

Section 4

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11-22: SUBDIVISION REGULATIONS

11-22-1: PURPOSE AND INTENT

- A. It is declared to be the policy of the City to consider the subdivision of land and the subsequent development of the platted subdivision as subject to the control of the City pursuant to the official General Plan and ordinances of the city for the orderly, planned, efficient and economical development of the city.
- B. Land to be laid out and platted shall be of such character that it can be developed safely for building purposes after an analysis of any sensitive land issues and features that may represent potential hazards/constraints or features to avoid in a design process. Land shall not be laid out and platted until available public facilities and improvements exist and proper provision has been made, where required, for drainage, culinary water, irrigation water, sewerage and capital improvements such as schools, parks, recreation facilities, electrical and natural gas distribution facilities, transportation facilities and improvements.
- C. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, Public Works Standards, zoning ordinances, and capital facilities plan and program of the city.
- D. In addition, these regulations are adopted for the following purposes:
 1. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger and to prevent overcrowding of the land and undue congestion of population;
 2. To protect the character, social and economic stability and to encourage the orderly and beneficial development of all parts of the city;
 3. To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;
 4. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the city, having particular regard to the avoidance of congestion on the streets and highways, encouraging complete streets, the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;

5. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monuments;
6. To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;
7. To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability and beauty of the community and the value of the land; and
8. To preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural features.
9. To increase the supply of housing which may provide for more diverse housing types, stability in pricing, and affordability of the housing stock.

11-22-4: JURISDICTION - SUBDIVISION REQUIRED

- A. These subdivision regulations shall apply to all "subdivisions" of land, as defined in CCNO 11-7, located within the corporate limits of the city.
- B. No person shall lay out and plat any tract of land located wholly or partially within the city except in compliance with this title.
- C. No land shall be laid out and platted within the corporate limits of the city until, the subdivision has been processed by North Ogden City
- ~~D.~~ No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date hereof, and not in conformity with the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this Title.

11-22-5: INTERPRETATION, CONFLICT AND SEPARABILITY

- A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Interpretations are the responsibility of the Planning Director.
- B. Conflict with Public And Private Provisions:
 1. Public Provisions. These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
- C. Private Provisions. These regulations are not intended to abrogate any easement, covenant, condition, restriction or any other private provisions; provided, that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, condition, restriction or private agreement, or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, and such private provisions are not

inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Nothing contained therein shall empower or require or obligate the city to enforce such private agreements or restrictions. Private agreements or restrictions that contradict or conflict with the City Ordinances are not considered lawful, and do not supersede the City's authority.

11-22-6: SAVING PROVISION SEPARABILITY

- A. These regulations shall not be construed as abating any action now pending under, or by virtue of prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any section of provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the city except as shall be expressly provided for in these regulations.

11-22-7: RESERVATIONS AND APPEALS

- A. Upon the adoption of this Title according to law, the subdivision ordinance of the City adopted July 13, 1953, as amended, is repealed, except as to such sections expressly retained herein.

11-22-8: ENFORCEMENT INSPECTION

- A. Inspection. Appropriate departments of the city shall inspect or cause to be inspected all buildings, streets, concrete work, fire hydrants, and water supply, storm drainage, and sewage disposal systems in the course of construction, installation or repair. Excavation for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by the city. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the City Engineer. All other required utilities placed underground or overhead shall meet all city Public Works Standards as required by franchise agreements. Funds held in bond or escrow accounts will not be released for any work which has not been inspected by the appropriate city department.

11-22-9: VARIANCES

- A. All variance applications under this Title shall be processed in accordance with Utah Code § 10-9a-702 or its successors. Application and hearing procedures shall be per CCNO 11-6-6.

11-23: DEVELOPMENT IN THE HP-1, HP-2 AND HP-3 ZONES

11-23-1: PURPOSE AND INTENT

- A. The purpose and intent of this section is to provide specific regulations and procedures for developments occurring in the Sensitive Land Overlay Zone.

11-23-2: IMPROVEMENTS AND GUARANTEE

- A. Required; Method. The owner of any land which has been laid out, platted and recorded pursuant to the provisions of this title shall at his own expense install the required public improvements within a period of two (2) years from the date the final plat is recorded. The

owner shall ensure or guarantee the installation of such improvements by one or a combination of one or more of the following methods designated by the city:

1. Performance Bonds. The developer may furnish and file with the city recorder a corporate surety bond, approved by the City Council and city attorney, in an amount equal to the cost of the required public improvements plus ten percent (10%), as estimated by the developer and approved by the City Engineer, to secure the installation of required improvements within two (2) years from the date the final plat is recorded.
2. Deposit in Escrow. The developer may deposit in escrow with an escrow holder approved by the City Council an amount of money equal to the cost of improvements required plus ten percent (10%), as estimated by the developer and approved by the City Engineer, under an escrow agreement conditioned for the installation of the improvements within two (2) years from the date the final plat is recorded. The escrow agreement aforesaid shall be approved by the City Council and city attorney and shall be filed with the city recorder.
3. Letters of Credit. The developer may cause the issuance of a letter of credit by a financial institution approved by the City Council and city attorney in an amount equal to the cost of the required improvements plus ten percent (10%), as estimated by the developer and approved by the City Engineer, to secure the installation of required improvements within two (2) years from the date the final plat is recorded.
4. Lien Agreement.
 - a. The developer shall be required to execute, acknowledge and cause to be recorded in the office of the county recorder a written agreement with the city by which he will covenant and agree not to lease or convey any land located within the subdivision to anyone whomsoever unless he shall first, as a condition precedent thereto, either:
 - i. Install and pay for all of the public improvements set forth in this title necessary to the full, effective and practical use and enjoyment thereof by the lessee or grantee of the lands so to be conveyed, including, but not limited to, all street improvements and public utilities in front of such property and thence along the dedicated streets to a connection with existing improvements of the same kind or to the boundary of the subdivision nearest said existing improvements, whichever is closer;
 - ii. File a bond as provided in subsection A1 of this section to secure the installation and/or completion of all uncompleted improvements specified in CCNO 12-6; or
 - iii. Establish an escrow account as provided in subsection A2 of this section to secure the installation and or completion of all incomplete improvements specified in CCNO 12-6.
 - b. The lien agreement shall specifically provide that it shall be deemed to be a covenant running with the land located within the subdivision for the benefit of the city and shall particularly and accurately describe the lands. By the agreement, the developer shall further give and grant to the city a lien on the lands to secure performance of the covenant and agreement and to secure the

installation of all of the required improvements, together with the payment of all costs, including reasonable attorney fees, which the city may incur in enforcing any of the terms and provisions of the agreement.

