

PLANNING COMMISSION

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*Clinton City
Planning Commission*

*Chairman
Jacol Briggs*

*Vice Chairman
Bob Buckles*

*Members
David Coombes
Jolene Cressall
Andy Hale
Jeff Ritchie
Anthony O. Thompson*

*City Staff
Will Wright*

AGENDA

October 4, 2016

7:00 pm

There will be a work session meeting of the Clinton City Planning Commission held on the date mentioned above in the **Council Chambers** of Clinton City; **City Hall** located at **2267 North 1500 West**.

	Pledge	Appointed
	Invocation or Thought	Appointed
	Roll Call	Chair
	City Council Report	Staff
	Planning Commission Minutes for September 20, 2016	Chair
	Declaration of Conflicts	Chair
	WORK SESSION:	
1.	Consider update of the City's Subdivision Ordinance with a review of Chapters 1 & 3. This review may start at Chapter 4 and include a review of other chapters in this ordinance.	
2.	COMMISSION COMMENTS	
3.	ADJOURN	

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**SUBDIVISION ORDINANCE
OF
CLINTON CITY**

**TITLE 26
SUBDIVISION ORDINANCE**

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Chapter 1. General Provisions

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26-1-1 Title. In order that land may be subdivided in accordance with the purposes and policies herein, these subdivision regulations are hereby adopted and made effective as of **{the date of this ordinance}. All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under the regulations existing at the time such application was made unless the City Council determines on the record that application of these regulations is necessary to avoid a risk of injury to public health, safety, and general welfare. These regulations shall officially be known, cited, and referred to as the Subdivision ~~Standards Ordinance~~ of Clinton City, ~~more commonly referred to as the Subdivision Standards.~~

26-1-2 Policy. Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this City. The developer has the duty of compliance with reasonable conditions of this Ordinance for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

26-1-3 It is declared to be the policy of the city

to consider the subdivision of land and any subsequent development of any portion of a subdivided piece or plat as subject to the control of the City pursuant to the General Plan of the City for the orderly, planned, efficient, and economical development of the City.

(2)
~~(1)(2)~~ Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, and land shall not be subdivided until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as parks, recreational facilities, transportation facilities, and improvements.

(3)
~~(2)(3)~~ The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the General Plan, Master Land Use Map, master infrastructure plans and the capital budget and program of the City, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, the General Plan, Master Land Use Map and land use plan, master infrastructure plans and the capital budget and program of the City.

(4)
~~(3)(5)~~ ~~(4)~~ Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of regulation(s) identified in Section 26-1-3.

~~26-1-4~~ **26-1-3 Public Interest.** Any proposed subdivision and its ultimate use shall be in the best interest of the public and shall be in harmony with good neighborhood development of the area concerned, and the subdivider shall present evidence to this effect when requested to do so by the Planning Commission.

~~26-1-5~~ **26-1-4 Purpose.** These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety, and general welfare of the City.
- (2) To guide the future growth and development

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of the City in accordance with the General Plan.

(3) 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.

(4) To protect the character, the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and nonresidential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development.

(5) 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.

(6) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, parks, playgrounds, recreation, and other public requirements and facilities.

(7) 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 in the streets and highways and 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.

(8) 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 establishment of survey monuments of subdivided land.

(9) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services though requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs

generated by the development.

(10) 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.

(11) To preserve and/or improve the natural beauty and topography of the City and to ensure appropriate development with regard to these natural features.

(12) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning ordinance of the City.

(13) To ensure that land is subdivided only when subdivisions are necessary to provide for uses of land for which market demand exists and which are in the public interest.

(14) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision ~~and scattered~~.

(15) To provide for safety and security of residents, subdivisions, commercial properties, and traffic by planning, developing, executing and requiring a city wide street lighting and general lighting design and requirement.

~~26-1-6~~**26-1-5 Availability of Utility**

Services. No development, nor permit for development, shall be granted, approved, or issued unless the necessary public facilities in the applicable area have been determined to exist and have adequate capacity to accommodate the proposed development ~~at the Adopted Level of Service Standard~~, and are available or are to be available when the development occurs. The applicable area includes all facilities that directly or indirectly deliver the services to or are impacted by the proposed development. Such a determination is to be made by the ~~Public Works Department based upon the approved infrastructure master plans City Engineer, using the accepted methods and measurements of the profession~~.

~~26-1-7~~**26-1-6 Authority.**

(1) **City Council.** The City Council of the City of Clinton is vested with the authority to

approve, amend and approve, conditionally approve or disapprove an application for the final plat of a subdivision of land unless specifically excepted by this ordinance. The Board of Zoning Adjustment is the appeal authority to hear and decide appeals from decisions regarding final plats.

(2) **Planning Commission.**

(3) The Planning Commission of Clinton City is vested with the authority to review, approve, conditionally approve and disapprove applications for the preliminary plats of subdivision of land. The City Council is the appeal authority to hear and decide appeals from decisions regarding preliminary plats.

(a)

(b) The Planning Commission is vested with the responsibility to review and make recommendation to the City Council concerning the approval, conditional approval or disapproval of the final plat of a subdivision of land unless specifically excepted by this ordinance.

~~(3)~~(4) **Community Development Director.** The Community Development Director of Clinton City is vested with the authority to;

(a) ~~The Community Development Director of Clinton City is vested with the authority to~~ Review and recommend approval to the Mayor of Clinton City the approval of minor subdivisions of ~~five three~~ lots or less which comply with the requirements of Chapter 3.

~~(b) The Community Development Director is vested with the authority to~~ Review with developers and make recommendation concerning the development of sketch plats that will be utilized in the creation of preliminary plats. The efforts of the Community Development Director are intended to assist developers, however recommendations made by the Community Development Director are not binding upon the Commission or Council nor are they to imply approval of any development.

~~(b)~~

~~(c) The approval of simple subdivisions of five lots or less which comply with the requirements of this Title;~~

~~(d)(c) The approval of~~ amendments to subdivisions that do not include vacating rights-of-way or easements and which comply with the requirements of this Title;

~~(d)~~ The approval of Approve lot line adjustments which comply with the requirements of this Title;

~~(e)(c) The approval of Approve~~ property combinations which comply with the requirements of this Title;

~~(e)(f) The approval of Approve~~ transfers, not to include vacation of rights-of-way and easements which comply with the requirements of this Title;

~~(g) The approval of Approve~~ a Record of Survey Map which complies with the requirements of this Title.

The Board of Zoning Adjustment is the appeal authority to hear and decide appeals from the above decisions of the Community Development Director.

26-1-826-1-7 Jurisdiction.

(1) Applicability. These regulations apply to all subdivisions of land, as defined in Chapter 2, located within the corporate limits of the City or outside the corporate limits as provided by law.

(2) Means. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the City Council, ~~unless specifically excepted by this Ordinance and in accordance with this Ordinance, in~~ accordance with this Ordinance, except as specifically stated otherwise in this Ordinance.

(3) Issue of Permits.

~~(a) The subdivision of any lot or any parcel of land by the use of deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument for the purpose of sale, transfer, lease, or development is prohibited.~~

~~(b) No building permit or certificate of occupancy shall be issued, nor shall the City have any obligation to extend utility services to any parcel created in violation of these regulations, for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this Ordinance, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this Ordinance and applicable regulations.~~

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~~(b)(c)~~ The Community Development Director shall not grant any permits for excavation or permits for construction or issue plans "Approved for Construction" and the Building Official shall disapprove any petition for a building permit on lands subdivided prior to or following the effective date of these regulations as follows:

when required, and ~~a the final plat from the Planning Commission and City Council~~ as outlined by this ordinance; and

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~~(e)(d)~~ The plat of the subdivided land has been of record after May 10, 1985, and prior to the date of this Ordinance and was not approved in accordance with the provisions of the Ordinance established on that date. The plat of the subdivided land was recorded after the date of this Ordinance without the prior approval of the City as required by this Ordinance.

(c) The final plat and construction drawings have been approved for construction by the Clinton City Engineer and the construction drawings have been marked "APPROVED FOR CONSTRUCTION" and issued by the Community Development Department; and

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~~(d)(c)~~ The plat of the subdivided land has been of record for more than five (5) years, was approved after the date of this ordinance, and contains contiguous lots in common ownership where one or more of the contiguous lots is undeveloped and one or more is nonconforming under the Zoning Ordinance, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider;

(d) The subdivider or his agent has paid fees associated with the subdivision of property and inspection of improvements related to the development of a subdivision as outlined by this ordinance; and

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~~(e)(f)~~ The original subdivider or his successor failed to complete subdivision improvement requirements pursuant to a subdivision improvement agreement entered into when the plat for the subdivided land was approved and the plat contains contiguous lots in common ownership where one or more of the contiguous lots is undeveloped, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider; except that this Section 1.05.3.d. shall not apply if the City has obtained possession of sufficient funds from security provided by the subdivider with which to complete construction of improvements in the subdivision.

(e) The subdivider has provided to the City documentation from the Davis and Weber Counties Canal Company indicating that all fees associated with the secondary water system have been paid; and

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(f) The subdivider or his agent files and causes to have recorded the ~~approved plats~~ final plat with the Recorder for Davis County; or the City Council has authorized the subdivider to start construction prior to recording of ~~an approved the~~ final plat.

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~~(2)(4)~~ **Requirements.** No land described in this section shall be subdivided or developed until each of the following conditions has ~~occurred~~ **been met** in accordance with these regulations:

~~(3)(5)~~ No building permit or certificate of occupancy shall be issued for any parcel or plat of land created by subdivision and not in substantial 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 these regulations.

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(a) The subdivider or his agent has submitted a conforming ~~sketch plat~~, preliminary plat and final plat of the subdivision to the Community Development Director as outlined by this ordinance; and

~~26-1-926-1-8~~ **Enactment.** In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted and made effective as of ~~**~~{the date of this ordinance}. All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under these regulations unless the City Council determines on the record that application of these regulations is not necessary to avoid a risk of injury to public health, safety, and general welfare.

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(b) The subdivider or his agent has obtained approval of the ~~sketch plat, a~~ preliminary plat

~~26-1-1026-1-9~~ **Interpretation, Conflict, and Severability.**

(1) **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. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(2) **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 except as provided in these regulations. 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, the provision which is more restrictive or imposes higher standards shall control.

(3) **Private Provisions:** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, 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, or private agreement or restriction impose duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the City Council in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions and the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

(4) **Severability.** If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, as provided by Utah law, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

~~26-1-1126-1-10~~ **Saving Provisions.** 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 or provision existing at the time or 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.

~~26-1-1226-1-11~~ **Reservations and Repeals.**

Upon the adoption of these regulations according to law, the Subdivision Regulations of Clinton City adopted April 9, 1985, as amended, are hereby repealed, except ~~as to those sections to the extent~~ expressly retained in these regulations.

~~26-1-1326-1-12~~ **Amendments.**

(1) **Amendments to the Ordinance.**

~~(a) "This Ordinance may be amended from time to time in accordance with Utah law governing amendments to a land use ordinance, currently found at Utah Code Section 10-9a-503." For the purpose of protecting the public health, safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations that shall then be approved, amended and approved or disapproved by the City Council. As outlined in Utah Code Unannotated § 10-9-803, the Planning Commission and City Council shall hold public hearings on any proposed changes to this ordinance.~~

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~~(b) Notice of a public hearing for a Planning Commission or City Council hearing related to changes to this ordinance shall be published in at least one newspaper of general circulation in Clinton City, at least fourteen (14) days prior to such hearing.~~

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~~(c) All proposed changes and amendments shall be proposed by and/or submitted to the Planning Commission for its recommendation, a minimum of 30 days prior to the public hearing. The public hearing before the City Council shall not be scheduled until the Planning Commission has passed a motion making a recommendation for City Council consideration.~~

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(2) ~~Amendments to the Attachments: Due to the legal nature of the attachments and need for constant monitoring to protect the interest of the~~

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City the amendments may be changed by the Community Development Director upon review and recommendation of the Clinton City attorney.

