

CHAPTER 15 SUBDIVISIONS

SECTION

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10.15.10. SHORT TITLE.

This chapter shall be known and may be cited as the “subdivision ordinance.”

10.15.20. PURPOSE.

The purpose of this chapter is:

1. To promote the health, safety, and general welfare of the residents of the Town.
2. To promote the efficient and orderly growth of the Town.
3. To provide policies, procedures, requirements, and standards for the physical development of subdivisions of land, and construction of improvements within the Town, including, but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water and sewer systems, design standards for public facilities and utilities, accesses to public rights of ways, and to establish fees and other charges for the authorizing of a subdivision.
4. To ensure that public facilities are available at the site and will have a sufficient capacity to serve a proposed subdivision.

5. To encourage the wise use and management of natural resources to preserve the integrity, stability, and aesthetics of the community.

10.15.30. APPLICABILITY AND EXCEPTIONS.

1. No person shall subdivide any parcel of land located wholly or partly in the Town except in compliance with this chapter.
2. No person shall sell or exchange or offer to sell or exchange any parcel of land which is any part of a subdivision of a tract of land, nor offer for recording in the office of the Utah County recorder any deed conveying such parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this chapter.
3. This chapter shall not apply to a lot or parcel resulting from a division of agricultural land if the lot or parcel (i) qualifies as land in agricultural use, (ii) meets the minimum size requirements of the land use ordinances, and (iii) is not used and will not be used for any non-agricultural use.

10.15.40. AUTHORITY.

1. The Town Administrator, or its designee, has the authority to implement, interpret, and enforce the provisions of this chapter. In furtherance of this authority, the Town Administrator shall:
 - a. Implementation: The Town Administrator shall have the authority to take all necessary actions to carry out the objectives of this chapter, including the approval, denial, or conditional approval of subdivision applications, in accordance with its terms and requirements.
 - b. Interpretation: In the event of ambiguity, inconsistency, or uncertainty in the application of the provisions of this chapter, the Town Administrator shall have the discretion to make determinations regarding its meaning and intent, consistent with the chapter's purpose and in consultation with relevant legal and planning officials, as needed.
 - c. Enforcement: The Town Administrator shall have the authority to enforce compliance with this chapter through administrative action, including but not limited to issuing notices of violation, imposing penalties as provided herein, or taking corrective actions. The Town Administrator may also refer matters to the appropriate enforcement agencies or legal authorities for further action, including court proceedings when necessary.

10.15.50. PRE-SUBMISSION MEETING.

1. It is strongly recommended that the applicant for a subdivision schedule a pre-submission meeting with the Town Administrator or another representative of

the Town designated by the Town Administrator. Upon request from an applicant, the Town shall schedule a pre-submission meeting within 15 days of the request.

2. The Town Administrator may extend an invitation to the pre-submission meeting to any servicing utility companies, the health department, the state department of transportation, the fire department, and any other private or public body that has jurisdiction or an interest in providing services to the subdivision.
3. At the pre-submission meeting, the applicant may bring any materials to assist the parties in identifying the location of the potential subdivision, the size and layout of the subdivision, and any potential problems or challenges to creating the subdivision. The Town shall have available or provide access to: (1) copies of applicable land use regulations; (2) a complete list of standards required for the project; (3) preliminary and final subdivision application checklists; and (4) feedback on the pre-submission plans.
4. Due to the unique terrain of the real property within the Town, the Town Administrator may request that the applicant submit additional information.

10.15.60. APPLICATION.

1. The applicant for a subdivision shall prepare and submit a preliminary plat application to the Town Administrator. The application shall include three (3) copies of a complete preliminary plat and three (3) completed application forms for the subdivision, including all required maps and charts. All application materials shall be submitted simultaneously to be considered for completeness.
2. Application Form and Content: The Town Administrator may create a preliminary plat application form based on the requirements of this section. A complete application shall include all of the following information:
 - a. Property Information: The date of the application, the name, address, phone number, e-mail address, and signature of the applicant and the owner of the property, the current zoning of the property, the location and address of the proposed subdivision, the total acreage of the subdivision, and the number of proposed lots. All persons with a fee interest in the property shall sign the subdivision application form. The applicant shall submit a preliminary title report for all property within the application.
 - b. Site Information: The following subdivision site information is required for a complete application and shall be provided at the same scale as the preliminary subdivision plat, on separate sheets if necessary:
 - i. The identification of known and potential natural features on a map, including, but not limited to, jurisdictional wetlands as identified by the U.S. Army Corps of Engineers, known or potential natural Waterways, Top of Bank, and any potential natural hazards, including avalanche paths, liquefaction areas, and areas of soil

instability, and all on-site vegetation regulated by Town ordinance. A final map identifying known and potential natural features as described in this section and identified by the Town Administrator will be reviewed and approved or denied by the Planning Commission as part of the application review process.