- B. Default; Extension. In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within two (2) years from the date the final plat is recorded, the city may declare the bond or escrow deposit forfeited, and the city may install or cause the required improvements to be installed using the proceeds from the collection of the bond or escrow to defray the expense thereof. The Planning Director may, upon proof of financial, material or labor shortages, extend the completion date for a maximum period of one additional year.

11-23-3: INSPECTION OF IMPROVEMENTS

- A. General Procedure. The City Engineer, shall provide the inspection of required improvements during construction and ensure their satisfactory completion. If he finds, upon inspection, that any of the required improvements have not been constructed in accordance with the city construction standards and specifications, the applicant shall be responsible for completing the improvements.
- B. Reduction of Performance Bond or Escrow Funds. The city shall not release nor reduce a performance bond or escrow funds on any required improvement until the developer provides a statement for monies requested signed by the City Engineer noting the improvements have been satisfactorily completed. In no event shall escrow funds or a performance bond be reduced below ten percent (10%) of the principal amount.

11-23-4: ACCEPTANCE OF OFF SITE IMPROVEMENTS

- A. Conditional Acceptance; Seal Coat.
 - 1. After the completion of all off-site improvements and upon receiving a written statement from the City Engineer that all required improvements have been satisfactorily completed, the City Council shall conditionally accept the improvements for a one year guarantee period. Such approval shall not be given until the applicant's engineer has certified to the City Engineer, through submission of detailed as built construction plans of the subdivision, indicating location, dimensions, materials and other information required by the City Engineer, that the layout of the line and grade of all public improvements is in accordance with the construction plans filed with the final plat. The as built plans shall be submitted in ink on reproducible Mylar. A minimum of ten percent (10%) of the total principal amount of the escrow funds or performance bond will be held during this one year guarantee period.
 - 2. Developer would have option of paying to city the necessary funds to cover cost of seal coat. If this option is taken, conditional acceptance could be given prior to completion of seal coat work by city.
- B. Guarantee Period. The developer shall warrant and guarantee that the improvements provided for hereunder and every part thereof will remain in good condition for a period of one year after the date of conditional acceptance by the City and agrees to make all repairs to maintain the improvements and every part thereof in good condition during the guarantee period at no cost to the city. The guarantee shall extend to and include, but shall not be limited to, the entire street, subgrade base and surface, all pipes, curbs, gutters, approaches, sidewalks, ROW fences and other accessories that are or may be affected by the construction operations. If per

inspection by the City Engineer, the work shall be in need of repair, maintenance or rebuilding, the engineer shall cause a written notice to be served upon the developer and thereupon the developer shall undertake and complete such repairs, maintenance or rebuilding. The determination of the necessity for repairs and maintenance of the work rests with the City Engineer, whose decision upon the matter shall be final and binding upon the developer. Upon the developer's failure to perform the required repair work within sixty (60) days from the date of service of such written notice, the city shall have such repairs made, and the cost of such repairs shall be paid out of the ten percent (10%) escrow account held by city.

- C. Final Acceptance. Except for sidewalks and seal coat, final inspection by the City Engineer shall be made eleven (11) months after conditional acceptance or as close as weather conditions permit. All defects as noted in the final inspection report of the City Engineer shall be corrected to the satisfaction of the City Engineer. Final acceptance shall be in writing by the City Council after written approval is received from the City Engineer. After final acceptance by the City Council, the remaining balance in the escrow fund or performance bond shall be released. Final acceptance may be given with respect to seal coat after the developer has deposited with the City such sums as may be necessary to cover the cost of seal coat as determined by the City Engineer. In such event, the city would then assume responsibility for applying or causing the application of the seal coat.

11-23-5: SPECIAL EXCEPTION FOR SIDEWALK INSTALLATION OPTION

- A. Conditional Acceptance. The City Engineer, if requested, shall allow the developer an additional one year from the date of conditional acceptance of the off-site improvements to install the sidewalk in the subdivision; provided, that:
 - 1. The subdivision does not front on a major street where installation of the sidewalks is necessary for the safety of the general public;
 - 2. The developer agrees in writing to the sidewalks being installed prior to the issuance of a certificate of occupancy for any dwelling in the subdivision;
 - 3. The developer agrees that the city shall not conditionally accept any of the sidewalks prior to the installation of the entire sidewalk required in the subdivision;
 - 4. The city retains ten percent (10%) of the escrow funds for the all the sidewalks in the subdivision until it receives final acceptance by the City Engineer.
- B. Guarantee Period. The developer shall warrant and guarantee that the sidewalk will remain in good condition for a period of twelve (12) months after the date of conditional acceptance of the sidewalk by the City Engineer and shall make all repairs to and maintain the sidewalk in good condition during the guarantee period at no cost to the city. The determination of the necessity for repairs and maintenance or work rests with the City Engineer, whose decision upon the matter shall be final and binding on the developer.
- C. Final Acceptance. Final acceptance of the sidewalk will follow the same procedure as outlined in CCNO 11-24-4C.

11-23-6: DEFERMENT OF SIDEWALK INSTALLATION OPTION

- A. Deferment. The developer of an individual parcel of land may defer installation of a sidewalk for a specified period of time only if the following criteria is met:
 - 1. There is no existing curb, gutter or sidewalk within 100' of the subject property lines to tie into;

2. Future development includes sidewalk placement; or
 3. There are site condition confirmed by the City Engineer that justify the deferral
- B. Developer Agreement. In the case of deferment, the Developer shall sign an agreement in conjunction with the building permit that states the following:
1. The Developer, in consideration of the City's approval of the building permit for the project, and other valuable consideration, hereby agrees to duly construct or install a sidewalk to the specifications of the City of North Ogden development standards, a minimum of five feet wide and the length of the property in the right-of way immediately adjacent to the project and agrees to not object to any special assessment area which would construct sidewalks in the immediate area.
 2. The Developer shall record this agreement against the parcels to which the agreement relates so that any individual is placed on notice that the installation shall be required for involvement in the special assessment area for the installation of sidewalk improvements at such later date.
 3. Should the Developer fail or refuse to construct the aforesaid sidewalk, nothing herein shall be construed as affecting the City's right to resort to any and all legal and equitable remedies against the Developer, including specific performance to which the Developer hereby conditionally agrees.
 4. In the event there shall be any litigation between the parties hereto arising out of this Agreement, the prevailing party shall be entitled to recover all fees and costs incurred in such litigation, including reasonable attorney's fees, through appeal if necessary.
 5. This Agreement shall run with land and shall be binding on the successors of Developer.
 6. This Agreement may not be assigned by either party.
 7. This Agreement shall become effective upon the execution thereof by both parties hereto.
- C. Final Acceptance. Final acceptance of the sidewalk will follow the same procedure as outlined in CCNO 11-24-4C.