~~26-1-1426-1-13 Public Purpose.~~ Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this City. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission as adopted by the City Council for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

~~26-1-14 Variance, Exceptions, and Waiver of Conditions.~~

~~Any person or entity desiring a waiver or modification of the requirements of this Ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Zoning Adjustments for a variance from the terms of the Ordinance. The Board of Zoning Adjustments is bound by Utah law governing variances, currently found at Utah Code Section 10-9a-702, and may only grant a variance if the application meets the requirements found therein.~~

(2) ~~General.~~ Where the City Council, upon the recommendation of the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances, exceptions, and waiver of conditions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver conditions shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the City Council shall not approve variances, exceptions, and waiver of conditions unless it shall make findings based upon the evidence presented to it in each specific case that:

(a) ~~The granting of the variance, exception, or waiver of conditions will not be detrimental to~~

the public safety, health, or welfare or injurious to other property;

(b) ~~The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;~~

(c) ~~Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;~~

(d) ~~The relief sought will not in any manner vary the provisions of the Zoning Ordinance, General Plan, or Master Land Use Map, except that those documents may be amended in the manner prescribed by law.~~

(3) ~~Conditions.~~ In approving variances, exceptions, or waivers of conditions, the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1-03.

(4) ~~Procedures.~~ A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the preliminary plat is filed with the Community Development Department for presentation to and consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The petition shall be accompanied by a fee as set forward in the Clinton City Consolidated Fee Schedule. The Planning Commission will make recommendation to the City Council concerning the approval with any recommended conditions or disapproval of any petition for variance.

26-1-15 Development Guidelines and Design Standards. The Community Development Director with the assistance of the City Engineer, or a designee of the City Engineer, is hereby authorized to draft, approve, adopt, and interpret, a set of development guidelines and design standards for subdivision approvals in the City. Such guidelines and standards may be amended from time to time as determined necessary by the Community Development Director and City Engineer. The standards and guidelines shall be based upon reasonable engineering standards and practices. Any appeal from a guideline or design standard imposed by the guidelines and standards, shall be made to the Board of

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Adjustment, pursuant to ~~Section 9-4~~Chapter 10 of the Zoning Ordinance of the City of Clinton.

26-1-16 Enforcement, Violations, and Penalties.

(1) **General.**

~~(a)~~ It shall be the duty of the Community Development Director to enforce these requirements and to bring to the attention of the City Attorney or his designated agent any violations of these regulations.

(a)

~~(b) No owner, or agent of the owner, of any parcel of the land located in a final plat of a subdivision that has been approved by the Land Use Authority in accordance with the provisions of these regulations may transfer or sell any part of the parcel before the final plat has been recorded with the Davis County Recorder's Office.~~

~~(b) No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before the final plat of the subdivision has been approved by the City Council in accordance with the provisions of these regulations and filed with and recorded at the Recorder of Davis County.~~

(c) The subdivision of any lot or any parcel of land by the use of deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument for the purpose of sale, transfer, lease, or development is prohibited.

(d) No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the City have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of the provisions of these regulations, nor shall the City have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

(2) **Inspections.** Appropriate departments of Clinton City shall inspect or cause to be inspected all buildings, streets, cement work, fire hydrants, and water supply, storm water disposal and waste water 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 Clinton 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 inspector. Funds held in bond or escrow will not be released for any work that has not been inspected by the appropriate City Department. Fees related to inspections shall be paid by the subdivider, developer or his representative as outlined in the Consolidated Fee Schedule.

(3) **Violations and Penalties.** Any violations of this Ordinance shall be a Class 'C' misdemeanor.

Where applicable, each day of noncompliance shall constitute a separate violation.

(4) **Civil Enforcement.** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

26-1-17 Constructive Notice of Time Periods.

All land owners, subdividers, contractors, developers, or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Ordinance relating to the application, processing and approval or other action relating to the development and subdivision of a project.

Nothing in this Ordinance shall be construed as requiring the City to take any affirmative action to notify land owners, subdividers, developers, owners, builders, or applicants of any time periods and/or deadlines or the effect of noncompliance with said processing requirements set forth in this Ordinance relating to the processing and approval or other action relating to the development and subdivision of a project.

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Chapter 2. Definitions

26-2-1 Usage

26-2-2 Words and Terms Defined

26-2-1

(1) **General.** For the purpose of these regulations, certain, numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Chapter 2.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include singular.

26-2-2 Definitions.

“Adequate Public Facilities” means facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Council based upon specific levels of service.

“Alley” means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

“Applicant” means the owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

“Area of Benefit” means an area of land which is designated by the Planning Commission as receiving benefits from or creating the need for the construction, acquisition, or improvement of a Public Facilities Project.

“Area-related Facility” means a capital improvement which is designated in the capital improvements program as serving new development and which is not a site-related facility. Area-related facility may include land dedication or construction of an oversized capital improvement, whether located offsite, or within or on the perimeter of the development site.

“Assessment District” see Public Facility Service Area.

“Average Density” see Cluster Zoning.

“Block” means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads rights-of-way,

shorelines of waterways, or boundary lines of municipalities.

“Bona Fide Division of Partition of Agricultural Land for Agricultural Purposes”

means the division of a parcel of land into two or more lots or parcels, none of which is less than ten (10) acres in area, and provided that no dedication of any streets is required to serve any such lots or parcels of agricultural land so created and providing that each lot or parcel has the minimum required frontage on an existing city street with the required, dedicated right-of-way. Refer to the Clinton City Major Street Plan for street designations. Such a lot is an agricultural lot, reference the Zoning Ordinance.

“Bond” means any form of a surety bond in an amount and form satisfactory to the Council. All bonds shall be approved by the Council whenever a bond is required by these regulations.

“Buffer” see External Buffer.

“Building” means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

“Building and Zoning Inspector” means the person or persons designated by the Council to enforce the building codes and Zoning Ordinance.

“Capital Improvement” means a public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the City.

“Capital Improvements Program” means a plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years (10-20). Capital improvements program may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

“Certify” means whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the municipality by administrative rule may require that such certification be made in any manner,

oral or written, which provides reasonable assurance of the accuracy of the certification.

“City Attorney” means the licensed attorney designated by the Council to furnish legal assistance for the administration of these regulations.

“City Engineer” means the licensed engineer designated by the Council to furnish engineering assistance for the administration of these regulations.

“Community Development Director” means the officer appointed by the Council to administer these regulations and to assist administratively other Boards and Commissions.

“Cluster Zoning” means a technique which allows lots to be reduced in size and buildings sited closer together provided the total development density does not exceed that which could be constructed on the site under conventional zoning and the remaining land is utilized for open space or public purposes.

“Collector Roads” means a road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

“Common Ownership” means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated association, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

“Community Improvement District” see Public Facility Service Area.

“Concurrency” means a requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development units.

“Construction Plan” means the maps or drawing accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.

“Contiguous” means lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

“Council” means the Clinton City Council.

“Credit” means the amount of the reduction of an impact fee or fees, payments or charges for the same type of capital improvement for which the fee has been charged.

“Cul-de-Sac” means a local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.

“Design Criteria” means standards that set forth specific improvement requirements.

“Developer” means the owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations. See Subdivider.

“Development Agreement” means an agreement between the Council and developer through which the Council agrees to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provision of public facilities or amenities by the developer in excess of those required under current community regulations.

“Development Standards” means the Engineering and Standard Specifications and Standard Drawings as adopted by Clinton City.

“Easement” means authorization by a property owner for another to use the owner’s property for a specified purpose.

“Engineering and Standard Specifications and Standard Drawings” (Development Standards) Means the standards for construction of infrastructure within Clinton City.

“Equivalent Dwelling Units” see Service Unit.

“Escrow” means a deposit of cash with an escrow agent, approved by the City to secure the promise to perform some act.

“Exactions” means a requirement of development to dedicate or pay for all or a portion of land or costs of public facilities as a condition of development approval.

“Expenditure” means a sum of money paid out in return for some benefit or to fulfill some

obligation. The term includes binding contractual commitments whether by development agreement or otherwise to make future expenditures as well as any other substantial change in position.

“External Buffer” means a naturally vegetated area or vegetated area along the exterior boundaries of an entire development processed in accordance with a multiphase or phased subdivision application which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

“Fair Share” means a properly balanced and well-ordered plan to meet the housing needs of the community and the region.

“Final Subdivision Plat” means the map of a subdivision to be recorded after approval by the Planning Commission, City Council and any accompanying material as described in these regulations.

“Frontage” means that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot; but it shall not be considered as the ordinary side of a corner lot.

“Frontage Street” means any street to be constructed by the developer or any existing street where development shall take place on both sides.

“General Plan” means a comprehensive plan for development of the City prepared and adopted by the Planning Commission and Council pursuant to Utah State Code §10-9-301, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

“Governing Body” means the Clinton City Council.

“Grade” means the slope of a road, street, or other public way specified in percentage terms.

“Health Department and Health Officer” means the Davis County Health Department.

“Health, Safety, or General Welfare” means the purpose for which municipalities may adopt and enforce land use regulations for the prevention of harm or promotion for public benefit to the community; commonly referred to as police power.

“High Density” means those residential zoning districts in which the density is equal to or

greater than one dwelling unit per 8,000 square feet.

“Homeowners Association” see Property Owners Association.

“Household” means any person or persons who reside or intend to reside in the same housing unit.

**** “Housing Unit or Unit”** means a dwelling unit as defined in _____.

“Impact fee” means a payment of money imposed by the City on development activity pursuant to this Section as a condition of granting a building permit in order to pay for the planned facilities needed to serve new growth and development activity. "Impact fee" does not include a tax, a special assessment, a hook-up fee, a fee for project improvements, a reasonable permit or application fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent impact fee calculations, or the administrative fee required for an appeal.

“Improvements” see Lot Improvement or Public Improvement.

“Infill Development” means development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.

“Landscaping” means acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers, and shade trees.

“Linkage” means a program that requires developers constructing nonresidential structures to either construct affordable housing units or pay money in lieu of construction into a designated fund to provide housing for the future employees of the site.

“Local Government” means the municipality of Clinton City.

“Local Road” means a road whose sole function is to provide access to abutting properties and to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

“Lot, Agricultural, Building, Corner, Interior, Development Standards” refer to the Zoning Ordinance of the City of Clinton.

“Lot, Corner” means a lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

“Lot Improvement” means any building, structure, place, work of art, or other object situated on a lot.

“Low Density” means those residential zoning districts in which the density is equal to or less than one dwelling unit per 15,000 square feet.

“Major Arterial” means a road intended to move through traffic to and from major attractors such as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas and/or which carries high volumes of traffic.

“Major Subdivision” means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the City facilities or the creation of any public improvements.

“Market Value” means the fair market value of a designated unit at the time such value is determined by the Community Development Director.