- ii. The location and dimensions of all existing buildings, fence lines, and property lines must be overlaid on the proposed subdivision layout, and the location of surrounding manmade features and improvements, including buildings and roads, and natural features, including significant landmarks and geologic features.
- c. Evidence Of Availability Of Necessary Services: The following information is necessary to establish the availability of basic services to the proposed subdivision, and the preliminary plat subdivision application is complete only when all basic services are available to the site and to each proposed subdivision lot, and approved in writing by the designated authority:
 - i. Culinary Water Requirements: The Town Administrator is collectively designated as the "culinary water authority," further defined in Utah Code title 10, chapter 9a. Such culinary water authority shall evaluate and approve the proposed culinary water system for the subdivision. The applicant shall comply with Title 6 of Town Code and provide all information required by the culinary water authority (and other applicable agencies described below, if any), including, but not limited to, evidence of the source, quantity, quality, and means of delivery of the proposed culinary water to the proposed subdivision and each proposed lot. Certain property within the Town boundaries may not be eligible to be served by the Town culinary water system and shall be required to obtain approval from any additional public or private agency with jurisdiction over the proposed water source or delivery system. The requirements of the State Division of Drinking Water must be satisfied and Division approval, where required, shall be obtained by the applicant before a final plat is approved.
 - ii. Wastewater Requirements: The Town Administrator, or designee, is hereby designated collectively as the "sanitary sewer authority," as further defined in Utah Code title 10, chapter 9a, as amended or replaced. Each sanitary sewer authority shall evaluate and approve the proposed sanitary sewer system. The applicant shall provide all information and materials as required by the sanitary sewer authority.
 - iii. Fire And Emergency Requirements: The Utah County Fire Marshall is hereby designated as the "fire authority", as further defined in Utah Code title 10, chapter 9a, as amended or replaced. The fire authority shall evaluate and approve the proposed fire suppression

infrastructure and emergency access to the proposed subdivision. If the proposed subdivision does not include year-round motor vehicle (as defined by Utah Code) access to all proposed lots and proposed and existing roads, streets, and adjacent properties, the application shall include an emergency access mitigation plan, approved by the fire authority and the Town. The applicant shall provide all information and materials as required by the fire authority.

- iv. Subdivision Roads And Streets: All proposed subdivision streets shall be evaluated and approved by the Town Administrator and, if appropriate, the state department of transportation. The proposed street layout shall comply with Town Code § 6.3.160 and provide adequate and safe year-round access to all proposed lots and proposed and existing roads, streets, and adjacent properties. If the proposed subdivision does not include year-round motor vehicle (as defined by Utah Code) access to all proposed lots and proposed and existing roads, streets and adjacent properties, the application shall include a parking and access mitigation plan. If the proposed subdivision will be accessed from a state highway, an appropriate access permit as required by the state department of transportation, shall be provided with the application materials in order to be a complete application. If the proposed subdivision is accessed from land owned by the State or federal government, the applicant shall provide any appropriate access or special use permits as required by the landowner with the application materials in order to be a complete application.
- v. Soil Reports: All projects require a Soils and Geotechnical Report as provided in Title 5 unless otherwise indicated by the Town Engineer.
- vi. Feasibility Study: A feasibility study approved by Utah County.
- vii. Airport Zoning: Proof of compliance with Utah Code § 72-10-403 (Airport Zoning Regulations).
- viii. Additional Information And Materials When Necessary: When the Town Administrator deems necessary due to the characteristics of the property to be subdivided, the applicant may be required to provide other information or letters of feasibility from other agencies with jurisdiction over the property to be subdivided, conduct studies, and provide evidence indicating the suitability of the area for the proposed subdivision, including, but not limited to, adequacy of public safety and fire protection, geologic or flood hazard, erosion control, preservation of vegetation, and any other physical or environmental matters in conformance with the Town zoning ordinances. Such additional requirements shall be made of the

applicant at the pre-submission meeting, or reasonably soon thereafter.

- ix. Notice: The applicant shall provide the Town with two (2) sets of typewritten address labels and sufficient funds to cover related postage costs to all property owners within three hundred feet (300') of the boundaries of the proposed subdivision and all affected entities.

10.15.70. SUBDIVISION PHASING.

1. Phasing Plan Submission:

- a. Applicants proposing phased subdivisions must submit a detailed phasing plan as part of the initial subdivision application.
- b. The phasing plan must include:
 - i. A timeline showing anticipated start and completion dates for each phase.
 - ii. A map showing the boundaries of each phase, including any designated open spaces and infrastructure.
 - iii. Details of proposed infrastructure improvements, including roads, utilities, and public amenities.
 - iv. A description of how each phase will meet municipal infrastructure standards independently, particularly regarding access, emergency services, water, and sewage.

2. Review Process for Phased Subdivisions:

- a. The phasing plan shall be approved by the Planning Commission.
- b. Each phase of the subdivision shall undergo review in accordance with this chapter.
- c. Any changes to the approved Phasing Plan shall require an amendment application and review by the Planning Commission.

3. Compliance:

- a. Each phase must be able to function independently, with access to necessary infrastructure and services.
- b. Each phase shall provide adequate road access, drainage, water, sewage, and emergency access without reliance on future phases.