11-23-7: ISSUANCE OF PERMITS AND CERTIFICATES

- A. Certificate of Occupancy. The extent of street improvements shall be adequate for vehicular access by the prospective occupancy and by police and fire equipment prior to the issuance of a certificate of occupancy. For purposes of this section, "adequate" shall mean grading and road base (crushed gravel).
- B. Building Permit. No building permit shall be issued nor liens released for the final ten percent (10%) of lots in a subdivision, until all public improvements required by the City for the plat have been fully completed and conditionally accepted by the City Engineer.

11-24: MINOR SUBDIVISIONS

11-24-1: PURPOSE AND INTENT

- A. Applicable to ten lots or less with no new public property dedications.

11-24-2: APPROVAL

- A. Minor subdivisions are administratively approved by the Planning Director per the standards below.

1. The subdivision is not traversed by the mapped lines of a proposed street as shown in the general plan;
2. The subdivision does not require the dedication of any street;
3. Each lot meets the frontage, width and area requirements of the zoning district where the subdivision is located, or has been granted a variance from those requirements by the administrative law judge;
4. The subdivision has less than ten (10) lots.

11-25-3: AGRICULTURAL LAND

- A. A lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of this Title, if the lot or parcel:
 1. Qualifies as land in agricultural use under Utah Code 59-2 Part 5, farmland assessment act;
 2. Meets the minimum size requirement of applicable zoning ordinances; and
 3. Is not used and will not be used for any nonagricultural purpose.
- B. The boundaries of each lot or parcel exempted under subsection A of this section shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a final plat under CCNO 11-2-13, shall be recorded with the county recorder.
- C. If a lot or parcel exempted under subsection A of this section is used for nonagricultural purposes, the city may require the lot or parcel to comply with the requirements to subdivide land per CCNO 11-2-11, 11-2-12, and 11-2-13.

11-24-4: UNAPPROVED SUBDIVISIONS

- A. A person may not submit to the county recorder's office for recording a document that subdivides property by metes and bounds unless it contains the certificate or written approval required by CCNO 11-25-2.
- B. The recording of a document that subdivides property by metes and bounds and does not contain the certificate or written approval required by CCNO 11-25-2:
 1. Does not affect the validity of the document; and
 2. Does not affect whether the subdivided property complies with applicable city ordinances on land use and development and may not be a buildable lot in North Ogden City.

11-25: IMPROVEMENTS, RESERVATIONS AND DESIGN

11-25-1: PURPOSE AND INTENT

- A. The purpose and intent of this section is to provide regulations and standards for improvements required in new development or redevelopment applications.

11-25-2: GENERAL IMPROVEMENTS

- A. Conformance to Applicable Rules and Regulations. In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations.
 1. All applicable statutory provisions;
 2. The zoning ordinance, building and housing codes, and all other applicable laws of the City;

3. The capital facilities plan of the city, including all streets, drainage systems and parks shown on the official street map or general plan, as adopted;
 4. The special requirements of these regulations and any rules of the health department and/or appropriate state agencies;
 5. The rules of the Utah Department of Transportation if the subdivision or any lot contained therein abuts a state highway;
 6. The Public Works Standards, including complete streets and Low Impact Development techniques, and technical specifications of the city.
- B. Monuments. The applicant shall place permanent reference monuments in the subdivision as required herein and as approved by the City Engineer:
1. Monuments shall be located on street right of way centerlines, at street intersections, and at such other points as determined necessary by the City Engineer.
 2. All monuments shall be set in an approved ground box as specified in the Public Works Standards for the City.
 3. All monuments shall be properly set in the ground by the developer and approved by the City Engineer prior to the time the City Council grants conditional acceptance of the subdivision.
- C. Sensitive Lands. All subdivisions shall be in conformance with CCNO 11-21, Grading, Drainage, and Development Constraints and consider sensitive lands in their design process, as per the [Sensitive Lands Ordinance 2021-x](#).
- D. Soil Conditions. Buildings or structures shall not be sited on soft or unsuitable soils, where there is a high water table, or a site subject to flooding as noted on the city's floodplain map, or on uncompacted fill in accordance with the city Public Works Standards.
- E. Subdivision Name. The proposed name of the subdivision shall not duplicate or too closely approximate phonetically the name of any other subdivision in Weber County.

11-25-3: SITE DEVELOPMENT STANDARDS

- A. Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance and health regulations and in providing driveway access to building on such lots from an approved street.
- B. Lot Dimensions. Lot dimensions shall comply with the minimum standards of the zoning ordinance. Where lots are more than double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning ordinance and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to surveying street lines) unless variation from this rule will give a better street to allow for erection of buildings, observing the minimum front yard and side setbacks from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off street parking and loading facilities required for the type of use and development contemplated, as established in the zoning ordinance; all property located within a subdivision shall be included within the boundaries of a road, lot or other improved area such that no parts or parcels of land therein remain unusable.
- C. Double/Reversed Frontage Lots and Access to Lots.