“Medium Density” means those residential zoning districts in which the density is between 15,000 and 9,000 square feet per dwelling unit.

“Metropolitan or Regional Planning Commission and Metropolitan or Regional Council of Governments” means the agency performing A-95 review of all federal grant-in-aid projects that are required to be reviewed by regional and state planning boards to ensure the projects conform to regional and state needs; the planning agency established to carry on regional or metropolitan comprehensive planning.

“Minor Subdivision” means any subdivision containing not more than five (5) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the General Plan, Official Map, Zoning Ordinance, or these regulations.

“Model Home” means a dwelling unit used initially for display purposes which typifies the

type of units that will be constructed in the subdivision and which will not be permanently occupied during its use as a model.

“Money in Lieu of Land” means payment of money into a municipally earmarked fund to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on site.

“Municipality” see Local Government.

“Neighborhood Park and Recreation Improvement Fund” means a special fund established by the Council to retain monies contributed by developers in accordance with the “money in lieu or land” provisions of these regulations.

“New Development” means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of land; any of which has the effect of increasing the requirements for capital improvements, measured by number of service units to be generated by such activity, and which requires either the approval of a plat pursuant to the City’s subdivision regulations, the issuance of a building permit, or connection to the City’s water or sanitary sewer system.

“Nonresidential Subdivision” means a subdivision whose intended use is other than residential, such as commercial or industrial.

“Notice of Noncompliance” means a notice issued by the Community Development Director to the Planning Commission informing the applicant for approval of a major subdivision that the sketch plat is not in compliance with these regulations and that the applicant may not apply for preliminary plat approval.

“Notice to Proceed” means a notice issued by the Community Development Director to the Planning Commission informing the applicant for approval of a major subdivision that the sketch plat is in compliance with these regulations and that the applicant may proceed to apply for preliminary plat approval.

“Offset” means the amount of the reduction of an impact fee designed to fairly reflect the value of area-related facilities or other oversized facilities, pursuant to rules herein established or administrative guidelines, provided by a developer pursuant to the City’s subdivision or zoning regulations or requirements.

“Off-site” means any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.

“Office Development Project” means any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of office space.

“Office Use” means a space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services including but not limited to the following: professional, banking, insurance, management, consulting, technical, sales, and design; or the office functions of manufacturing and warehousing businesses, but excluding retail uses; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving, and storage; and design showcases or any other space intended and primarily suitable for display of goods. This definition shall include all uses encompassed within the meaning of [redacted]

“Official Map” means the map established by the Council pursuant to law showing the streets, highways, parks, drainage systems and setback lines laid out, adopted, and established by law, and any amendments or additions to adopted by the Council resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of approved plats.

“Official Master Plan” See Master Plan.

“Ordinance” means any legislative action, however denominated, of the City including any amendment or repeal of any ordinance.

“Owned Unit” means a designated unit which is a condominium, stock cooperative, or community apartment.

“Owner” means the record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of Same Ownership.

“Performance Criteria” means the regulation of development based on open space ratio,

impervious surface ratio, density, and floor area ratio.

“Perimeter Street” means any existing street to which the parcel of land to be subdivided abuts on only one (1) side.

“Person” means any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

“Phased Subdivision Application” means an application for subdivision approval submitted pursuant to a Master Preliminary Plat, or at the option of the subdivider, pursuant to a specific plan in which the applicant proposes to immediately subdivide the property but will develop in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, nonresidential development projects, **planned unit developments**, mixed-use projects, and residential developments.

“Planned Unit Development (PUD)” means a development constructed on a tract of minimum size under single ownership planned and developed as an integral unit and consisting of a combination of residential and/or nonresidential uses on the land.

“Planning Commission” means the Clinton City Planning Commission established in accordance Utah State Code §10-9-201.

“Police Power” means the inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare.

“Preliminary Plat” means the preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

“Property Owners Association” means an association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision-be it a lot, parcel site, unit plot, condominium, or any other interest-is automatically a member as a condition of ownership and each such member is subject to a

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charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.

“Public Facility” means [separately identify categories of public facilities and the types of improvements for which an impact fee will be charged for each such category under this article]. Public facility excludes those improvements that are site-related facilities.

“Public Facility Improvements Program” means the adopted plan, as may be amended from time to time, which identifies the public facilities and their costs for each public facility benefit area or subarea, which serve new development for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of public facilities fees pursuant to this ordinance.

“Public Facilities Inspector” or “Inspector” means the appropriately appointed Clinton city employee designated to inspect and pass or fail work accomplished in a Public Way.

“Public Facilities Project” means any and all public improvements the need for which is directly or indirectly generated by development, including but not limited to the following:

- (1) Water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service.
- (2) Lines, conduits, and other necessary works and appliances for providing electric power service.
- (3) Mains, pipes, and other necessary works and appliances for providing gas service.
- (4) Poles, posts, wires, pipes, conduits, lamps, and other necessary works and appliances for lighting purposes
- (5) Sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, culverts, bridges, curbs, gutters, tunnels, subways or viaducts, parks and parkways, recreation areas, including all structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended.
- (6) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels, or other appurtenances.
- (7) Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels, and appurtenances.
- (8) Pipes, hydrants, and appliances for fire protection
- (9) Breakwaters, levees, bulkheads, groins and walls of rock, or other material to protect the streets, places, public ways, and other property from overflow by water, or to prevent beach erosion or to promote accretion to beaches.
- (10) Retaining walls, embankments, buildings, and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.
- (11) Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains, and other structures suitable for the purpose of stabilizing land.
- (12) Works, systems or facilities for the transportation of people, including rolling stock and other equipment appurtenant thereto.
- (13) All other work auxiliary to that described in subparagraph 12 which may be required to carry out that work, including terminal and intermediate stations, structures, platforms, or other facilities which may be necessary for the loading of people into and unloading of people from such transportation facilities.
- (14) The grading or regrading, the paving or repaving, the planking or replanking, the macadamizing or remacadamizing, the raveling or regravelling, and the oiling or reoiling of streets.
- (15) Acquisition, construction, improvement, and equipping of temporary and permanent school buildings.
- (16) Acquisition, construction, improvement, and equipping of fire stations.
- (17) Acquisition, construction, improvement, and equipping of police stations.
- (18) Acquisition, construction, and installation of traffic signs, signals, lights, and lighting.
- (19) Public works maintenance facilities.

(20) All other work auxiliary to any of the above which may be required to carry out that work including, but not limited to, the maintenance of Public Facilities Projects and administrative, engineering, architectural, and legal work performed in connection with establishing, implementing, and monitoring Public Facilities Projects.

(21) Acquisition of any and all property, easements, and rights-of-way which may be required to carry out the purposes of the project.

“Public Facility Service Area” means the service area for Clinton City.

“Public Hearing” means an adjudicatory proceeding held by the Planning Commission preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. Witnesses shall be sworn and subject to cross-examination. The rules of civil procedure binding on the courts shall not, however, bind the Planning Commission.

“Public Improvement” means any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which City responsibility is established.

“Public Meeting” means a meeting of the Planning Commission or Council preceded by notice, open to the public and at which the public may, at the discretion of the body holding the public meeting, be heard.

“Public Notice, Sign” means a two (2) foot by two (2) foot sign which, in contrasting letters announces a public hearing, the phone number at the city offices where additional information may be obtained, and a copy of the notice of public hearing. Lettering will be of contrasting color to the background and “Public Notice” will be three (3) inch tall letters, the phone number will be one and one-half (1½) inch tall letters. The copy of the public notice will be on an 8½” x 11” piece of paper contained in a weather resistant, transparent cover.

“Recoupment” The imposition of an impact fee to reimburse the City for capital improvements previously oversized to serve new development.

“Regional Planning Commission and Regional Council of Governments” See Metropolitan or Regional Planning Commission.

“Registered Engineer” means an engineer properly licensed and registered in the State of Utah.

“Registered Land Surveyor” means a land surveyor properly licensed and registered in the State of Utah.

“Rental Unit” means a designated unit which is not a condominium, stock cooperative, or community apartment.

“Residential unit” means any building or portion thereof which contains living facilities including provisions for sleeping, cooking, eating, and sanitation, as required by the City, for not more than one family, and including site-built buildings, manufactured homes and modular homes. This does not include a tent, a recreational coach or trailer, hotel, motel, hospital, nursing home, or assisted living facility.

“Resubdivision” means any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

“Retail Use” means the space within any structure or portion thereof intended or primarily suitable for occupancy by persons or entities which supply commodities to customers on the premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses, and the uses defined in _____, and also including all space accessory to such retail use.

“Right-of-Way” means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels, Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall

be dedicated to public use by the maker of the plat on which such right-of-way is established.

“Road, Classification” means for the purpose of providing for the development of the streets, highways, roads and rights-of-way in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the City and its present and estimated future traffic volume and its relative importance and function as specified in the General Plan of Clinton City. The required improvements shall be measured as set forth for each street classification on the Official Map.

“Road, Dead-End” means a road or portion of a road with only one (1) vehicular-traffic outlet.

“Road Right-of-Way Width” means the distance between property lines measured at right angles to the center line of the street.

“Sale or Lease” means any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.

“Screening” means either (a) a strip at least ten (10) feet wide of densely planted (or having equivalent natural growth) shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high.

“Secondary Arterial” means a road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic-generating areas such as community commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches, and offices and are designed to carry traffic from collector streets to the system of primary arterials.

“Security” means the letter of credit or cash escrow provided by the applicant to secure its promises in the subdivision improvement agreement.

“Service Area” means the area for a particular category of public facilities within the jurisdiction of the City and within which impact fees for capital improvements will be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements for that category of public facility identified in the public facility improvements program. Service areas may be subdivided into subareas for purposes of assuring that impact fees collected and expended therein reasonably benefit new development within such areas.

“Service Unit” means either _____, which is the standardized measure of consumption, use, or generation attributable to a new unit of development for that category of public facility and which is set forth in the impact fee schedules for that category of public facility.

“Setback” means the distance between a building and the street nearest to the building.

“Shade Tree” means a tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.

“Simple Subdivision” means a minor subdivision where there is three (3) lots or less and complies in all other ways with the requirements of a minor subdivision.

“Site-related Facility” means an improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of _____ to serve the new development, and which is not included in the capital improvements program and for which the developer or property owner is solely responsible under subdivision or other applicable regulations.

“Sketch Plat” means a sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations.

“Specific Plan” means a document encompassing a specific geographic area of the City which is prepared for the purpose of specifically implementing the General Plan of Clinton City by (1) refining the policies of the

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comprehensive plan to a specific geographic area; (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The specific plan shall consist of goals, objectives and policies; requirements for capital improvements; the level of service required for public facilities; physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams, and other appropriate materials showing existing and future conditions.

“Sponsor” means an applicant seeking approval for construction of an office development project subject to Section 5.13 of these Regulations, such applicant’s successors and assigns, and/or any entity which controls or is under common control with such applicant.

“Street” See Road

“Structure” means anything constructed or erected.

“Subdivide” means the act or process of creating a subdivision.

“Subdivider” means any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develop, any interest, lot parcel site, unit, or plat in a subdivision, or, who (3) engages directly offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

“Subdivision” means any land vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residentially and nonresidentially zoned lan including any adjourned date thereof including any adjourned date thereof***d, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes resubdivision and condominium creation or conversion. This definition shall not include bona fide division or partition of agricultural land for agricultural purposes, as

defined herein nor shall it include or apply to any cemetery or burial plot, while used for the purpose. The word “subdivide” and any derivative thereof shall have reference to the term “subdivision” as herein defined.