4. Infrastructure Installation Requirements:

- a. Infrastructure improvements must be constructed for each phase as planned to meet municipal standards.
 - b. Public amenities (parks, playgrounds, etc.) scheduled within specific phases must be installed concurrently with that phase to serve its residents. Public amenities must be complete before eighty (80) percent of the phased subdivision is complete.
5. Maintenance of Open Spaces and Common Areas:
- a. For private amenities, a homeowners' association (HOA) or similar entity shall be responsible for all maintenance.
 - b. For public amenities, the developer is responsible for maintenance until all phases of the subdivision are complete.
6. Time Limits and Extensions:
- a. Each phase must commence within [insert timeframe, e.g., 2 years] from the date of approval and be substantially complete within [insert timeframe, e.g., 5 years].
 - b. If a phase is not commenced or completed within these timelines, the applicant must apply for an extension. Approval of extensions shall be at the discretion of the Planning Commission.
 - c. If the developer does not apply for an extension and the time limit is exceeded, approval for that phase may be revoked by the Planning Commission.

10.15.80. FEES.

1. Application Fees: To be considered complete, the application for preliminary plat subdivision approval and a final plat subdivision approval shall be accompanied by all fees established on the Town fee schedule.
2. Technical Expertise And Engineering Fees: The applicant shall pay all expenses of reviewing and approving the subdivision, including the Town fees for hiring individuals with technical expertise, legal counsel and engineers to review the application.

10.15.90. PRELIMINARY PLAT.

1. Preliminary Plat: The Administrative Land Use Authority for the approval of a Preliminary Plat application shall be the Planning Commission. The preliminary plat shall comply with all zoning and development requirements be prepared by a licensed surveyor, and shall include the name and address of the surveyor responsible for preparing the preliminary plat, and shall include a certification that

the surveyor holds a license in accordance with Utah Code title 58, chapter 22, and has completed a survey of the property in accordance with Utah Code § 17-23-17. The preliminary plat shall describe or specify:

- a. A name or designation of the subdivision that is distinct from any plat already recorded in the county recorder's office;
 - b. North arrow, graphic and written scale, legend, basis of bearings used, and a vicinity map of the site;
 - c. The legal description of the entire subdivision site boundary;
 - d. The boundaries, course and dimensions, and acreage or square footage for all parcels of ground divided, whether the owner proposes that any parcel or ground is intended to be used as a street or for any other Public Use, and whether any such area is reserved or proposed for dedication for a public purpose;
 - e. For all parcels, the proposed lot or unit reference, block or building reference, street or site address, street name or coordinate address (to be approved by the Planning Commission as part of the application review process);
 - f. Every existing right of way and easement grant of record for underground facilities and for all other utility facilities;
 - g. The anticipated net developable acreage for each lot;
 - h. The names and addresses of the applicant and owner of the property, the engineer or surveyor of the subdivision and the owners of the land immediately adjoining the land to be subdivided and within three hundred feet (300') of the boundaries of the proposed subdivision.
2. Expiration: A preliminary plat shall be deemed withdrawn, and shall expire and have no further force or effect, if a final plat is not recorded within one (1) year after approval of the preliminary plat. Upon written request by the applicant and for good cause shown, the Planning Commission may grant up to a one (1) year extension.

10.15.100. TOWN REVIEW.

1. Determination Of Completeness Of Application: After receipt of an application, the Town Administrator shall determine whether the application is complete. An application for subdivision is only complete when it includes all information and approvals listed in this chapter. If the Town Administrator determines that the application is not complete, the Town Administrator shall notify the applicant in writing, specifying the deficiencies of the application, including any additional information that must be supplied. No further action will be taken by the Town until the deficiencies are corrected.
2. Staff Review: Following a determination that the application is complete, the application shall be reviewed by Town staff for compliance with the Town's

Ordinances, Rules, and Regulations. Staff review shall be completed within 40 days of receipt of the application. After staff review, the application shall be submitted to the Planning Commission at least fourteen (14) days prior to the Planning Commission's regular meeting.

3. Notice and Public Hearing: The Planning Commission shall hold a public hearing on the Preliminary Subdivision application. Notice of the Public Hearing shall be sent to the record owner of each parcel within 500 feet (500') of the property that is the subject of the application and shall be posted and provided as a Class B notice in accordance with provisions of Utah Code § 63G-30-102.
4. Planning Review: The Planning Commission shall approve a Preliminary Plat if the proposed subdivision and the associated improvement drawings are in compliance with the Town's ordinances and requirements.

10.15.110 APPLICATION COMPLETION TIMELINE.

1. Remedy Of Deficiencies: The applicant shall correct all specified deficiencies within ninety (90) days of the written notification of such deficiencies. If the applicant fails to correct the specified deficiencies within such ninety (90) day period, the application for subdivision shall be deemed withdrawn and will be returned to the applicant. Application fees shall not be refunded. Any further submissions shall be considered only as part of a new application.
2. Extensions Of Time: The Town Administrator, upon written request from the applicant, may grant the applicant one automatic thirty (30) day extension to correct the specified deficiencies.