1. Double Frontage Lots. Double frontage and reversed frontage lots are only permitted on arterial and collector streets. If rear access cannot be achieved on a lot fronting an arterial or collector street, then an additional front yard setback of ten feet (10') and a circular drive to prevent backing out onto the arterial and collector streets are required.
 2. Access from Arterial Streets. Lots should not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, such lots may need to be served by a combined access drive in order to limit possible traffic hazard on such street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major streets. Circular drives are encouraged.
- D. Restricted Lots (R Lots).
1. All R lots shall be developed in accordance with CCNO 11-19.
 2. All R lots shall be clearly identified on the recorded plat and on a separate recordable instrument in form acceptable to the city. The instrument shall be recorded in the office of the Weber County recorder at the time the final plat is recorded in order to provide notice to potential lot purchasers of the existence of limitations imposed upon R lot development.
- E. Debris and Waste. No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be buried on any land or left or deposited on any lot or street at the time of conditional acceptance of the subdivision and removal of the same shall be required prior to final acceptance by the City.
- F. Fencing. The developer of a subdivision shall be required to furnish and install a solid board, chain-link, wrought iron, or other solid manmade material fence not less than 6' in height, as part of the approval of a subdivision, in accordance with CCNO 11-9L-7 and according to the following requirements.
1. Open Canals and Irrigation Ditches. Fencing meeting the requirements of this ordinance shall be installed along lots and other property in a subdivision in areas where a subdivision borders an existing open canal or irrigation ditch. Where such fences join with trail corridors, gates shall be allowed.
 2. Open Reservoirs and Drainage Channels. Fencing meeting the requirements of this ordinance shall be constructed along lots and other property in a subdivision, in areas where the subdivision borders upon open reservoirs, and drainage channels. Drainage channels in the form of a natural gully shall include a 25' buffer from the edge of the channel before any fence can be installed.
 3. Schools, Churches, Park Sites. In areas where a subdivision borders schools, churches, and park sites, fencing meeting the requirements of this ordinance shall be constructed along lots and other property in the subdivision. Screening Value, Maintenance, Plat Notes, and Certificates of Occupancy Fences used as screening shall meet the requirements of 11-20-8. All such fences shall be maintained and kept in good repair by the owner of the property contiguous to or upon which the fence is erected. A note shall be required to be included on the subdivision plat, indicating where the fence was required by City Ordinance, and the basic characteristics of the required fence. No certificate of occupancy shall be issued for buildings upon lots where fencing has been required until that fencing has been installed as required.

4. Waiver of Required Fencing in Specific Locations, and Modification of Fencing Materials and Characteristics. The requirement for fencing may be waived by petition to the Planning Department, in specific locations. Factors to be considered in this determination may include topography, slope, total elevation change, traffic, or additional safety-related factors. In order to waive a fence requirement based on topography, the slopes shall be shown document being reviewed by Planning Commission. Similarly, by request, the Planning Director may approve a fence made of other materials which are determined by the Planning-Director to have a similar appearance to the allowed materials and will serve as an effective barrier fence.
- G. Staking of Lots. Permanent corner markers shall be placed at all rear lot corners to completely identify the lot boundaries on the ground. Front lot corners shall be identified with permanent reference plugs or nails in the concrete curb. All lot corner markers must be in place prior to the issuance of building permits and after the completion of all subdivision improvements. All lot corners shall be designated in accordance with state/county survey laws.

11-25-4: STREETS

A. General Requirements.

1. Frontage on Improved Streets. No subdivision shall be approved unless the area to be laid out and platted shall have frontage on and access from an existing street on the official map or if there be no official map, unless the street is:
 - a. An existing state or county highway, arterial street or major collector; or
 - b. A street shown upon a plat approved by the City. Such street or highway must be suitably improved as required by the city Public Works Standards or be secured by a performance bond or escrow required under these subdivision regulations, with the width and right of way required by Public Works Standards.
2. Grading and Improvement Plan. Streets shall be graded and improved and conform to the city Public Works Standards and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.
3. Topography and Arrangement.
 - a. Streets shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the Public Works Standards of the city.
 - b. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights of way established on the official map and/or general plan. Such integration shall take topographical conditions into consideration. The street arrangements shall not cause unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide convenient access to it.
 - i. Half streets proposed along a subdivision boundary or within any part of a subdivision shall meet the following requirements:

- a) Width shall be half of required street width plus twelve additional feet of asphalt width.
 - ii. Standard residential streets shall approach the arterial or collector streets at an angle of not less than eighty degrees (80°).
 - c. All streets shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
 - d. Minor streets shall be laid out to conform as much as possible to the topography, encourage local connectivity, and to permit efficient drainage and utility systems.
 - e. Proposed streets shall be extended to the boundary lines of the subdivision. All streets required to be extended to the boundary lines of the subdivision shall be properly barricaded in accordance with the city Public Works Standards (reference). Such dead end streets are required to include a temporary turnaround.
 - f. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, and the provision for alleys, truck loading and maneuvering areas, walks and parking areas so as to minimize conflict or movement between the various types of traffic, including pedestrian.
 - ~~g.~~ All streets in subdivisions in the city shall be dedicated to the city except that private streets may be approved as part of a PUD.
 - h. Arterial, collector and/or local streets, public or private, shall conform to the Master Street Plan within the Transportation Plan. Arterial, collector and local streets shall conform to the city Public Works Standards.
 - i. Utility and drainage easements shall be provided along front lot lines of all subdivision lots and at such other locations as deemed necessary and as directed by the City Engineer. The easements shall have a minimum width of fourteen feet (10') but may encumber adjoining lots by extending across adjoining lot lines. In some cases, larger size easements, up to 15' may be required per the City's Public Works Standards when additional access is needed. Proper coordination shall be established between the developer and the applicable utility company for the establishment of utility easements on adjoining properties.
 - j. Streets shall be numbered unless the City Engineer determines, based upon topography and other like considerations, that streets should be named. Streets may have both a number and a name at the discretion of the City Engineer.
4. Blocks.
 - a. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width may be permitted in blocks adjacent to major streets, waterways or topography concerns.
 - b. The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed one thousand three hundred twenty feet

(1,320') nor be less than four hundred feet (400') in length. Wherever practicable, commercial and residential blocks along arterial and collector streets shall be not less than six hundred sixty feet (660') in length.

- c. In long blocks, with length of 600' or more, the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or to access commercial areas, community facilities, parks, and schools, or to provide for pedestrian traffic.
 - d. Cul-de-sacs shall not be longer than six hundred feet (600'), measured from the center of the cul-de-sac bulb to the center of the intersection of the connecting street. Each cul-de-sac must be terminated by a permanent turnaround bulb that meets the Public Works Standards. If surface water drainage is into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided.
5. Access to Arterial or Collector Streets. Where a subdivision borders on or contains an existing or proposed arterial or collector street, the Planning Commission may require that access to such streets be limited by one of the following means:
6. Double Frontage lot Buffer Requirements. See CCNO 11-26-3C also.
- a. Manmade fencing meeting the requirements of this ordinance shall also be constructed in the rear yards of double-fronted lots and provide for a xeriscaped 5' buffer/landscaped area, adjacent to the sidewalk and outside of the fence. Irrigated landscape features to include trees and shrubs shall be installed with two such plants per every 150' and a rock mulch/gravel.
 - b. A marginal access or service road (separated from the street by a planting or grass strip and having access thereto at suitable points).
7. Street Regulatory Signs.
- a. The applicant shall deposit with the city at the time of final subdivision approval and the establishment of the escrow payment, a sum determined by the City Engineer for each sign required by the city. The city shall install all street signs before issuance of certificates of occupancy for any residence on the streets approved.
- B. General, Road Surfacing at Intersections. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved as per Public Works Standards.
- C. Design Standards.
1. General. In order to accommodate prospective traffic, streets should be of suitable location, width and improvement to afford satisfactory access to police, firefighting, snow removal, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties. Design standards for streets shall be as outlined in the Public Works Standards for rights of way, travelled width, clear view sight triangles, grade minimum, radius of curves and design speed.
 2. Road Surfacing and Improvement. After pipes, lines and related facilities pertaining to sewer, water, gas, cable TV, electricity and like utility services, where required, have been installed by the developer, the applicant shall construct curbs and gutters and shall

surface or cause to be surfaced roadways to the widths prescribed in these regulations. The surfacing shall be in accordance with the Public Works Standards. Adequate provision shall be made for culverts, drains and bridges. Driveway approaches shall not be installed at the time of placement of curb and gutter unless approval for a building permit has been issued by the city.