“Subdivision Agent” means any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

“Subdivision Improvement Agreement” means a contract entered into by the applicant and the Planning Commission on behalf of the municipality by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final subdivision plat approval.

“Subdivision, Major” See Major Subdivision

“Subdivision, Minor” See Minor Subdivision

“Subdivision Plat” means the final map or drawing, described in these regulations, on which the subdivider’s plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be submitted to the County Clerk or Recorder of Deeds for filing.

“Temporary Improvement” means an improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

“Tract” means a lot. The term “tract” is used interchangeably with the term “lot,” particularly in the context or subdivision, where a “tract” is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

“Transfer of Development Rights” means the conveyance of development rights by deed, easement, or other legal instrument, authorized by ordinance or regulation, to another parcel of land and the recording of that conveyance.

“Use to Use Relationship” means focusing on the unique aspects of established, newly developed and redeveloping neighborhoods, and commercial/industrial areas in order to achieve improved compatibility and fit of infill development projects and at the same time assist in the preservation an conservation of stable existing neighborhoods and commercial areas.

“Vested Rights” means the right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

Chapter 3. Subdivision Application Procedure and Approval Process

- 26-3-1 General Procedure
- 26-3-2 Notice of Public Hearing
- 26-3-3 ~~Sketch Plat~~
- 26-3-4 Preliminary Plat
- 26-3-5 Amendments to Preliminary Plat
- 26-3-6 Final Subdivision Plat
- 26-3-7 Vested Rights and Development Agreements
- 26-3-8 Signing and Recordation of Subdivision Plat
- 26-3-9 Appeals to City Council
- 26-3-10 Time Periods for Action
- 26-3-11 Suspension and Invalidation of Final Plat

26-3-1 General Procedure:

(1) **Classification of Subdivisions:** Before any land is subdivided the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which includes ~~two (2) principal step for a simple subdivision;~~ two (2) principal steps for a minor subdivision and three (3) principal steps for a major subdivision:

(a) ~~Simple-Minor~~ Subdivision.

(i) ~~Sketch Plat~~

(ii) Final Subdivision Plat

~~(b) Minor Subdivision~~

~~(i) Preliminary Plat~~

~~(ii) Final Subdivision Plat~~

~~(c) (b) Major Subdivision.~~

(i) ~~Sketch Plat~~

(ii) Preliminary Plat

(iii) Final Subdivision Plat

~~**Official Submission Dates:** For the purpose of these regulations, for both major and minor subdivisions, the date of the meeting for required action of the Planning Commission or City Council at which the public meeting or hearing on approval of the sketch, preliminary or final subdivision plat, including any adjourned date thereof, is closed, shall constitute the Official Submission Date of the plat on which the statutory period required for formal approval, conditional approval or disapproval of the final~~

subdivision plat shall commence to run.

(2) **Discussion of Requirements:** Before preparing the plat, either ~~sketch,~~ preliminary or final for a ~~simple,~~ minor or major subdivision, the applicant shall schedule an appointment and meet with the Community Development Director to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services. The Community Development Director shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. ~~The Community Development Director shall determine whether the sketch plat development constitutes a minor or major subdivision and notify the applicant of the classification within thirty (30) working days.~~

(3) Coordination of Performance Zoning Applications with Subdivision Approval:

(a) It is the intent of these regulations that subdivision review be carried out simultaneously with the review of Performance Zoning applications under the Zoning Ordinance. The plans required for Performance Zone applications shall be submitted in a form to satisfy the requirements of these subdivision regulations and the Zoning Ordinance ~~located in 28-19.~~

(b) General Requirement. Whenever the Zoning Ordinance authorizes Performance Zoning applications which permit uses of land and density of buildings and structures based upon development design and the application entails the division of the land, vacant or improved, into two (2) or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, ~~either on the installment plan or upon any or all other plans, terms, or conditions, including resubdivision, or whether residential or nonresidential,~~ subdivision, approval by the City Council shall be required in addition to all procedures and approvals required in the Zoning Ordinance, whether or not applicable zoning procedures also require City Council approval, review or recommendation. Performance Zoning applications shall include, but not be limited to, all special permits and special uses, ~~planned unit~~

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~~development~~, performance subdivisions and average density or density zoning projects, and shall apply to all such applications, whether before the City Council, Planning Commission, Community Development Department, or other official or agency of Clinton City.

(c) Procedure to ~~B~~e F~~o~~llowed:

(i) ~~Sketch Plat and~~ Preliminary Plat Approval Required. Whenever a Performance Zoning application is submitted which involves a subdivision of land as set forth in **Section 3.01.4.b** of these regulations, the application shall be submitted first to the Community Development Director. The application shall be made on the forms required for a ~~sketch plat preliminary plat review~~ as set forth in Section **3.03** of these regulations and shall include all information required of a ~~sketch preliminary plat~~ application as set forth in Sections 3.03 and Chapter 8. The Community Development Director shall then refer the ~~preliminary plat~~ application to the Planning Commission for ~~sketch plat review, and, when required, preliminary plat approval~~. The Planning Commission shall also, when applicable under the provisions of the Zoning Ordinance, make such reviews of use, site plan approval, landscaping, density, and bulk standards as are required under the Performance Zone regulation.

(ii) Referral Back for Administrative Review. After completing its review the Planning Commission shall refer the ~~sketch plat and preliminary plat~~ (when required) with its decision of approval, conditional approval, or disapproval, together with such recommendations and reviews of use, site plan, landscaping, density, and bulk standards as it was required to make under the Performance Zone regulation of the Zoning Ordinance, to the Community Development Director to review the application and recommendations of the Planning Commission. The application shall then be forwarded to the City Council for final plat approval. No building permits or certificates of occupancy shall be issued for the project until the zoning application has been given final approval by the City Council and the final subdivision plat is recorded with the Davis County Recorder's Office.

(d) Resubdivisions of Performance Zone Developments.

(i) A Performance Zone development or land use plan may be subdivided or resubdivided for

purposes of sale or lease after the project plan has been given final approval and development completed or partially completed where a escrow agreement is established for all improvements not installed.

(ii) If the subdivision or resubdivision of a performance zone development will create a new lot line, the applicant shall make application for approval to the Community Development Director for processing as outlined in 3.01.4.c. above.

26-3-2 Notice of Public Hearing:

(1) Notice: Notice of City Council, Planning Commission or other meetings, addressing the subdivision of land which require Public Notice, required notice shall be provided as follows~~required by Utah Code 10-9a-205.:~~

(a) ~~The Community Development Department will submit a notice for publication in one (1) newspaper of general circulation to be published at least fourteen (14) days prior to the public hearing.~~

(b) ~~Where specific property is identified in a petition, at least twelve (12) days prior to the required meeting during which a petition is being considered, the Community Development Director or designated agent, shall post a minimum of one (1) Public Notice Sign on each street frontage of the subject property stating the proposed or requested action and the date, time and location of the Public Hearing where the petition will be considered. One notice for each petition is required. This is not intended to require posting of a property for discussions continued over to additional meetings or tabled for additional information or action.~~

(c) ~~File copies of all applications, drawings, and sketches shall be maintained by the Community Development Department for public review prior to any hearing.~~

(2) Assumption of Validity of Notice of Hearing: If no protest of the processing of the public hearing has been received, in writing, by the Community Development Director within 30 days of the public hearing the notice of public hearing is assumed to have been processed properly. ~~Discussion ended here for 20160517~~

26-3-3 Sketch Plat

(1) Application Procedure and Requirements: ~~Prior to subdividing land and after meeting with the Community Development Director, the~~

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owner of the land, or his authorized agent, shall file an application for approval of a sketch plat with the Community Development Department. The Community Development Director shall prepare the application for presentation to the Planning Commission. The application shall:

- (a) ~~Be made on forms available at the Community Development Department;~~
- (b) ~~Include all contiguous holdings of the owner including land in "common ownership" as defined in these regulations, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership. The affidavit shall advise as to the legal owner of the property, the contract owner of the property (if any), the date the contract of sale was executed, and, if any corporations are involved, a complete list of all directors, officers, and stockholders of each corporation owning more than five percent (5%) of any class of stock;~~
- (c) ~~Be accompanied by minimum of seven (7) copies of the sketch plat as described in these regulations and complying in all respects with these regulations;~~
- (d) ~~Be accompanied by a preliminary title report;~~
- (e) ~~Be presented to the Community Development Director;~~
- (f) ~~Be accompanied by a fee that is set from time to time and passed in resolution by the City Council;~~
- (g) ~~The application shall include an address and telephone number of an agent located within the local area who shall be authorized to receive all notices and correspondences required by these regulations.~~

~~(2) **Classification and Approval Procedure:** The Community Development Director shall determine whether the sketch plat constitutes a simple, minor or major subdivision and notify the applicant of the classification within thirty (30) working days from the date that the sketch plat is submitted to the Community Development Director.~~

~~(a) **Simple Subdivision:** If the sketch plat constitutes a simple subdivision, the Community Development Director shall review the application for compliance with the criteria for a simple subdivision and either approve, disapprove or conditionally approve the sketch plat as provided in these regulations. Subsequent~~

~~to the review by the Community Development Director, the applicant may proceed directly to the filing of an application for approval of a final plat as provided in these regulations. If the sketch plat of a simple subdivision is disapproved by the Community Development Director the applicant may request the simple subdivision be processed as a minor subdivision as provided in these regulations.~~

~~(b) **Minor Subdivision:** A sketch plat is not a requirement for a minor subdivision, however the development of a sketch plat by an applicant will greatly assist with the discussion of requirements outlined in section 3.03.~~

~~(3) **Major Subdivision:**
(a) **Planning Commission Review:** If the sketch plat constitutes a major subdivision, the Community Development Director shall place the matter on the next available regular meeting agenda of the Planning Commission for the review and recommendations of the Commission.~~

~~(b) **Notice to Proceed:** Subsequent to the Planning Commission review of the sketch plat, the Community Development Director shall issue a Notice to Proceed, only if the sketch plat complies with all applicable laws governing the subdivision of land. The Notice to Proceed shall include, as appropriate, review comments of the Planning Commission and recommended changes in the sketch plat to be incorporated into the preliminary plat to assist the applicant in obtaining preliminary plat approval from the Planning Commission. If the Community Development Director determines that the sketch plat does not comply with all applicable laws governing the subdivision of land and the applicant refuses to modify the sketch plat, the Community Development Director shall issue a Notice of Noncompliance. The Community Development Director shall issue either the Notice to Proceed or the Notice of Noncompliance not later than thirty (30) working days from the date of the meeting of the Planning Commission at which the sketch plat was reviewed, including any adjourned date thereof, is closed. After receipt of a Notice to Proceed, the applicant must first file an application for approval of a preliminary plat, as provided in these regulations, before filing for final subdivision plat approval.~~

~~(c) **Referral of Sketch Plat:** If the Community Development Director issues a Notice to~~

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Proceed, the Community Development Director shall transmit the sketch plat for review to appropriate officials or agencies of Clinton City, adjoining counties or municipalities, school and special districts, and other official bodies as it deems necessary or as mandated by law, including any review required by metropolitan, regional, or state bodies under applicable state or federal law. The Community Development Director shall request that all officials and agencies to whom a request for review has been made, submit their report to the Community Development Director within thirty (30) days after receipt of the request. The Community Development Director will consider all the reports submitted by the officials and agencies concerning the sketch plat and shall submit a report to the Planning Commission upon the applicant's submission of a preliminary plat.