10.15.120. FINAL PLAT.

1. Review Authority: The Administrative Land Use Authority for approval of a Final Plat application shall be the Town Administrator.
2. Submission Requirements:
 - a. Upon approval of the Preliminary Plat by the Planning Commission, an applicant shall submit a final plat, in recordable form, to the Town for its review and approval.
 - b. The submitted final plat shall be consistent with all provisions and conditions of the Preliminary Plat. With the final plat, the applicant shall submit: (1) an updated Preliminary Title Report issued within 30 days of the Final plat application showing, among other things, evidence of ownership for all parcels within the plat satisfactory in form to the Town Attorney; (2) any assurance for the installation of public improvements as required by Town ordinance; and (3) proof that adequate water shares have been transferred to the Town.
3. Public Improvements:

- a. An improvement completion assurance and warranty agreement shall be required for all public improvements before a final plat may be recorded.
 - b. The amount of the security provided to guarantee completion of public improvements, including landscaping when required to be installed with a subdivision or other development, in accordance with the provisions of this title, shall be equal to one hundred ten percent (110%) of the Town's Engineer's estimated cost of the improvements or the applicant's reasonable proven cost of completion, as determined by the Town Engineer.
 - c. The Town may accept a cash bond, an escrow agreement with a federally insured bank, and a letter of credit with a federally insured bank or credit union.
4. Compliance: The Town Administrator shall review a complete Final Plat submittal within 30 days of receipt of the application by the Town and shall approve the Final Plat if it is consistent with the approved Preliminary Plat and any conditions of approval.
5. Amendments: A recorded final plat may be amended if the amended plat complies with all applicable provisions of Town Code, construction codes, and the Town's standards and specifications.
6. Expiration: A final plat application shall be deemed withdrawn, and shall expire and have no further force or effect, if the plat is not recorded within sixty (60) days after the Town Recorder notifies the applicant that the plat is ready to be recorded. An applicant's failure to record a plat within such time period renders the plat voidable.

10.15.130. MINOR SUBDIVISION OF LAND

1. Purpose: The purpose of this exception is to provide flexibility in the subdivision ordinance for the division of land into less than three (3) lots when the division complies with the applicable zoning regulations and does not require the creation of public infrastructure or significant land development.
2. Criteria: A land division may be granted an exception to the formal subdivision process if all of the following criteria are met:
 - a. Number of Lots: The division of land results in three or fewer lots.
 - b. Compliance with Zoning: The division complies with all applicable underlying zoning requirements, including:
 - i. Minimum lot size, lot width, and frontage requirements; and
 - ii. Compliance with setbacks, easement, and other zoning standards as specified in the zoning ordinance.

- c. No Public Infrastructure Required: The division does not necessitate the creation or extension of public infrastructure, including:
 - i. Roads or streets that require public dedication or construction;
 - ii. Utility extensions (water, sewer, electricity) to serve the new lots;
 - iii. Stormwater management systems or drainage improvements beyond what is already existing.
 - d. No Impact to the Public or Neighboring Properties: The division must not result in any significant adverse impacts on neighboring properties or the surrounding community, such as:
 - i. Traffic congestion or safety hazards;
 - ii. Degradation of public facilities or services;
 - iii. Creation of non-conforming lots or uses under the zoning ordinance.
 - e. No New Dwellings or Structures: The division does not propose the construction of new dwellings, structures, or other major developments on the newly created lots that would trigger the need for a full subdivision review.
 - f. Conformance with Existing Subdivision Plans: The division must not conflict with any existing approved subdivision plan, master plan, or previously recorded plat within the subject area.
 - g. One Minor Subdivision of Land: A lot or parcel may only receive one minor subdivision in accordance with this Section.
3. Process for Approval:
- a. Application: The property owner or applicant seeking the exception must submit a written application to the Town Administrator. The application shall include:
 - i. A plat or map of the proposed land division;
 - ii. Documentation demonstrating compliance with applicable zoning standards;
 - iii. Any other relevant documentation as required by the Town Administrator.
 - b. Review: The Town Administrator, or designated reviewing authority, will review the application for compliance with the above criteria. The review will consider the zoning requirements, the size and configuration of the parcels, and the potential impact of the division.
 - c. Approval or Denial: Upon review, the Town Administrator will issue a written decision, either:
 - i. Approval: If the division meets all the requirements for the exception, it will be approved and the land division may proceed.

- ii. Denial: If the division does not meet the criteria, the application will be denied, and the applicant must follow the full subdivision process for further consideration.
 - d. Recording: Upon approval, the land division must be recorded with the Utah County Recorder's Office.
4. Limitations:
- a. This exception does not authorize the creation of more than three lots (unless the property owner has previously subdivided the property within a certain time frame as per local regulations).
 - b. This exception does not grant a waiver for compliance with any other applicable laws or regulations, including but not limited to health, environmental, or building code requirements.
 - c. Any future development or subdivision of the property after the division shall comply with the full subdivision ordinance and applicable zoning requirements.