3. Intersections.

- a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than eighty degrees (80°) shall not be acceptable. An oblique street shall be curved approaching an intersection and should be approximately at right angles for at least one hundred feet (100') therefrom. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission.
- b. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than one hundred fifty feet (150') shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred feet (800') apart.
- c. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right of way to the extent deemed necessary to provide an adequate sight distance, as per PW standards for sight triangles.

D. Street Dedications, Protection Strips, and Reservations:

1. New Perimeter Streets.

- a. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the developer, as per Section 11-26-4 3 (b) i.
- b. The Planning Commission, may authorize a new perimeter street where the developer improves and dedicates the entire required street right of way width within his/hers own subdivision boundaries. The developer may retain a protection strip of one foot (1') in width between the street and adjacent property. An agreement with the city, approved by the city attorney, shall be made by the developer contracting to dedicate the one foot (1') protection strip free of charge to the city for street purposes upon payment by the present owners of the contiguous property to the developer of a consideration named in the agreement. Such consideration is to be equal to the cost, at the time of the agreement, of the street improvements, including utility lines properly chargeable to the contiguous property, plus the value of the land from the right of way line to the centerline of the street at the time of the agreement,

together with interest computed at the then statutory rate. Interest shall accrue only from the time of agreement until the time of subdivision of such contiguous property or ten (10) years from the date of the agreement, whichever is less. All charges to be associated with the protection strip, as well as the interest rate, shall be recorded as part of the aforementioned agreement. All property owned by the developer shall be included on both preliminary and final plat.

- c. Where the developer is required to improve the full width of an existing city owned right of way on the perimeter of his subdivision, he/she may enter into a similar agreement as outlined above. In this agreement, the developer will not own a one foot (1'). Protection strip and the consideration named in the agreement will not include the value of the land or any utilities installed in the right of way prior to the agreement. However, the agreement will stipulate that before approval is given to the development on the adjacent property abutting the street, the adjacent property owners will reimburse the aforementioned developer as outlined in the agreement.
 2. Widening and Realignment of Existing Streets. Where a subdivision borders an existing narrow street or when the zoning setback regulations indicate plans for the realignment or widening of a street that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate, at his expense, such areas for widening or realignment of such streets. Such frontage streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying yard or area requirements of the zoning ordinance whether the land is to be dedicated to the municipality in fee simple or an easement is granted to the city.
- ☒ Single Access Development. Single access developments are administratively permitted utilizing the cul-de-sac length standards in the Public Works Standards

11-25-5: DRAINAGE AND STORM SEWERS

- A. General Requirements. The Planning Commission shall not approve any plat of subdivision which does not include storm or floodwater runoff channels or basins per the Public Works Standards. The developer shall deed to the city those areas designated as detention basins and drainage channels, giving the city the ability to control and maintain said areas. For basins that are of a single building lot size and considered as temporary in nature, the city shall grant to the developer a reversionary clause on ownership when use is terminated.
- B. Floodplain Areas. When floodplain areas are defined through the process required in CCNO 11-21 or the Sensitive Lands Ordinance, the City shall prohibit the subdivision of any portion of the property which lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps.
- C. Dedication of Drainage Easements.
 1. General Requirements. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right of way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose.

2. Drainage Easements.

- a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights of way, perpetual unobstructed easements at least fifteen feet (15') in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
- b. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
- c. The applicant shall dedicate, either in fee or by drainage or conservation easement, land on both sides of existing watercourses, to a distance to be determined by the Planning Commission. Said easements shall be deemed rights of way for lawful municipal purposes.

11-25-6: SUBSURFACE DRAINAGE

- A. The applicant is required to provide the design and installation of a subsurface drainage system which meets the adopted City Public Works Standards when the water table or underground saturation conditions require such subsurface drainage systems to assure safe and dry conditions for buildings.

11-25-7: WATER FACILITIES

A. General Requirements.

1. The owner/developer of any land proposed to be developed as a subdivision shall at their expense be required to comply with all regulations of the current city water service development standards in providing domestic water use and fire protection.
 2. Where a public water main is accessible, the developer shall install adequate water facilities, including fire hydrants. All water mains shall be at least six inches (6") in diameter, except as otherwise permitted by the City Public Works Standards. All water lines must be extended across the entire frontage of all existing streets and to the boundary of the subdivision on all existing or proposed streets. Main valves shall be installed at all intersections and other locations as required by Public Works Standards.
 3. Water main extensions shall be approved by the City Engineer.
 4. All proposed water improvements shall comply with the city master water plan and Public Works Standards.
- B. Fire Hydrants. Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than five hundred feet (500') apart and within two hundred fifty feet (250') of any structure and shall be approved by the North View Fire District. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on the subdivision plat. The Fire Marshall and the City Engineer shall inspect all such improvements.
- C. Closure of Wells. When an existing well lies on the property being developed, the owner/developer shall, in coordination with and pursuant to applicable regulations of the state water engineer, seal the well and offer the water rights to the City or be transferred to state

ownership. All costs associated therewith shall be borne by the owner/developer and included in the cost estimate for improvements.

11-25-8: SECONDARY WATER SYSTEM

- A. The applicant is required to provide secondary water as a condition of approval, provided the design of the system meets Public Works Standards and receives an approval from the engineer for the secondary water district. If secondary water is unavailable, a deferral agreement shall be entered into for future connections and culinary water used for landscape irrigation.