26-3-4 Preliminary Plat:

(1) **General:** If the preliminary plat constitutes a ~~minor~~ **major** subdivision, the Community Development Director shall place the matter on the next available regular meeting agenda of the Planning Commission for formal approval, disapproval or conditional approval of the preliminary plat following a public hearing. The Commission shall provide notice and hold public hearing on the preliminary plat as established in section 3.02. The Planning Commission shall, within thirty (30) days approve, conditionally approve, or disapprove the preliminary plat from the date of the public hearing including any adjourned date thereof, is closed. Subsequent to an approval or conditional approval by the Planning Commission, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations. If the preliminary plat of a minor subdivision is disapproved by the Planning Commission, the applicant may appeal to the City Council as provided in Section 3.09. The applicant shall have 120 days from the date that the preliminary plat is approved by the Planning Commission (or City Council upon appeal) to submit a final subdivision plat, after which time a new preliminary plat must be submitted for approval.

(2) **Phasing Major Subdivision Plats:** Prior to granting preliminary approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more phases and may impose such conditions upon the filing of the phases as it may deem necessary to

assure the orderly development of the subdivision. Such phases must contain at least ten percent (10%) of the total number of lots contained in the approved plat. Major

Subdivision: No sooner than thirty (30) days and no later than 120 days after the date of the Notice to Proceed, the applicant may apply for preliminary plat approval. If the applicant fails to apply for preliminary plat approval, with a complete application within the 120-day period, a new sketch plat must be submitted.

(3) **Application Procedure and Requirements:** ~~Based on the Notice to Proceed, the applicant shall file in duplicate with the Community Development Director an application for approval of a preliminary plat if he elects to proceed. The preliminary plat shall conform substantially with the sketch plat submitted and approved or conditionally approved by the Planning Commission and which formed the basis for the Notice to Proceed. The application shall:~~

- (a) Be made on forms available at the office of the Community Development Director together with a fee that is set, from time to time and passed in resolution by the City Council;
- (b) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet from the subject property, or of that directly opposite the subject property, extending one hundred (100) feet from the street frontage of opposite land, with the names of owners as shown in the County Assessor's files. This information may be shown on a separate current Tax Map reproduction from the County Recorder's Office showing the subdivision superimposed on the Tax Map.
- (c) Be accompanied by a minimum of ~~ten (10)~~ **six (6)** copies of the existing condition drawings as described in these regulations.
- (d) Be accompanied by a minimum of ~~ten (10)~~ **six (6)** copies of the complete preliminary plat as described in these regulations.
- (e) Be accompanied by a minimum of ~~ten (10)~~ **six (6)** copies of construction plans for the preliminary plat as described in these regulations.
- (f) Additional copies of the preliminary plans may be required when dealing with services, districts, or roadways that are not under the control of the City.

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(g) ~~Comply in all respects with the sketch plat.~~

(h) Be presented to the Community Development Director a minimum of four (4) weeks prior to a regular meeting of the Commission.

(4) **Public Hearing:** Upon receipt of a formal application for preliminary plat approval and all accompanying material, the Community Development Director shall call a public hearing before the Planning Commission to be held a minimum of four (4) weeks after the date of receipt of the complete application. The Community Development Director shall submit a notice for publication in accordance with Section 3.02.

(5) **Preliminary Approval:** After the Planning Commission has reviewed the preliminary plat and construction plans, the report of the Community Development Director, any municipal recommendations and testimony and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Commission shall approve, conditionally approve, or disapprove the preliminary plat within thirty (30) days from the Official Submission Date. One (1) copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. Before the Commission approves a preliminary plat showing park reservation or land for use by other government or district agency that is proposed to be dedicated to Clinton City, the Commission shall obtain approval of the park or land reservation from the Clinton City Council. If the Planning Commission disapproves the proposed subdivision, the applicant may execute an appeal in the manner prescribed in Section 3.09.

(6) **Standards for Approval of Preliminary Plats:** No preliminary plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:

(a) Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

(b) If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal

are proposed, that such systems will comply with federal, state, and local laws and regulations;

(c) All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;

(d) The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state, and local laws and regulations;

(e) The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels;

(f) The subdivider has taken every effort to mitigate the impact of the proposed subdivision of public health, safety, and welfare.

~~(7)~~ The Planning Commission is authorized to disapprove the preliminary plat based on findings even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the General Plan. ~~If the Planning Commission disapproves the proposed subdivision, the applicant may execute an appeal in the manner prescribed in Section 3.09.~~

~~(7)(8)~~ **Public Improvements:** The Planning Commission may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat (see 26-3-8). ~~by the Chairman of the Planning Commission,~~ the Planning Commission shall require that the applicant execute a subdivision improvement agreement and provide security for the agreement as provided in Section 4.01.3. The Planning Commission shall require the applicant to indicate on the plat all roads and public utility improvements which shall be required to be established or extended, and any other special requirements deemed necessary by the Official Map and the General Plan of Clinton City.

~~(8)(9)~~ **Effective Period of Preliminary Plat Approval:** All approvals, conditions, and agreements regarding a preliminary plat shall expire one (1) year from the date of preliminary plat approval, by either the Planning

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Commission or City Council, if required, whichever is later, unless:

(a) The respective final plat, or a phase thereof, has been approved; or

(b) The respective final plat, or a phase thereof, has been submitted to the City, is scheduled for review, and it complies with the City Codes and the preliminary plat approval and requirements.

(c) If done by phases, the developer must continually file for the approval of at least one phase within one year of the most recent plat or phase approval. Said filing must comply with the City Code and the preliminary plat approval and requirements.

~~(9)~~**(10) Zoning and Subdivision Regulations:** Every preliminary plat shall conform to existing zoning regulations and subdivision regulations applicable at the time that the proposed preliminary is submitted for the approval of the Planning Commission unless the Planning Commission or City Council has taken official action toward amending the applicable zoning and subdivision regulations and the applicant has reason to know of that action.

~~(10)~~**(11) Grading of Site Prior to Final Approval:** Subsequent to preliminary approval the developer may apply for a topsoil and excavation permit from the ~~Planning Commission~~ City or such other agency or person as the City Council shall direct, and upon receipt of the permit may commence construction to the grades and elevations required by the approved preliminary plat. RESEARCH

~~(11)~~**(12) Model Homes:** For the purpose of allowing the early construction of model homes in a subdivision, the Planning Commission at its sole discretion may permit a portion of a major subdivision involving no more than two (2) lots to be created in accordance with the procedures for minor subdivisions, provided the portion derives access from an existing city, county, or state roadway, and provided no future road or other improvement is anticipated where the lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the Planning Commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary approval, the model homes may be constructed, subject to such additional requirements as the Planning Commission may require. End of discussion for 06072016

26-3-5 Amendments to Preliminary Plat: At any time after preliminary plat approval and before submission of a final plat, the applicant may request of the Community Development Director that an amendment be made in the approval or conditional approval of the preliminary plat. ~~Under regulations established by the Planning Commission, t~~ The Community Development Director may agree to proposed amendments that are deemed to be minor. If the proposed amendment is major, the Planning Commission shall hold a public hearing on the proposed major amendment in accordance with the same requirements for preliminary plat approval found in Section 3.02. Any public hearing on a proposed major amendment shall be limited to whether the proposed major amendment should or should not be approved. The Commission shall approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment. If the applicant is unwilling to accept the proposed major amendment under the terms and conditions required by the Commission, the applicant may withdraw the proposed major amendment. A major amendment shall include, but is not limited to, any amendment that results in or has the effect of decreasing open space in the subdivision by ten percent (10%) or more or increasing density in the subdivision by ten percent (10%) or more. An applicant may not propose more than two (2) ~~major~~ amendments-~~whether major or minor~~ to any preliminary plat. ~~The Commission shall render a decision on the proposed major amendment within thirty (30) days after the meeting at which the public hearing was held, including any adjourned session, was closed.~~ End of discussion for 06212016

26-3-6 Final Subdivision Plat:

(1) Application Procedure and Requirements: Following the approval of the preliminary plat the applicant, if ~~he wishes~~ wishing to proceed with the subdivision, shall file with the Planning Commission an application for recommendation to the City Council for approval of a subdivision final plat. The application shall:

(a) Be made on forms available at the Office of the Community Development Director, together with a fee as set forth in the Consolidated Fee Schedule.

(b) Include the entire subdivision, or section

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thereof, which derives access from an existing state, county, or City street.

(c) Be accompanied by a minimum of ~~ten (10)~~ **six (6)** copies of the subdivision plat and the construction plans, as described in these regulations.

(d) Comply in all respects with the preliminary plat, as approved.

(e) Be presented to the Community Development Director at least four (4) weeks prior to a regular meeting of the Commission in order that a public meeting may be scheduled.

(f) Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities, parks, and easements, in a form approved by Clinton City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication. The applicant shall deliver a full covenant and warranty deed to all dedicated lands and improvements in proper form for recording, together with a title policy for Clinton City in the sum not less than ten thousand dollars (\$10,000), which sum shall be determined by Clinton City Attorney before signing of the final subdivision plat.

(g) Be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to Clinton City Attorney and in an amount established by the City Council upon recommendation of Clinton City Engineer and shall include a provision that the subdivider shall comply with all the terms of the resolution of final subdivision plat approval as determined by the City Council and shall include, but not be limited to, the performance of all required subdivision and offsite improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to Clinton City free and clear of all liens and encumbrances on the premises.

(h) Be accompanied by an inspection fee in an amount to be set from time to time by the City Council and published in the Clinton City Consolidated Fee Schedule and by written assurance from the public utility companies and improvement districts that necessary utilities will be installed and proof that the applicant has submitted petitions in writing for the creation or extension of any improvement districts as required by the Planning Commission upon preliminary plat approval. The applicant shall

also pay for each street sign required in the subdivision as outlined in the Consolidated Fee Schedule.

(2) Planning Commission Action: The Planning Commission upon review of the application for subdivision shall forward to the City Council a recommendation for approval, approval with conditions or disapproval. ~~If the Planning Commission has not rendered a decision and made recommendation to the City Council within thirty (30) days after the meeting where the action was intended, including any adjourned date thereof, is closed the final plat shall be forwarded to the City Council for action at the next available hearing.~~

(3) Notice of Public Hearing: Upon recommendation of the Planning Commission the ~~e~~Community Development Director shall call a public hearing before the City Council to be held no later than four (4) weeks after the date of recommendation. The Community Development Director shall submit notice for publication in accordance with Section 3-02. ~~The notice shall advise the public that the final plat and all conforming documents have been received by the Planning Commission and may be reviewed by members of the public who may then submit written comments to the Commission concerning whether final approval should be granted. The notice shall include a deadline for receipt of comments and shall include the date of the public meeting at which final plat approval will be considered.~~

(4) Public Hearing and Determination: After the date of the ~~public hearing, including any adjourned date thereof, is closed,~~ the City Council shall ~~within thirty (30) days from the Official Submission Date for the final subdivision plat,~~ approve or disapprove the subdivision application by resolution which shall set forth in detail any reasons for disapproval. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval accompanying the plat.