10.15.140. LOT LINE ADJUSTMENTS.

1. Scope: The Town may review certain lot line adjustments pursuant to Utah Code § 10-9a-523.
2. Criteria: A lot line adjustment is permitted only if all of the following criteria are met:
 - a. Number of Lots Involved: The adjustment must involve no more than three existing lots within a subdivision. Any adjustments to more than three lots require a subdivision amendment.
 - b. No New Lot Creation: The adjustment cannot result in the creation of a new lot. The total number of lots before and after the adjustment must remain the same.
 - c. Zoning Compliance: The adjusted lots must comply with the underlying zoning requirements, including:
 - i. Minimum lot size, width, and frontage requirements.
 - ii. Setback and other dimensional standards.
 - iii. Any other applicable zoning standards.
 - d. No Violation of Easements: The adjustment must not result in the violation of any easement, encroachment, or other legal restrictions on the property.
 - e. No Public Infrastructure Impact: The adjustment must not require the creation or extension of public infrastructure such as roads, utilities, or drainage systems.

- f. No Environmental Concerns: The adjustment must not violate any environmental regulations, such as floodplain management, wetland protection, or hillside development rules.
- 3. Application Process:
 - a. Submission Requirements: The property owner or applicant must submit a completed lot line adjustment application to the Town Administrator, including:
 - i. A map or survey prepared by a licensed surveyor showing the existing and proposed lot lines, including dimensions, setbacks, and boundary lines.
 - ii. Written confirmation that the adjusted lots comply with all zoning requirements (e.g., lot size, setbacks, frontage).
 - iii. A legal description of the properties before and after the lot line adjustment.
 - b. Review Process: The Town Administrator will review the application for compliance with these regulations, the zoning ordinance, and any other relevant laws. The review process typically includes:
 - i. Verifying that the proposed adjustment meets zoning and subdivision requirements.
 - ii. Ensuring that the adjustment does not create any conflicts with existing easements, covenants, or rights-of-way.
 - c. Approval or Denial:
 - i. Approval: If the adjustment meets all requirements, the Town Administrator will approve the application and issue a written decision.
 - ii. Denial: If the application does not meet the criteria, the Town Administrator will deny the application and provide the applicant with a written explanation of the reasons for denial.
 - iii. Recording: Upon approval, the applicant must file the lot line adjustment with the county or city land records office. The adjusted boundary lines will be legally recognized once recorded.
- 4. Conditions of Approval: Lot line adjustments may be subject to the following conditions:
 - a. The applicant must ensure that the adjusted lots comply with all applicable zoning and land use regulations.
 - b. The applicant must pay any required fees associated with the review and recording of the adjustment.
 - c. If necessary, the applicant must obtain any additional permits or approvals for construction, drainage, or environmental compliance before proceeding with any development on the adjusted lots.

5. Restrictions:

- a. No Subdivision: A lot line adjustment is not intended to create a subdivision or divide a single parcel into multiple lots.
- b. Repetitive Adjustments: Repeated lot line adjustments between the same properties, when combined with other adjustments, may be subject to additional scrutiny or may require a more formal subdivision process if the cumulative effect constitutes a subdivision.
- c. Easements and Restrictions: Lot line adjustments cannot interfere with established easements, rights-of-way, or other legal restrictions.

10.15.150. APPEALS.

- 1. Standing: An applicant, property owner, or adversely affected party, as defined in Utah Code § 10-9a-103(2), may appeal a decision related to this subdivision ordinance.
- 2. Filing the Appeal:
 - a. The appeal must be filed in writing with the Town Clerk within 10 days from the date of the decision being appealed.
 - b. The appeal should include:
 - i. A clear and concise statement of the reasons for the appeal, outlining why the appellant believes the decision was incorrect or unlawful.
 - ii. A copy of the decision or action being appealed (e.g., denial letter, resolution, or conditions of approval).
 - iii. Any supporting documents, evidence, or materials that the appellant believes are relevant to the appeal.
- 3. Fee for Appeal: A non-refundable appeal fee, in accordance with the Town's fee schedule, shall be submitted at the time of filing the appeal. This fee shall cover the administrative costs associated with processing the appeal.
- 4. Scheduling the Appeal Hearing:
 - a. Upon receipt of a completed appeal application, the Town's Hearing Officer will schedule the appeal hearing.
 - b. The appellant and any other interested parties will be notified in writing of the date, time, and location of the hearing.
- 5. Conduct of the Appeal Hearing:
 - a. The Hearing Officer will conduct a hearing where both the appellant and any interested parties (e.g., neighbors, representatives of the planning department) may present their arguments.

- b. The appellant may present evidence and testimony to support their position, and the staff or planning commission may present the basis for their decision.
 - c. The Hearing Officer may ask questions, request further information, or continue the hearing to another meeting if necessary.
- 6. Criteria for Decision: The appeal body will base its decision on whether the original decision was in accordance with the law, the subdivision ordinance, and the facts of the case.
- 7. Final Decision: The appeal body will issue a written decision, typically within 10 business days after the hearing, and the decision will be mailed to the appellant and all interested parties. The decision may include:
 - a. A final approval of the subdivision with or without conditions.
 - b. A final denial of the subdivision.
 - c. A remand to the land use authority with additional instructions for further review.
- 8. Judicial Review: If the appellant is dissatisfied with the final decision of the appeal body, the appellant may seek judicial review in a court of competent jurisdiction as provided by law. Judicial review must be sought within 30 days of the final decision.

Ordinance # 2024-0000 An Ordinance of the Fairfield Town Council of the Town of Fairfield, Utah, Amending Chapter 10.11 (Permitting Accessory Dwelling Units in Certain Zones) and Title 12 (Adding and Amending Certain Definitions), and Enacting Section 10.7.255 (Accessory Dwelling Units Regulations).