11-25-9: SEWERAGE FACILITIES

- A. General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the adopted city Public Works Standards and the Weber-Morgan County Health Department. Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot and to grades and sizes required by the city Public Works Standards. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted. All sewer lines must be extended across the entire frontage of all existing streets and to the boundary of the subdivision on all existing or proposed city streets.
- B. Scoping of Lines. Prior to approval and acceptance by the city, developer shall inspect all sanitary sewer pipe lines by means of remote televising equipment and shall record the entire televising inspection on video tape or other acceptable reproduction means for review by city officials.

11-25-10: SIDEWALKS

- A. 5' wide sidewalks shall be included within the dedicated right of way of all streets as shown in the Public Works Standards or as required by the Planning Commission in consultation with the City Engineer.

11-25-11: UTILITIES

- A. Location. The applicant is required to provide for the installation of all utility facilities, including, but not limited to, gas, electric power, telephone and broadband cables, which shall be located underground through the subdivision. Wherever existing utility facilities are located above ground, except where existing on public roads and rights of way, developer shall cause facilities to be removed and placed underground. Underground service connections to the street property line of each platted lot shall be installed at the developer's expense. Buried electrical transformers shall be located as to avoid all drainage channels or flooding due to final grade.
- B. Sharing of Trenches. All public utilities and cable service providers shall cooperate in good faith in an effort to share the use of underground trenches with all other public utilities and cable service providers in accordance with the city Public Works Standards and subject to coordination by the City Engineer.
- C. Notice to Utility Operators of Open Trenches. The developer shall be responsible to provide reasonable notice of at least thirty (30) days to public utilities and cable television operators of the approximate date on which open trenching will be available for the installation of the pipes, conduits, cables, wires and like means of transmitting the applicable services of public utilities and cable television.

11-25-12: PUBLIC USES

A. Recreation.

1. Recreation Sites. Land reserved for public recreation purposes shall be of a character and location suitable for use as a playground, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by a development agreement, which improvements shall be included in the performance bond or escrow. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the Parks and Recreation Department for a recommendation. All land to be reserved for dedication to the city for park purposes shall have prior approval of the City Council and shall be shown marked on the plat "reserved for park and/or recreation purposes".
2. Other Recreation Reservations. The provisions of this section are minimum standards. None of the subsections above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

11-25-13: IRRIGATION WATER WAYS

- A. No open irrigation ditches shall be permitted within the boundary of a subdivision. All necessary irrigation ditches, whether used for the purpose of transporting irrigation or waste flow water that must be maintained within a subdivision shall be replaced with a pipe culvert which meets the specifications of the Public Works Standards. The developer of a subdivision must provide for maintaining the existing rights of all irrigation users, both upstream and downstream of the proposed development.

11-25-14: PRESERVATION OF NATURAL FEATURES AND AMENITIES

- A. Water Rights. All water or water rights used upon, appurtenant to or running with any land located within a proposed subdivision shall be offered to the city for purchase at the market value existing at the time the preliminary plan is submitted for approval.
- B. Sensitive Lands Ordinance requires the identification of existing water features, steep slopes, rock outcroppings, etc. of the site. Subdivision design should avoid the sensitive lands features, clustering is encouraged.

11-25-15: NONRESIDENTIAL SUBDIVISION

- A. General:
- B. A nonresidential subdivision shall be subject to all the requirements of site plan approval set forth in CCNO 11-2-9. Site plan approval and nonresidential subdivision plat approval may proceed simultaneously.
- C. Standards. In addition to the standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the commission that the street, parcel and block pattern proposed are specifically adapted to the uses anticipated and take into account other uses in the vicinity. The following standards shall be observed:
 1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated;

2. Street right of way and pavement shall meet Public Works Standards for the type and volume of traffic anticipated to be generated thereupon;
3. Streetscape improvements as described in the Public Works Standards shall be included when such developments abut Washington Blvd. or 2700 N
4. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing upon existing or potential residential development and provisions for a fence or other barrier, and/or a permanently landscaped buffer strip;
5. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

11-25-16: STREETLIGHTS

- A. The developer shall, at its own cost and expense, erect and install all streetlights, poles, cables, wires, pedestals and other street lighting facilities and equipment as required and prescribed by the city Public Works Standards. All streetlights shall be downward directed and shielded.

11-25-17: TRAILS

- A. General Requirements.
 1. Development within any new subdivision of a segment of a trail system designated in the city's general plan or trails master plan shall be a required feature of new subdivision infrastructure.
 2. Connection to City Trail System. Where a proposed subdivision includes or adjoins an existing or planned public trail system as described in the city's general plan or trails master plan, no subdivision shall be approved unless the area to be laid out, dedicated, and platted shall include public trail infrastructure as provided in the city's general plan or trails master plan and constructed to Public Works Standards.
 3. Standards. Trails shall be developed according to Public Works standards. Where trails cannot occupy a separate corridor, a 6' to 8' sidewalk may provide the trail connection, if approved by the Parks Department and the City Engineer following consultation with the Parks and Recreation Department.
 4. Dedication. Public trail improvements shall be dedicated to the city and, after final acceptance, the city shall become responsible for future trail maintenance. Trail construction as identified in each phase shall be completed with the roads installed in each phase of a subdivision.
 5. Trail Exaction. To determine whether the trail exaction required of a subdivision owner is roughly proportional to the impact on the trail system generated by the subdivision, the city will consider if the developer is asked to dedicate more than the minimum width of right of way necessary for safe trail development and the length of the trail segment to be dedicated is excessive when compared to what is required to serve the subdivision alone. Whenever it appears likely to the city and/or developer that the required dedication of trail right of way by a subdivision owner may result in a disproportionate burden, the city will consider trading additional development bonuses in exchange for the excess portion of the exaction such as reduced minimum lot size, reduced setback requirements, reduction or waiver of development fees, etc. The end result of the negotiation between the city and the subdivision owner for the excess

exaction shall be set forth in a development agreement to be signed by the subdivision owner and approved by the City Council. Trails completed by the developer shall count toward the required open space for the development.

11-26: IMPACT FEES FOR SUBDIVISIONS

11-26-1: PURPOSE AND INTENT

A. The City Council finds and determines:

1. There is a need for public facilities for new development which have not been constructed and which are required to be consistent with the city general plan and to protect the public's health, safety and welfare.
2. The rapid and continuing growth of the city necessitates the imposition and collection of impact fees pursuant to law that require development to pay its fair share of the cost of providing public facilities occasioned by the demands and needs of the development project at service levels necessary to promote and preserve the public health, safety and welfare.
3. The City Council hereby adopts the following documents, and their subsequent updates, as the capital facilities plan required by Utah Code § 11-36-201(2): "Development Impact Fee Calculation Report For North Ogden City" (1997) by Management Services Institute; the "Sanitary Sewer Master Plan And Impact Fee Study" (1997) by Jones and Associates; and "Development Impact Fee Calculation Report" (1999) by Revenue and Costs Specialists, LLC. Adoption of a report includes adoption of all related supporting data which establish the costs of providing public facilities occasioned by development projects within the city.
4. The impact fees established by this chapter are based upon the costs which are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the city.
5. The impact fees established by this chapter do not exceed the reasonable cost of providing public facilities occasioned by development projects within the city.