(5) Submission and Review: Subsequent to the resolution of the City Council, ~~seven (7)~~ **six (6)** paper copies of the construction plans and plat, and one (1) copy of the original of the subdivision plat on tracing cloth, and/or reproduction ~~mylar~~ **Mylar**, and one (1) **electronic file** copy of the subdivision plat ~~on a 3.5" disk or CD for electronic transfer to the County and one~~

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(1) copy of the subdivision plat on an 11" x 17" paper shall be submitted to the Community Development Director for final review. A check payable to the County Clerk and Recorder in the amount of the current filing fee shall be provided. No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met.

26-3-7 Vested Rights and Development Agreements:

(1) **Effect of Approval:** Except as otherwise provided in this Section 3.0-7, no vested rights shall accrue to the owner or developer of any subdivision by reason of preliminary or final plat approval until the actual signing of the final plat by the Chairman of the Planning Commission and Mayor.

(2) **Effect of Recordation:** Except as otherwise provided in this Section 3.0-7, no vested rights shall accrue to the owner or developer of any subdivision by virtue of the recordation of a final plat.

(3) **Applicable Laws:** To obtain final plat approval, the applicant shall be in compliance with all federal and state laws applicable at the time that the final plat is considered for approval by the City Council. The applicant also shall be in compliance with all local laws and regulations applicable at the time that the preliminary plat was submitted to the Planning Commission in accordance with Section 3.0-4, (or, if a simple subdivision, at the time the sketch plat was submitted to the Community Development Director); except that the applicant shall comply with those local laws and regulations in effect at the time that the final plat is considered for approval by the City Council if the City Council makes a determination on the record that compliance with any of those local laws and regulations is reasonably necessary to protect public health and safety. If the City Council required the applicant to complete public improvements in the subdivision prior to the final plat approval, and the improvements have, in fact, been completed, the applicant may be required to comply with local laws and regulations in effect at the time that the final plat is considered for approval only if the City Council makes a finding on the record that such compliance is necessary to prevent a substantial risk of injury to public health, safety and general welfare.

(4) **Development Agreements:** The City

Council is hereby authorized, but under no circumstances is required to, enter into development agreements with individuals and/or entities.

(a) **Requirements:** The City Council may require enter into a development agreement for any development, rehabilitation, reconstruction, or placement of improvements upon any property, for which a permit would be required, for the purpose of:

- (i) Protecting the health, welfare, and safety of the citizenry;
- (ii) Developing or maintaining aesthetics within a neighborhood or district;
- (iii) Addressing proposed projects, and the impacts of such projects, which may not have been contemplated by the Code;
- (iv) Addressing issues of the density of developments when required to balance competing interests;
- (v) Refining uses within the development in furtherance of the general plan when considering neighboring properties;
- (vi) Resolving issues regarding unique features or challenges confronting development;
- (vii) Protecting sensitive lands;
- (viii) Protecting public properties and interests, both tangible and intangible;
- (ix) Clarifying the application of code requirements or City standards;
- (x) Ensuring adherence to the overall intent of the City Code; and
- (xi) For any other purpose consistent herewith; or,
- (xii) When mutually agreed upon with the developer.

(b) **General:** The Development Agreement shall constitute a binding contract between the subdivider of the proposed subdivision and the municipality (the "parties") and shall contain those terms and conditions agreed to by the parties and those required by this section. The Community Development Director is authorized to negotiate Development Agreements on behalf of the City.

(c) **Covenants:** Any covenant by the municipality contained in the Development Agreement to refrain from exercising any

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legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period of five (5) years. The covenant shall also contain ~~in a~~ provision that the municipality may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.

(d) **Third Party Rights:** Except as otherwise expressly provided in the Development Agreement, the Development Agreement shall create no rights enforceable by any party who/which is not a party to the Development Agreement.

(e) **Limitation on Liability:** The Development Agreement shall contain a clause that any breach of the Development Agreement by the municipality shall give rise only to damages under state contract law and shall not give rise to any liability for violation of the fifth and fourteenth amendments of the U.S. Constitution or similar state constitutional provisions.

(f) **Developer's Compliance:** The Development Agreement shall include a clause that the City's duties under the Agreement are expressly conditioned upon the subdivider's substantial compliance with each and every term, condition, provision, and covenant of the Agreement, all applicable federal, state and local laws and regulations, and its obligations under the subdivision improvement agreement.

(g) **Adoption:** The Development Agreement shall be adopted by the City Council pursuant to applicable state and local laws and shall be recorded in the Recorder's Office of Davis County.

(h) **Incorporation as Matter of Law:** All clauses, covenants, and provisions required by these regulations to be included in a Development Agreement shall be incorporated into the Development Agreement as a matter of law without respect to the intent of the parties. [\(end of discussion 08162016\)](#)

26-3-8 Signings and Recordations of Subdivision Plat:

(1) Signing of Plat:

(a) When a subdivision improvement agreement and security are required, ~~the Chairman of the Planning Commission and the Mayor shall~~

endorse approval on the final plat after the agreement and security have been approved by the Community Development Director and City Engineer, and all the conditions of the resolution pertaining to the final plat have been satisfied.

(b) When installation of improvement is required prior to recordation of the final plat, the ~~Chairman of the Planning Commission and Mayor shall~~ endorse approval on the final plat after all conditions of the resolution have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to Clinton City as shown by a certificate signed by Clinton City Engineer/Public Facilities Inspector and Clinton City Attorney stating that the necessary dedication of public lands and improvements have been accomplished.

(2) Recordation of Plat:

(a) ~~The Chairman of the Planning Commission and Mayor will sign the tracing cloth or reproducible mylarMylar original of the final subdivision plat.~~

(b) It shall be the responsibility of the Community Development Director to file the final plat with the County Recorder's Office within ten (10) days of the date of ~~the last~~ signature ~~on the final plat~~. Simultaneously with the filing of the final plat, the Community Development Director shall record the agreement of dedication together with such legal documents as shall be required to be recorded by Clinton City Attorney.

(3) Phasing Major Subdivision Plats:

(a) ~~Prior to granting preliminary approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more phases and may impose such conditions upon the filing of the phases as it may deem necessary to assure the orderly development of the subdivision. The Planning Commission may require that the subdivision improvement agreement and security be in such amount as is commensurate with the phase or phases of the plat to be filed and may defer the remaining amount of the security until the remaining phases of the plat are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the phases offered to be filed and defer filing offers of dedication for the remaining phases until those~~

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phases, subject to any conditions imposed by the Planning Commission, shall be granted concurrently with final approval of the plat. If phasing is approved a development agreement shall be established between the Developer and City. Such document shall outline the preliminary plat and all obligations of the two parties reached during the preliminary plat approval as well as any items deemed necessary by the City Council. The development agreement shall be recorded at the County Recorders Office against all property within the subdivision outlined in the preliminary plat prior to recording of any phase of the subdivision. Such phases must contain at least ten percent (10%) of the total number of lots contained in the approved plat. The approval of all remaining phases not filed with the Recorder's Office shall automatically expire unless such phases have been approved for filing by the Planning Commission, all fees paid, all instruments and offers of dedication submitted and subdivision improvement agreements, security and performance bonds, if any, approved and actually filed with the Recorder's Office within three (3) years of the date of preliminary plat approval of the subdivision plat. ~~(See 3-4(2) Phasing Major Subdivision Plats),~~

26-3-9 Appeals to City Council: The applicant for subdivision approval may appeal the disapproval of any sketch, preliminary, or final subdivision plat by the Planning Commission by filing a Notice of Appeal with the City Council, with a copy to the Planning Commission, no later than ten (10) days after the date on which the Planning Commission notifies the applicant that it has disapproved the sketch, preliminary, or final subdivision plat. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The appeal shall be considered at the next regularly scheduled public meeting of the City Council, at which time it may affirm or reverse the decision of the Planning Commission only by a unanimous vote of the members of the City Council present at the meeting. On appeal, the applicant shall be allowed to make a presentation to the City Council under such terms, conditions

and procedures as established by the City Council. The City Council shall render a decision affirming or reversing the Planning Commission no later than forty-five (45) days after the date on which the Notice of Appeal is presented before the City Council. If the City Council reverses the Planning Commission, the applicant may proceed to submit a preliminary or final plat as is appropriate under the conditions for approval agreed to by the City Council.

26-3-10 Time Periods for Action: ~~Whenever these regulations establish a time period for action by the City Council, Planning Commission, Community Development Director, such time periods are based upon complete applications, all fees being paid to the City, complete public notices and all necessary approvals and information being provided by other agencies, districts, or parties having specific input to be made on a subdivision. In addition the developer and Community Development Director may reach other timelines as agreed upon to meet the requirements of the City and developer. The City's duty to act is dependent on the applicant's substantial compliance with all applicable application and approval procedures.~~

26-3-11 Suspension and Invalidation of Final Plat: If the municipality suspends final plat approval for any subdivision plat under these regulations, it shall record a document with the Recorder's Office for Davis County declaring that final approval for the subdivision is suspended and that the further sale, lease, or development of property within the subdivision is prohibited except that this prohibition shall not apply to persons or parties who have acquired property from the subdivider unless the person or party acquiring property meets the definition of "common ownership" in Chapter 2. If any court of competent jurisdiction invalidates final plat approval for any subdivision, the municipality shall record a document with the Recorder's Office for Davis County declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited.

~~(End of discussion 20160906)~~

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Chapter 4. Assurance for Completion and Maintenance of Improvements

- 26-4-1** Improvements and Subdivision Improvement Agreement
- 26-4-2** Inspection of Improvements
- 26-4-3** Acceptance of Off-Site Improvements
- 26-4-4** Maintenance of Improvements
- 26-4-5** Deferral of Waiver of Required Improvements
- 26-4-6** Escrow Deposits for Lot Improvements
- 26-4-7** Issuance of Building Permits and Certificates of Occupancy

26-4-1 Improvements and Subdivision Improvement Agreement:

(1) **Development Agreement:** Upon approval of the preliminary plat the subdivider shall provide that the conditions contained in the Subdivision Development Agreement shall run with the land and bind all successors, heirs, and assignees of the Subdivider. When the Subdivision Development Agreement is adopted by the Council, pursuant to applicable state and local laws, it shall be recorded against all properties in the subdivision in the Recorder's Office of Davis County. The Subdivision Development Agreement shall outline the conditions of approval related to the zone, density, lot sizes, average dimensions, and other factors pertinent to the preliminary approval.

(2) **Completion of Improvements:** Before the final plat of the subdivision is signed by the Mayor or recorded with the Davis County Recorder's Office, all subdividers shall be required to complete, in accordance with the Council's decision and to the satisfaction of the Public Facilities Inspector. All the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the final plat of the subdivision and approved construction drawings as approved by the Council. The subdivider is to dedicate those public improvements to the City, free and clear of all liens and encumbrances on the dedicated property and public improvements.

(3) Subdivision Improvement Agreement and Guarantee:

(a) **Agreement:** The Community Development Director may waive the requirement that the

subdivider complete and dedicate all public improvements prior to recording the final plat of the subdivision and, as an alternative, permit the subdivider to enter into a Subdivision Improvement Agreement by which the Subdivider covenants to complete all required public improvements no later than two (2) years following the date on which the Council approves the final plat of the subdivision. The subdivider shall covenant to maintain each required public improvement for a period of two (2) years following the conditional acceptance by the Council of the dedication of that completed public improvement. Additionally, the subdivider shall warrant that all required public improvements will be free from defect for the same two (2) years following the conditional acceptance. The Subdivision Improvement Agreement shall contain such other terms and conditions agreed to by the subdivider and the Council.