Document Control Changes: Draft Changes made September 9, 2024.

WHEREAS, Utah Code § 10-9a-102 grants the Town of Fairfield authority to enact ordinances that the Fairfield Town considers necessary or appropriate for the use and development of land within the Town; and

WHEREAS, the subject text amendment enacts provisions related to the regulation of accessory dwelling units; and

WHEREAS, the Town Council has held a public hearing and reviewed the subject text amendment; and

WHEREAS, the Town Council finds that the subject text amendment will enhance public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRFIELD, UTAH:

SECTION 1. Text Amendment. Fairfield Town Code Section 10.11, 12, and 10.7.255, as shown in **Exhibit A**, is hereby amended.

SECTION 2. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts, provisions, and words of this Ordinance shall be severable.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

Passed and Adopted this _____day of_____,20____.

FAIRFIELD TOWN

Hollie McKinney

RL Panek yes_____no_____

Tyler Thomas yes_____no_____

Michael Weber yes_____no_____

Richard Cameron yes_____no_____

ATTEST: _____

Stephanie Shelley, Town Recorder/Clerk

I, Stephanie Shelley, Town Recorder of Fairfield Town, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the Town Council of Fairfield Town, Utah, on the _____day of _____, 20____.

EXHIBIT A

TITLE 10.11. Zoning

ADUs shall be permitted in the following zones: AR-1, AR-5, AR-10, and AR-40.

TITLE 12. Definitions

Amend the following definition:

Accessory Dwelling Unit (ADU). Means ~~a habitable living unit that may be added to, created within, or detached from a primary single-family dwelling and contained on one lot~~ a D-ADU and an I-ADU.

Add the following definitions:

Accessory Dwelling Unit, Detached (D-ADU). Means a separate structure from the primary dwelling that is located on the same lot or parcel. D-ADUs shall include a kitchen and a bathroom.

Accessory Dwelling Unit, Internal (I-ADU). Means a dwelling unit located within the footprint of a primary dwelling. I-ADUs are sometimes called mother-in-law apartments.

Owner Occupancy. Means a property owner, as reflected in title records, makes their legal residence at the property. Evidence of owner occupancy may include voter registration, vehicle registration, driver's license, county assessor records, or other similar means.

Section 10.7.255. Accessory Dwelling Units

A. Purpose and Intent. This chapter provides a process to allow affordable housing within the town through accessory dwelling units within single-family detached dwellings or in separate detached structures. The standards in this chapter include reasonable limitations to minimize impact on neighboring properties. The purpose of this chapter is to provide regulations for Accessory Dwelling Units that are incidental and accessory to a single-family dwelling, where permitted in the zone. Accessory Dwelling Units are intended to assist in providing housing types that meet the needs of populations of various income levels, ages, and stages of life. In accordance

with the goals of the general plan and state law, providing tools and methods for creating moderate-income housing is necessary in Fairfield Town.

B. Authority. The Town Administrator, or its designee, has the authority to implement and enforce provisions of this section.

C. Standards. All ADUs must comply with the following:

1. Code Compliance. Conform to all federal, state, and local laws, including compliance with the International Building Code, International Fire Code, the County Health Department, and other local ordinances.

2. Number of ADUs. Only one ADU may be created per lot, parcel, or property.

3. Owner Occupancy. The property owner must occupy either the primary dwelling or the ADU as their permanent residence. The primary dwelling and ADU may not be rented at the same time. At all times, the ADU must be owned by the property owner.

4. Short Term Rental. ADUs shall not be rented for less than 30 consecutive days.

5. Building Permit. A building permit is required to modify an existing home, building, or any new construction on a parcel or lot. Building permit applications shall include a site plan, floor plan, architectural elevations, and structural calculations. The applicant shall obtain all necessary other permits and pay all applicable fees before construction, remodeling, or any use of an ADU. ADUs shall not be approved on properties with outstanding building code violations or nonconforming uses or structures.

6. Septic. Septic systems must be inspected to ensure suitability for all proposed ADUs. ADUs are prohibited if the primary dwelling is served by a failed septic tank.

7. Soil. The Town has known arsenic within its jurisdictional boundaries. Any disturbance of soil must comply with the soil testing requirements in Fairfield Town Code § 5.3.

8. Utility Meters. ADUs may have up to two electrical meters; notwithstanding, the electrical meters must be in the name of the property owner. Unless approved by the Planning Commission, installing other separate utility meters for an ADU is prohibited.

9. ADU Permit. ADUs rented to a non-family member require a permit from the Town.

10. Parking. In addition to the parking required for the primary unit, one (1) additional off-street parking space shall be provided. In no case shall fewer than three (3) total off-street parking spaces be provided. Any additional occupant vehicles shall be parked on site. On-street parking shall be reserved for visitors only.

11. Affidavit. Applicants for all ADUs shall complete an affidavit stating that the owner of the property will live in either the primary dwelling or ADU as their permanent residence. Upon approval of the ADU by the Town Administrator, the affidavit shall be recorded against the property (in the event the property owner decides to sell the home) to alert the future owner of the regulations for the ADU.