11-26-2: SERVICE AREAS ESTABLISHED

1. The following service areas are established within the city:
Section 1. Water pressure zones 7 through 11, which are between five thousand eighteen feet (5,018') and five thousand seven hundred feet (5,700') of elevation as shown on the city culinary water master plan;
2. Section 2. Water pressure zones 1 through 6, which are between four thousand three hundred fifty feet (4,350') and five thousand seventeen feet (5,017') of elevation as shown on the city culinary water master plan.

11-26-3: IMPACT FEES LEVIED

- A. The impact fees imposed in the city are contained in resolution 11-97 and may be changed by the City Council by resolution from time to time.

11-27-4: TIME OF COLLECTION

- A. Unless otherwise provided by the City Council, impact fees shall be payable by the developer prior to the issuance of a city building permit.

11-26-5: USE OF FEES

- A. The fees shall be used solely to:
 1. Pay for the land and described public facilities to be constructed by the city;
 2. For reimbursing the city for the development's share of those capital improvements already constructed by the city; or
 3. To reimburse developers who have constructed public facilities where those facilities were beyond that needed to mitigate the impact of the developers' projects.

11-26-6: ADJUSTMENTS

- A. The city may, upon a proper showing, adjust the standard impact fee at the time the fee is charged to:
 1. Respond to unusual circumstances in specific cases; and
 2. Ensure that the impact fees are imposed fairly; and
 3. Adjust the amount of the fee based upon studies and data submitted by the developer which are approved by the city after review of the same; and
 4. Allow credits as approved by the city for dedication of land for improvement to, or new construction of, public facilities providing services to the community at large, provided such facilities are identified in the capital facilities plan and are required by the city as a condition of approving the development activity. No credit shall be given for project improvements as defined by Utah Code § 11-36-102.

11-26-7: ACCOUNTING, EXPENDITURE AND REFUND

- A. The city shall account for, expend and refund impact fees in accordance with the provisions of Utah Code § 11-36-101 et seq.

11-26-8: CHALLENGES AND APPEALS

- A. Property Owners and Residents. Any person or entity residing in or owning property within a service area, and any organization, association or corporation representing the interests of persons or entities owning property within a service area, may file a declaratory judgment action challenging the validity of the fee.
- B. Request for Information. Any person or entity required to pay an impact fee imposed by the city who believes the fee does not meet the requirements of law may file a written request for information with the city as provided by law.
- C. Written Analysis. Within two (2) weeks of the receipt of the request for information, the city shall provide the person or entity with the written analysis required by the act and with any other relevant information relating to the impact fee.
- D. Appeal Procedure. Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall:
 1. File a written appeal with the City Council by delivering a copy of such appeal to the city administrator setting forth in detail all grounds for the appeal and all facts relied upon by the appealing party with respect to the fees appealed. Upon receipt of the appeal, the City Council shall thereafter schedule a public hearing on the appeal at which time

all interested persons will be given an opportunity to be heard. The City Council shall schedule the appeal hearing and thereafter render its decision on the appeal no later than thirty (30) days after the challenge to the impact fee is filed. Any person or entity who has failed to comply with the administrative appeal remedies established by this section may not file or join an action challenging the validity of any impact fee.

2. Within ninety (90) days of a decision upholding an impact fee by the city or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier, any party to the appeal that is adversely affected by the City Council's decision may petition the second judicial district court in and for Weber County for review of the decision.
3. In the event of a petition to the second judicial district court, the city shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
4. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsection D3 of this section.
5. If there is a record:
 - a. The district court's review is limited to the record provided by the city; and
 - b. The district court may not accept or consider any evidence outside the city's record unless that evidence was offered to the city and the court determines that it was improperly excluded by the city.
6. If there is an inadequate record, the district court may call witnesses and take evidence.
7. The district court shall affirm the decision of the city if the decision is supported by substantial evidence in the record.
8. The judge may award reasonable attorney fees and costs to the prevailing party in any action brought under this section.

11-27: CONDOMINIUM APPROVAL

11-28-1: PURPOSE AND INTENT

- A. The procedures and requirements of this chapter shall apply to and govern the processing of condominium record of survey maps pursuant to the requirements of the condominium ownership act of 1975, Utah Code 57-8, as amended. Said procedures and requirements shall supplement zoning, site development, health, building and other ordinances applicable to a particular condominium project, and shall apply to the approval of such projects involving new construction as well as those involving the conversion of existing structures. In addition, condominium projects, which contemplate dedication of real property or improvements for the use of the public, or condominium projects in which units are not contained in existing or proposed buildings, shall also be considered subdivisions requiring compliance with the applicable provisions of this chapter.
- B. In the case of conversions of existing commercial or residential buildings to condominiums, corrections of building code violations, the upgrading of vehicle parking facilities, and safety of common functional elements of the structures are of prime importance. It is also recognized that the conversion of existing apartments or similar multi-family rental dwelling structures presents the potential of relocation hardship to existing tenants, especially senior citizens, and

warrants that reasonable notice and disclosure requirements be established by the city to minimize said hardships, which are also addressed Title 57, chapter 8 of the Utah Code.