(b) **Security:** Whenever the Community Development Director permits a subdivider to enter into a Subdivision Improvement Agreement, it shall require the subdivider to provide a cash escrow as security for the promises contained in the Subdivision Improvement Agreement. Security shall be in an amount equal to one hundred fifteen percent (115%) of the estimated cost of completion of the required public improvements, including lot improvements. The estimated cost shall be reviewed and verified by the City Engineer. The escrow agent shall be a state-licensed institution approved to conduct business in this capacity and shall be acceptable to the Community Development Director.

(c) **Cash Escrow:** When the subdivider posts a cash escrow as security for its promises contained in the Subdivision Improvement Agreement, the escrow instructions shall provide:

(i) That the Subdivider will have no right to a return of any of the funds except as provided in section 4.02.2.; and

(ii) That should the subdivider fail or refuse to make the improvements required as outlined in this agreement, the City Subdivision Ordinance or approved construction drawings within two (2) years following the date on which the Council approves the final subdivision plat, the City may declare the funds on deposit with the Escrow Agent forfeited, and the escrow agent shall have a legal duty to deliver the proceeds of the account.

The funds shall be used to install the improvements required by the City Subdivision Ordinance and approved construction drawings.

(d) **Escrow Deficiency:** If at any time prior to completion of the subdivision or acceptance of the improvements by the City, the City determines the amount held in escrow (exclusive of the 15% reserve) is not sufficient to complete the needed improvements, subdivider shall put such additional amounts into escrow within 30 days of receiving written notice from the City.

(e) **Appeal:** The Subdivider may request a hearing before the City Council for a review of the opinion of the Community Development Director, Public Facilities Inspector or City Engineer or upon action by the City to seize a cash escrow, provided said request is made in writing and served by certified mail within thirty (30) days after written notification of any nonconformity with City ordinances, rules, regulations, requirements and standards or the Subdivision Improvement Agreement or Approved Construction Drawing or as to the insufficiency of any work.

If and when the municipality conditionally accepts the offer of dedication for the last completed required public improvement, the municipality shall execute a waiver of its right to receive all but fifteen percent (15%) of the funds represented by the cash escrow if the Subdivider is not in breach of the Subdivision Improvement Agreement. The residual funds shall be security for the Subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.

(4) **Surety Bond as Guarantee:**

(i) Once all the required public improvements, including lot improvements are completed and the City has granted conditional acceptance the subdivider may replace the cash escrow with a surety bond an amount equal to the required 15% guarantee. Any surety bond established is subject to all stipulations of cash escrow outlined in this Chapter.

(5) **Temporary Improvement:** The subdivider shall build and pay for all costs of temporary improvements required by the Council and shall maintain those temporary improvements for the period specified by the Council. Prior to construction of any temporary facility or improvement, the developer shall file with the City a separate Subdivision Improvement

Agreement and a cash escrow in an appropriate amount for the temporary facilities to be properly constructed, maintained, and removed.

(6) **Required Improvements:** All required improvements shall be made by the developer, at its expense, without reimbursement by the City or any improvement district except that, as may be allowed under state law and approved by the Council.

(7) **Governmental Units:** Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Ordinance.

(8) **Failure to Complete Improvement:**

(a) For subdivisions for which no Subdivision Improvement Agreement has been executed and no security has been posted, if the improvements are not completed within the period specified by the Council in the action approving the final plat any such approval shall be deemed to have expired. Additionally:

(i) If the city is required to disconnect public utilities that may have been connected the city may file a lien against the property to recoup any costs incurred;

(ii) The city may, for the purpose of public notice record a document with the Davis County Recorder's Office indicating the incomplete status of the subdivision.

(b) In those cases where a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may then:

(i) Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;

(ii) Suspend approval of the final plat of the subdivision until the improvements are completed and record a document to that effect for the purpose of public notice;

(iii) Obtain funds under the security and complete improvements itself or through a third party;

(iv) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; or

(v) Exercise any other rights available under the law.

(c) Prior to the end of the two-year period, the City Council may grant an extension of up to one (1) year for completion of the improvements within the subdivision. The Subdivider, in writing shall make application for an extension with a copy provided to the Escrow Agent of record, if any. Upon action by the Council the Community Development Director shall notify the Subdivider and Escrow Agent, if any of the action taken by the Council. The decision to grant any extension period shall be within the sole discretion of the City.

(9) Acceptance of Dedication Offers:

Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by motion of the Council with such motion authorizing the Mayor to sign the final plat of the subdivision. The approval of a subdivision plat by the Planning Commission or Council, whether sketch, preliminary or final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement, or park shown on the final plat. The Council may require the final plat to be endorsed with appropriate notes to this effect.

26-4-2 Inspection of Improvements:

(1) **General Procedure and Fees:** The Public Facilities Inspector shall inspect required improvements during construction and ensure their satisfactory completion. The subdivider shall pay to the municipality an inspection fee based on the estimated cost of inspection, and where the improvements are completed prior to approval of the final plat of the subdivision, the subdivision plat shall not be signed by the Mayor unless the inspection fee has been paid at the time of application. These fees shall be due and payable upon demand of the Community Development Director and no building permits or certificates of occupancy shall be issued until all fees are paid. The amount of the fees shall be established by resolution, from time to time by the Council and included in the Consolidated Fee Schedule. If the Public Facilities Inspector finds

upon inspection that any one or more of the required improvements have not been constructed in accordance with the municipality's construction standards, specifications or approved construction drawings, the subdivider shall be responsible for properly completing the improvements.

(2) **Release or Reduction of Security:** The Community Development Director may release funds from an established escrow in an amount equal to that set in the Subdivision Escrow Agreement for said improvements. Prior to release of any funds the Public Facilities Inspector shall inspect all improvements for which the release of funds is being requested and verify proper material, construction, and compliance with city standards and approved construction drawings. For improvements that are not to be city owned infrastructure inspection shall be done by and verified by an inspector authorized by the appropriate utility. The amount of the escrow shall be reduced upon satisfactory inspection of the public improvements and then only to the ratio that the cost of the public improvement inspected bears to the total cost of public improvements for the subdivision. In no event shall a release be greater than the amount of the inspected item established in the escrow or shall the cash escrow be reduced below fifteen percent (15%) of the principal amount.

26-4-3 Acceptance of Off-Site Improvements:

(1) **Conditional Acceptance of Improvements:** The Council will not conditionally accept dedication of required improvements, nor release nor reduce the amount of any security posted by the Subdivider until the Public Facilities Inspector has submitted a certificate stating that all required improvements have been satisfactorily completed and until:

(a) The Community Development Director has verified that all fees, charges, transfers, and deposits related to the development have been paid to the city;

(b) The subdivider's engineer or surveyor has certified to the Public Facilities Inspector, through submission of a detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the Public Facilities Inspector, that the layout of the line and grade of all public improvements are in accordance with construction plans for the subdivision;

(c) A title insurance policy has been furnished to and approved by the Community Development Director indicating that the improvements have been completed, are ready for dedication to the City, and are free and clear of any and all liens and encumbrances; and

(d) Upon such approval and recommendation by the Public Facilities Inspector, the Community Development Director shall present to the Council and the Council shall thereafter conditionally accept the improvements for dedication in accordance with the established procedure.

(2) **Special Exceptions to Conditional Acceptance:** At the time of conditional acceptance the Council may hold back, in addition to the required guarantee funds the amount for seal coat and for sidewalk provided that:

(a) The subdivision does not front on an arterial street, where installation of the sidewalks is necessary for the safety of the public;

(b) All lots built-on in the subdivision have sidewalk installed on the lot where shown on the construction plans. Sidewalk must be installed prior to the issuance of a Certificate of Occupancy for any dwelling in the subdivision;

(c) There are dwelling building permits issued for less than 75% of the lots on in the subdivision;

(d) The City shall not conditionally accept any of the sidewalk prior to the installation of all the sidewalk required in the subdivision;

(e) All sidewalk shall be installed within one year of conditional acceptance and final acceptance shall not be granted until all sidewalk has been in place for one-year;

(f) The asphalt within the subdivision has not been down for at least one-year, or the season is not right for seal coat, and the Subdivider has indicated his willingness to participate in the city annual seal coat contract.

(3) **Final Acceptance:**

(a) The Subdivider shall request final acceptance of all improvements two years after conditional acceptance. Final inspection by the Public Facilities Inspector shall be made upon the request of the Subdivider but no sooner than two years after conditional acceptance. All defects as noted in the final inspection report of the

Inspector shall be corrected to the satisfaction of the Inspector. Final acceptance shall be by approval of the Council after written approval is received from the Inspector.

(b) Where repairs are necessary to be performed by the subdivider final acceptance may be delayed by the Council a specific amount of time if, in the opinion of the Public Facilities Inspector the severity of the repairs requires an extended guarantee period.

(4) **Authority to Release:** Funds held in the escrow account shall not be released to the Subdivider, in whole or part, except upon express written instructions of the City. At the end of the maintenance and warranty periods and after final acceptance by the city, all escrowed funds shall be released to the Subdivider.

26-4-4 Maintenance of Improvements: The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the Council, until acceptance of the improvements by the Council. If there are any certificates of occupancy on a street not dedicated to the City, the City may on twelve (12) hours notice plow the street or effect emergency repairs and charge those costs to the developer. Following the conditional acceptance of the dedication of any public improvement by the City, the City may, in its sole discretion require the Subdivider to maintain the improvement for a period of two (2) years from the date of acceptance.

26-4-5 Deferral or Waiver of Required Improvements:

(1) **Council Action:** The Council may defer or waive, at the time of approval of the final plat of the subdivision, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of the inadequacy or inexistence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.

(2) **Subdivider's Obligation:** Whenever it is deemed necessary by the Council to defer the construction of any improvement required under these regulations because of incompatible

grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the Subdivider shall pay his share of the cost of the future improvements to the City prior to signing of the final plat of the subdivision by the Mayor, or the developer may execute a separate Subdivision Improvement Agreement secured by a cash escrow guaranteeing completion of the deferred improvements upon demand of the City.

26-4-6 Escrow Deposits for Lot Improvements:

(1) **Non-Developer Builders:**

(a) Builders seeking a building permit in a subdivision that they are not the guarantor for shall deposit with the city a cash escrow in the amount established by resolution by the Council and published in the Consolidated Fee Schedule. Said bond shall be paid at the time a building permit is issued and shall insure and guarantee the lot improvements from damage during construction. Such improvements include but are not limited to curb, gutter, sidewalk, water meter structures, streetlights, grading, and other on lot improvements.

(b) Escrows deposited by non-developer builders shall not be returned until a structure has passed final inspection, a certificate of occupancy has been issued and the Public Facilities/Building Inspector has approved all lot improvements. Once authorized, escrows shall be returned to the person paying for the building permit by the end of the month following the date of authorization of approval for release. No interest shall be paid at the time of release of escrows deposited with the city.

(2) **Acceptance of Escrow Funds:** Whenever, by reason of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, a certificate of occupancy may be issued, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount to be determined by the Community Development Director for the cost of the needed lot improvements. The Subdivision Improvement Agreement and security covering the lot improvements shall remain in full force and effect.

(3) **Procedures on Escrow Fund:** All required improvements for which escrow monies have been accepted by the Community Development

Director at the time of issuance of a certificate of occupancy shall be installed by the Subdivider within a period of six (6) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Community Development Director shall give two (2) weeks written notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Community Development Director may request the Council to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the City, the builder shall obtain and file with the City prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the City to have the improvements installed at the end of the six-month period if the improvements have not been duly installed by the Subdivider.

