according to the following guidelines:

- a. Mortgage payment for the owner-occupied unit, including principal and interest and homeowners association (HOA) operating dues shall not exceed thirty percent (30%) of the target household income (gross).
- b. The assumptions used to calculate the sales price shall be:
  - i. a five percent (5%) down payment;
  - ii. a thirty (30) year term; and
  - iii. an interest rate equal to the prevailing interest rates as defined by the federal government (Federal Reserve Bank of St. Louis) at the time of the offer.

(amd. ord. 24-014, 10-8-24)

#### **F. Calculation of Rental Rates**

1. In general, rental rates for a workforce/affordable unit in any development shall be affordable to a household earning either thirty percent (30%) or sixty percent (60%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD), depending on the project type submitted for review. Affordability standards are based on maximum rental rates which are targeted at thirty percent (30%) of the household's income. Maximum rental rates shall be calculated as follows:
  - a. Maximum rental rates shall include the cost of utilities and homeowners association (HOA) fees, if applicable. The landlord/owner shall submit a lease which includes the proposed monthly rental rate along with proof of utility costs to the Planning and Zoning Department, or designee. Town Staff will evaluate the lease and either approve or deny the rental rate proposed based on the standards established herein.
  - b. Rental rates shall apply whether the units are provided furnished or unfurnished.
  - c. The owner of any designed workforce/affordable housing rental units, at their cost and expense, must keep and maintain the interior and exterior of the total structure (including all residential units therein) and the adjacent open areas in a safe and clean condition and in a state of good order and repair.

(amd. ord. 24-014, 10-8-24)

#### **G. Deed Restriction Standards for Workforce/Affordable Units – Owner-Occupied Units and Rental Units:**

1. Owner Occupied Units: All owner-occupied workforce/affordable units will have the following requirements clearly outlined in the deed restriction recorded for the property:

- a. The method of calculation of the allowed Maximum Resale Price ('MRP') shall include:
    - i. An increase in price of three percent (3%) per year from the date of purchase to the date of owner's notice of intent to sell (compounded annually and prorated at the rate of one quarter percent (.25%) per each whole month of any part of a year).
      - I. Any proposed improvements or renovations to the units, internal or external, must be approved by the Town's Planning and Zoning Department, or designee, prior to the commencement of any work. The base value of the unit (at time of purchase by the new owner) may not increase more than ten percent (10%) as a result of these approved eligible improvements. For example, if the base value of a unit is two hundred thousand dollars (\$200,000), and an owner is approved to make improvements valued at twenty five thousand dollars (\$25,000), the maximum value of the workforce/affordable unit will be capped at two hundred twenty thousand dollars (\$220,000) ( $\$200,000 * 0.10$ ). The outstanding five thousand dollars (\$5,000) for improvements will not be counted in the MRP.
    - ii. The notice of intent to sell must be made to the Town's Planning and Building Department, or designee, in writing delivered via mail (e.g. USPS) or by email. The notice of intent shall allow the Town Staff no less than sixty (60) days to determine whether to exercise the right-of-first-refusal or to coordinate a private transaction.
    - iii. The Town shall either purchase the unit per a right-of-first refusal clause included in the deed restriction or coordinate with the owner of the workforce/affordable unit to sell the unit to the qualified household at the top of the Town's qualified households list.
  - b. All owner-occupied units must be occupied by the qualified household that purchased the unit as the/their primary residence (minimum of twelve (12) months occupancy per year).
  - c. No nightly rentals are permitted within any workforce/affordable housing unit.
- (amd. ord. 24-014, 10-8-24)

2. Rental Units: All rental workforce/affordable units will have the following requirements clearly outlined in the deed restriction recorded for the property:
  - a. All rental units must be occupied by the qualified household that rented the unit as the/their primary residence (minimum of twelve (12) months occupancy per year unless the Land Use Authority approves a project with part-time workforce housing units such as, but not limited to, single-room occupancy units, etc.).

- i. The applicant may request an exception from this requirement (e.g., a request for seasonal workforce housing, etc.) for review and approval by the Land Use Authority.
- b. No subleases are allowed without the written approval of the Town's Planning and Building Department, or designee.
- c. No nightly rentals are permitted within any workforce/affordable housing unit.
- d. The landlord/owner may not increase the monthly rental rates for the workforce/affordable units more than two percent (2%) annually.

(amd. ord. 24-014, 10-8-24)

#### **H. Violation and Penalty**

1. It is unlawful to operate a restricted unit in violation of this chapter, and violations shall be punishable as set forth in the Town Code. Each day of violation shall be deemed as a separate offense.
2. In addition to the remedies provided by this code, the Town shall have any and all remedies provided by law and in equity for a violation of a deed restriction, including without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including without limitation an injunction requiring eviction of the occupant(s) and an injunction to prohibit the occupancy of the deed-restricted unit in violation of the deed restriction.

(ord. 23-007, 8-8-2023, amd. ord. 24-014, 10-8-24)