11-27-2: SUBMISSION OF APPLICATION

- C. Application requirements, processing and approval regulations contained within this chapter shall apply to all condominiums.
 - 1. The land use authority shall not refuse approval of a final plat of a condominium that is in compliance with the provisions of this chapter and the zoning ordinance, as long as the location of buildings shown on the plat and the manner in which airspace is to be divided in conveying the condominium are not in violation of this chapter and the zoning ordinance. This subsection does not limit the power of the land use authority to regulate the location of buildings in such a project by or pursuant to the zoning ordinance.
 - 2. In order for the condominium application to be considered complete, the applicant shall provide to the city any plans, specifications and/or analyses needed to show that the proposed condominium subdivision is in compliance with this chapter and the zoning ordinance, including, but not limited to, grading plans, floor plans, elevations, landscape plans, and hillside disturbance plans and analyses.
 - 3. Upon final condominium approval and recordation, the owner of the condominium may build that condominium, including individual condominium units, using the exact dimensions and locations as shown on the final condominium plat map, regardless of any legal nonconforming attribute that the condominium may have at the time of building permit application. However, if the owner proposes any changes to the dimensions or locations as shown on the final condominium plat map, including, but not limited to, the locations and dimensions of individual condominium units, the owner shall be required to re-plate the condominium, and the re-plate shall be required to be in conformance with the subdivision and zoning regulations in effect at the time of re-plate application.
- A. Documents and Information Required. The owner or developer of a proposed condominium project desiring approval shall file a preliminary plat application and follow the process and requirements specified, and beginning with 12-3. In addition, the Utah State Code requires substantial legal and procedural requirements as specified in Utah State Code Title 57, Chapter 8. the following with the planning staff:
- B. If the proposed development includes the conversion of one or more existing buildings to condominium ownership, the developer shall also submit two (2) copies of a property report prepared by a licensed architect or engineer. This property report shall contain:
 - a. The age of the buildings;
 - b. A description of the general condition of the buildings and the expected useful life of the buildings;
 - c. A description of the condition of the structural and mechanical elements of the buildings and an estimate of their useful life, including the roof, foundation, mechanical system, electrical system, plumbing system, boiler (if any) and other structural or mechanical systems;
 - d. A description of all known conditions constituting deficiencies requiring repair to meet existing building codes;

- e. A description of how each unit will have its own utility connections and a drawing of the utility lines for each unit;
 - f. All known conditions which may require repair or replacement within the next succeeding five (5) year period;
 - g. A plan for proposed improvements, renovations and repairs to the existing buildings; and
 - h. A certification from the building inspector that all violations of the applicable building codes have been repaired and that the buildings comply with all building codes at the time the application is made.
- 2. Proof of notice to tenants as required by CCNO 12-8-5 have been sent to tenants; provided, that the developer may send those notices after the Planning Commission has made a recommendation for approval of the plans to the City Council; and
 - 3. A condominium application filing fee, which shall be equal to the filing fee the developer pays for the subdivision application.
- C. Filing Fee. The subdivider shall, at the time of filing the preliminary plat, pay to the department the preliminary plat application fee established by the City Council.

11-27-3: PRELIMINARY PLAT REVIEW BY PLANNING COMMISSION

- A. Refer to CCNO 11-2-12 for application process.

11-27-4: NOTICE TO TENANTS IN CONVERSION PROJECT

- A. Notice. As part of the application for approval of a condominium project when the project involves the conversion of an existing structure where the structure has been occupied by residential or commercial tenants prior to application for conversion, the owner-developer shall provide notice of intended conversion to said tenants by certified mail. This notice requirement shall not apply to a structure that was vacant and remained so during the year prior to filing of the developer's application for conversion; nor shall it preclude the approval of a project where every tenant has executed a waiver relinquishing his or her right of notice under this provision. The notice shall be sent at least twenty one (21) days prior to the Planning Commission meeting when the conversion will be considered.
- B. Contents. Such notice shall include:
 - 1. The proposal for the conversion of the building to a condominium project;
 - 2. The established dates of commencement of the construction period and termination of rental occupancy which shall be no less than the later of:
 - a. Sixty (60) days from the date notice is served upon occupants; or
 - b. The expiration of individual leases;
 - 3. The disclosure of the sales price for each unit shall be no greater than the price initially advertised and offered to the general public at such time as when the condominiums are offered for public sale;
 - 4. Relocation information for the tenants, specifying available alternative housing relocation resource agencies and organizations, and a plan of any services to be voluntarily provided by the owner/developer;
- C. Dissemination of Notice. A copy of the notice, together with a list prepared by the owner/developer identifying names, apartment or unit numbers, approximate ages, rental rates and other known special handicaps or factors affecting relocation needs of the tenants shall be

submitted to the county social services department to advise the agency of the conversion and/or solicit their assistance with relocation services. No final approval of such a conversion project shall be granted by the Planning Commission until the owner/developer has provided proof of notice by certified mail or subsequent proof of actual delivery, by methods of service allowed under Utah Code § 78-36-6, of such notices and relocation information as required above, and any plans for relocation services to be voluntarily provided by the owner/developer, and the time designated therein for termination of rental occupancy (a minimum of 60 days) will expire.

11-27-5: FINAL APPROVAL BY CITY COUNCIL

Refer to CCNO 11-2-13 for application process.

11-28: BOUNDARY LINE ADJUSTMENT

11-28-1: PURPOSE AND INTENT

- A. Boundary line adjustments are intended to provide a streamlined and simplified method of complying with State law by allowing property owners to adjust parcel lines within the limits of this chapter.

11-28-2: APPLICATION AND APPROVAL AUTHORITY

- A. Any adjoining property owners may submit an application, proposed map, and proposed legal descriptions for a boundary line adjustment. The Planning Director is designated as the land use authority and may either approve, conditionally approve, or deny boundary line adjustments.

11-28-3: APPROVAL CRITERIA

- A. The following approval criteria must be complied with in order to approve a boundary line adjustment.
 - 1. The change in boundary lines does not result in the creation of a new lot or parcel;
 - 2. The proposed change to a lot or parcel does not result in the creation of a parcel of size or shape that does not conform to all City zoning regulations and site development standards. If the proposed change is to a legally existing nonconforming parcel, the change may not increase the nonconformity;
 - 3. The proposed change to a lot or parcel does not result in changing a conforming structure into a nonconforming structure as a result of setbacks, proximity to other structures, use, landscaping, or any other site development requirement;
 - 4. The petition to change the boundaries must include signatures from representatives of each parcel affected by the boundary line adjustment; and
 - 5. Each parcel of land was held in separate ownership prior to December 31, 2000.
- B. In the case of an adjustment of a boundary line adjusting property lines that affect lots in a subdivision previously approved by the City, the applicant shall submit a plat, and in the case of an adjustment of a property line between two parcels, the applicant shall submit a record of survey.
- C. The boundary line adjustment may not adjust the boundary line between a parcel and an existing public street or right-of-way, or propose a new public street or right-of-way.

11-28-6: SPECIAL SERVICE DISTRICT ANNEXATION

- A. If parcel boundaries proposed to be adjusted or combined are crossed by a special service district. The entire parcels must either be de-annexed or annexed into or from the special service district.

11-28-7: EXPIRATION

- A. Any boundary line adjustment that has not been recorded within six months of the date of approval shall be deemed to have expired.