12. Inspections. The Town Administrator shall issue an ADU permit if the applicant complies with this section's provisions and the ADU is ready for occupancy.

13. ADU Permit. An ADU permit is required to rent out either the primary dwelling or the ADU.

D. D-ADU Regulations.

1. Height. The maximum height for D-ADUs is limited to thirty-five (35) feet.

2. Square Footage. The total floor area for D-ADUs shall not exceed nine hundred (900) square feet, or thirty-five (35) percent of the footprint of the primary dwelling, whichever is less, unless, in the opinion of the Planning Commission, a greater amount of floor area is warranted.

3. Lot Size. D-ADUs are only permitted on lots one (1) acre or greater.

4. Number of Rooms. D-ADUs shall not have more than two (2) bedrooms.

5. Setbacks. D-ADUs must comply with the setbacks for the principal dwelling and shall have adequate facilities for all discharge from the roof and other drainage.

6. Exterior Appearance. D-ADUs shall be designed so that the appearance of the lot, building structure, and landscaping retains the character of a single-family neighborhood.

7. Area Coverage. Construction of a D-ADU shall not exceed the allowable lot or rear yard coverage standard for the underlying zone. In no event shall a D-ADU cover more than thirty (30) percent of a rear yard.

8. Parking. A D-ADU shall have an additional off-street parking.

E. Exception. A property owner may build a new home and use their existing home as an ADU if their existing home will comply with the provisions of this section and the new home will comply with the underlying zoning regulations by the time the new home is habitable and eligible to receive a certificate of occupancy.

F. Revocation and Enforcement.

1. Revocation of Permit. If any provision of this section is violated, the Town may revoke an ADU permit.

2. The Town may enforce the provisions of this chapter through civil or criminal penalties, including filing a lien against a property owner or any other means allowable by law.

a. A criminal violation under this section shall be a class C misdemeanor.

b. A civil violation under this section shall amount to one hundred (100) dollars each day a violation occurs, each being a new violation.

CHAPTER 3 SOIL ORDINANCE

Section 5.3.10. Fairfield Soil Ordinance and Maintenance of Soil Cap

Section 5.3.20. Applicability

Section 5.3.30. Soil Testing Requirements

Section 5.3.40. Action Levels

Section 5.3.50. Soil Report and Remediation Plan

Section 5.3.60. Top Soil Capping

Section 5.3.70. Hard Surface Capping

Section 5.3.80. Soil Cap Disturbance and Disposal

Section 5.3.90. Dust Control

Section 5.3.100. Failure to Comply with Ordinance

Section 5.3.10. Fairfield Soil Ordinance and Maintenance of Soil Cap.

- A. Purpose. The purpose of this Soil Ordinance is to identify areas of arsenic contamination within the boundaries of Fairfield Town, define hazardous levels, and to set standards and procedures to mitigate potential health risks from exposure by disturbance, movement of soil, or the habitation of these areas.
- B. Hold Harmless. The Town is aware that contaminated soils exist and have been deposited throughout the Town due to runoff from mines, relocation of tailings, as well as other means of movement. The Town, however, does not know where all contaminated properties may be located. Each property owner is responsible for the condition of his or her own property and is also responsible for any remediation or actions required by this Soils Ordinance regarding his or her property.
- C. The Town, under no circumstances, takes any responsibility for the testing, cleanup, removal, or capping of contaminated soil within the Town boundaries. The Town is not liable nor responsible for any detrimental effects or happenings due to contaminated soils within the Town boundaries.

Section 5.3.20. Definitions.

See [Title 12](#). Definitions.

Section 5.3.30. Soil Testing Requirements.

This chapter shall be in full force and effect within the Town limits of Fairfield, Utah.

- A. Soil Ordinance Boundary. A minimum of 1-acre of the inhabited area of a parcel shall be tested and subject to this Soils Ordinance. A minimum of 5 composite samples shall be taken from the 1-acre area at a minimum depth of 12".
- B. Structures Requiring Testing. Any structure over four hundred (400 square) feet requiring a permanent foundation will be subject to this Soils Chapter. and will require a minimum of .25 acres to be tested.
- C. Soil Testing Facilities an Accredited Company. All sampling, collection, and testing shall be conducted by a certified NELAP (National Environmental Laboratory Accreditation Program) accredited company as provided by the owner of the property.

Section 5.3.40. Minimum Capping with Topsoil or Other Acceptable Materials.

- A. Soil Contaminant and Coverage Levels. All real property within the Soil Ordinance Boundary tested by an approved/certified soil testing laboratory and with arsenic levels found to be above the 200 ppm action level, must be capped and maintained with a minimum cap of six (6) inches of approved topsoil and acceptable cap as described in Section [5.3.50](#) of this title: Exception, where such real property is capped by asphalt, concrete, permanent structures or paving materials.
- B. Vehicle Parking. Parking of vehicles or recreational equipment shall be parked on impervious surfaces and not areas that have been capped with non-impervious material.

Section 5.3.50. Acceptable Soil Caps.

- A. Vegetated Areas. All areas within the Soil Ordinance Boundary where real property is capped with six (6) inches or more of "Approved Topsoil" defined in Chapter 12, must be vegetated with grass or other suitable vegetation to prevent soil erosion of the six (6) inch topsoil layer.
- B. Xeriscaped Areas. Owners that practice xeriscape are allowed to employ a weed barrier fabric if the property is capped with six (6) inches of rock or bark and maintained to prevent soil breakthrough.

Section 5.3.60. Additional Landscaping Requirements.

- A. Landscaping. In addition to the minimum capping of topsoil requirements set forth in Section 5.3.40 and the vegetation requirements set forth in Section 5.3.50, the following additional requirements shall apply:
1. Flower or Vegetable Planting Bed at Grade. All flower or vegetable planting beds at grade shall be clearly defined with edging material to prevent edge drift and shall have a minimum depth of twenty-four (24) inches of approved topsoil so that contaminated soil is not mixed with the cap through normal tilling procedures. Such topsoil shall extend twelve (12) inches beyond the edge of the flower or vegetable planting bed.
 2. Flower or Vegetable Planting Bed Above Grade. All flower or vegetable planting beds above grade shall extend a minimum of eighteen (18) inches above the grade of six (6) inches of approved topsoil cap and shall contain only approved topsoil.
 3. Shrubs and Trees. All shrubs planted after the passage of this ordinance shall be surrounded by approved topsoil for an area, which is three (3) times bigger than the rootball and extends six (6) inches below the lowest root of the shrub at planting. All trees planted after the passage of this ordinance shall have a minimum of eighteen (18) inches of approved topsoil around the root ball with a minimum of eighteen (18) inches of approved topsoil around the root ball within a minimum of twelve (12) inches of approved topsoil below the lowest root of the tree.

Section 5.3.70. Soil Cap Disturbance.

- A. Causing a Disturbance to the Soil. All work related to the disturbance of a cap prohibited unless the person complies with will be Title 5, Chapter 3. Following any work causing the disturbance to a cap within the Soil Ordinance/Code boundary, such as digging, landscaping, and tilling soils, will require all disturbed soils to be collected and reintroduced onsite by either onsite soil capping or off-site disposal as required by this ordinance and State and Federal law.
- B. Off-Site Disposal. All soil generated from the Soil Ordinance/Code boundary that cannot be reintroduced within the Soils Ordinance/Code boundary and are destined for off-site disposal must be sampled and characterized with representative sampling and tested by a certified NELAP (National Environmental Laboratory Accreditation Program) company and be disposed of accordingly.
- C. Hazardous Characteristics. Soils exhibiting hazardous characteristics exceeding the following Toxic Characteristic Leaching Procedure (TCLP) standards must be managed as a hazardous waste and disposed of within a Utah Department of Environmental Quality permitted facility:
1. Arsenic - 5.0 mg/L (TCLP) Method 6010 B.

2. Lead - 5.0 mg/L (TCLP) Method 6010 B.

- D. Export of Contaminated Soil. No contaminated soil generated within the Soil Ordinance/Code Boundary is allowed to be exported for use as fill outside of the Soils Ordinance/Code boundary.
- E. Reuse of Generated Soil. Reuse of generated soils within the Soils Ordinance/Code boundary is acceptable provided the receiving property is capped with six (6) inches of clean topsoil or capped with an acceptable material, i.e., vegetation, bark, or rock, as required by this ordinance.
- F. Relocating Contaminated Soil. Contaminated soil that is relocated within the Soil Ordinance/Code boundary must be pre-approved by the Planning Commission before being relocated and reused.

Section 5.3.80. Dust Control.

Contractor/Owner Responsibility. Contractor or owner is responsible for controlling dust during the time between the beginning of construction activity and the establishment of plant growth in accordance with the Fairfield Town Nuisance Ordinance/Code. Due care shall be taken by the contractor or owner, to protect workmen while working within the site from any exposure to dust emissions during construction activity by providing suitable breathing apparatus or other appropriate control.

Section 5.3.90. Certificate of Compliance and Restrictive Covenants.

- A. Restrictive Covenants. A restrictive covenant must be written and recorded with the Utah County Recorder detailing the stipulations involved in mitigating the contaminated soil. All covenants must be approved by the Town attorney. Covenants will not be enforced by the Town.
- B. Compliance Inspection. Prior to obtaining an occupancy permit, a notarized Certification of Compliance form provided by the Town, copies of all supporting documents, and a copy of the restrictive covenants as recorded by Utah County shall be submitted to the Town.

Section 5.3.100. Transit Center Disturbance.

Permit Required. A permit shall be required for all construction activity, utility modification, and landscaping that results in the breach of the installed protective cap or the generation of soil and must be conducted in accordance to the implemented site management plan that is provided with the Excavation Application and shall be kept on file at the Town Office.

Section 5.3.110. Failure to Comply with Ordinance.

Legal Action. Any person failing to landscape, maintain landscaping, control dust, or dispose of contaminated soil as required by this Chapter and/or comply with the provisions of this Chapter shall be guilty of a Class B misdemeanor. Any person failing to comply with the provisions of this Chapter may be found to have caused a public nuisance, and appropriate legal action may be taken against that person.