(4) **Escrow With Authorized Agent:**

(a) The Community Development Director may accept proof of an escrow, established with a state licensed title company that guarantees any lot improvements required by the subdivision regulations. The escrow shall guarantee any lot improvements not completed due to seasonal conditions as outlined in 4.06.2. above. Upon acceptance of the Title Company escrow the certificate of occupancy may be issued, provided there is no danger to health, safety, or general welfare. The amount of the escrow is to be determined by Community Development Director for the cost of the lot improvements being escrowed.

(b) The guarantee from the Title Company shall state that the Title Company will have the required improvements installed by a professional contractor upon demand of the city.

26-4-7 Issuance of Building Permits and Certificates of Occupancy:

(1) **Security Required:** When a security has not been provided for a subdivision, no building permit or certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of the dedication of those improvements by the City

unless otherwise stipulated in the Council's approval of the final plat of the subdivision.

(2) **Street Improvements Required:** The extent of street improvement shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of a certificate of occupancy. For the purposes of this section, adequate generally means "Hard Surfaced", however at the discretion of the Fire Chief and Community Development Director a temporary certificate of occupancy may be granted under the following conditions:

(a) The developer can show that asphalt for the subdivision has been scheduled;

(b) All underground improvements that would cause a street to be dug in are installed and inspected and approved by the Public Facilities Inspector; and

(c) Required road base is to be installed and compacted, and it may be reasonably assumed that the weather will not preclude access to a structure. Prior to the temporary certificate of occupancy being issued the developer shall provide a letter to the city signed by the occupants and stating that they are aware of limitations of service and that the city will not service the roadway until after the subdivision is accepted by the city.

Chapter 5. Requirements for Improvements, Reservations, and design

- 26-5-1 General Improvements
- 26-5-2 Lot Improvements
- 26-5-3 Roads
- 26-5-4 Drainage and Storm Sewers
- 26-5-5 Water Facilities
- 26-5-6 Sewerage Facilities
- 26-5-7 Sidewalks
- 26-5-8 Utilities
- 26-5-9 Public Uses
- 26-5-10 Preservation of Natural Features and Amenities
- 26-5-11 Nonresidential Subdivisions

Chapter 5. Requirements for Improvements, Reservations, and design

- 26-5-12 General Improvements
- 26-5-13 Lot Improvements
- 26-5-14 Roads
- 26-5-15 Drainage and Storm Sewers
- 26-5-16 Water Facilities
- 26-5-17 Sewerage Facilities
- 26-5-18 Sidewalks
- 26-5-19 Utilities
- 26-5-20 Public Uses
- 26-5-21 Preservation of Natural Features and Amenities
- 26-5-22 Nonresidential Subdivisions

26-5-1 General Improvements:

(1) Conformance to Applicable Rules and Regulations: In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:

- (a) All applicable statutory provisions.
- (b) The Clinton City Zoning Ordinance, building and housing codes, and all other applicable laws of Clinton City.
- (c) The Official Comprehensive Plan, Master Land Use Map, Sanitary Sewer Master Plan, Culinary Water Master Plan, Storm Drain Master Plan, Transportation Master Plan, Parks master Plan, and Capital Improvements Program of Clinton City.
- (d) The Master Plan of the Davis and Weber Counties Canal Company or current provider of pressure irrigation to the City.

(e) The special requirements of these regulations and any rules of the Health Department and/or appropriate state or substate agencies.

(f) The rules of the Utah Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting street.

(g) The Engineering and Standard Specifications and Standard Drawings of Clinton City.

(h) Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in Section 1.4 of these regulations.

(2) Adequate Public Facilities: No preliminary plat shall be approved unless the Planning Commission determines that public facilities will be adequate to support and serve the area and proposed subdivision. The applicant shall, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy will include roads and public transportation facilities, sewerage, storm drain, land drain, secondary water and culinary water service.

(a) Planning: Periodically Clinton City will establish by action of the City Council, after public hearing, guidelines for the determination of the adequacy of public facilities and service. To provide the basis for the guidelines, the Council must prepare and analysis of current growth and the amount of additional growth that can be accommodated by the future public facilities and service. The Council must also make changes in preliminary plat approval criteria it finds appropriate in the light of its experience in administering these regulations.

(b) Information: The applicant for a preliminary plat must, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities and services by possible uses of said subdivision.

(c) Comprehensive Master Plan Consistency Require: Proposed public improvements shall conform to and be properly related to Clinton City's comprehensive plan and all applicable capital improvements plans.

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(d) **Water:** All habitable buildings and buildable lots shall be connected to the Clinton City public culinary water system.

(e) **Secondary Water:** All properties and buildable lots shall be connected to the Davis and Weber Counties Canal Company or current managers of the system pressure irrigation system. There shall be no physical connection between a public or private potable water supply system and a secondary water pressure irrigations system.

(f) **Wastewater:** All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.

(g) **Land Drains:** Ground water drainage improvements shall be constructed to accommodate potential ground water runoff and shall be designed to prevent adding to the ground water situation within the City.

(h) **Stormwater Management:** Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. Clinton City may require the use of control methods such as retention or detention, and/or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.

(i) **Roads:** Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development.

(j) **Extension Policies:** All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. Clinton City may require the applicant of a subdivision to extend offsite improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of plat approval.

(3) **Self-Imposed Restrictions:** If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Ordinance or these regulations, such restrictions or reference to those restrictions shall

be required to be indicated on the subdivision plat, and restrictive covenants shall be recorded with the Davis County Recorder in a form to be approved by Clinton City Attorney. The subdivider shall grant to Clinton City the right to enforce the restrictive covenants.

(4) **Plats Straddling Municipal Boundaries:** Whenever access to the subdivision is required across land in another local government, the Planning Commission and City Council may request assurance from Clinton City Attorney that access is legally established, and from Clinton City Engineer that the access road is adequately improved, or that a guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

(5) **Monuments:** The applicant shall place permanent reference monuments in the subdivision as required in these regulations and as approved by the City Engineer.

(a) Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corner. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits.

(b) The external boundaries of a subdivision shall be monumented in the field by monuments of solid iron rods at least thirty (30) inches long and one-half (1/2) inches in diameter and shall have caps attached indicating the surveyor accomplishing the survey. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points along the meander line, except that when such corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.

(c) All internal boundaries and those corners and points not referred to in the preceding paragraph shall be monumented in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves, and at all angle points in any line.

(d) The lines of lots that do not front on a street shall be monumented in the field by iron rods at least thirty (30) inches long and one-half (1/2)

inch in diameter. The lines of lots that front on a street shall be monumented in the curb at the extension of the property line. These monuments shall be nails of sufficient size to make a permanent reference point in the curb.

(e) All monuments required by these regulations shall be set flush with the ground and planted in such a manner that they will not be removed by frost. All monuments in the right-of-way shall be constructed as outlined in the Engineering and Standard Specifications and Standard Drawings of Clinton City.

(f) All monuments shall be properly set in the ground and approved by the City Engineer or his representative prior to the time the City Council grants conditional acceptance of the subdivision.

(6) **Character of the Land:** Land that the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of Clinton City Engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.

(7) **Subdivision Name:** The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in Davis County. The Planning Commission shall have final authority to designate the name of the subdivision, which shall be determined at preliminary plat approval.

(8) **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 or on uncompacted fill in accordance with the Engineering and Standard Specifications and Standard Drawings of Clinton City.

26-5-2 Lot Improvements:

(1) **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 buildings on the lots from an approved street.

(2) **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 those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with the Zoning Ordinance and these regulation. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plat. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback 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.

(3) **Lot Orientation:**

(i) The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.

(4) **Double Frontage Lots and Access to Lots:**

(a) **Double Frontage Lots:** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterial or to overcome specific disadvantages of topography and orientation.

(b) **Access from Major and Secondary Arterials:** Lots shall not, in general, derive access exclusively from a major or secondary street. Where driveway access from a major or secondary street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major and secondary arterials.

(5) Soil Preservation, Grading, and Seeding:

(a) Soil Preservation and Final Grading: No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot precovered with soil with an average depth of at least six (6) inches which shall contain no particles more than two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation seriously damaged. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting.

(b) Lot Drainage: Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

(c) Lawn-Grass Seed and Sod: Lawn-grass seed shall be sown at not less than four (4) pounds to each one-thousand (1,000) square feet of land area. In the spring, the seed shall be sown between March 15 and May 15; and in the fall, the seed shall be sown between August 15 and September 30. The seed shall consist of a maximum of ten percent (10%) rye grass by weight and minimum of ninety percent (90%) of permanent bluegrass and/or fescue grass by weight. All seed shall have been tested for germination within one (1) year of the date of seeding, and the date of testing shall be on the label containing the seed analysis. All lots shall be seeded from the roadside edge of the unpaved right-of-way back to a distance of twenty-five (25) feet behind the principal residence on the lot. No certificate of occupancy shall be issued until respreading of soil and seeding of lawn has been completed; except that between October 1 and March 15, and between May 15 and August 15, the applicant shall submit an agreement in writing signed by the developer and the property owner, with a copy to the Building Inspector, that respreading of soil and seeding of lawn will be done during the immediate following planting season as set forth in this section, and leave a cash escrow for performance in an amount determined from time to time by the City

Council and published in the Clinton City Consolidated Fee Schedule. Sod may be used to comply with any requirement of seeding set forth herein.

(6) Debris and Waste: No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

(7) Waterbodies, Watercourses, and Wetlands: If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. No more than twenty-five percent (25%) of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land that is under water. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by Clinton City Engineer.

(8) Subdivision Improvement Agreement and Security to Include Lot Improvement: The applicant shall enter into a separate subdivision improvement agreement secured by a cash escrow to guarantee completion of all lot improvement requirements including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass seeding, removal of debris and waste, fencing, and all other lot improvements required by the Planning Commission and approved by the City Council. Whether or not a certificate of occupancy has been issued, Clinton City may enforce the provisions of the subdivision improvement agreement where the provisions of this section or any other applicable law, ordinance, or regulation have not been met.

26-5-3 Roads:

(1) General Requirements:**(a) Frontage on Improved Roads:**

subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street unless such street is:

- (i) An existing state road or county street; or
- (ii) A street shown upon a plat approved by the Planning Commission and recorded in the Davis County Recorder's office. Such street must be suitably improved as required by the Engineering and Standard Specifications and Standard Drawings of Clinton City, or be secured by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations or the Official Map Plan.
- (b) Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.

(c) Level of Service: The applicant for any development projected to generate more than 1,000 vehicle trip ends per day shall submit a traffic impact analysis.

(d) Grading and Improvement Plat: Roads shall be graded and improved and conform the Engineering and Standard Specifications and Standard Drawings of Clinton City and shall be approved as to design and specifications by the Clinton City Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.

(e) Classification: All roads shall be classified as a major arterial, minor arterial, collector or local. In classifying roads, Clinton City shall consider projected traffic demands after 20 years of development.

(f) Topography and Arrangement: Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain 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 Engineering and Standard Specifications and Standard Drawings of Clinton City.

(i) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as

established on the Official Map and/or Comprehensive Plan.

(ii) All thoroughfares 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.

(iii) Minor or local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(iv) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.

(v) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracks. All streets required to be extended to the boundary lines of the subdivision shall be properly barricaded to the satisfaction of the City Engineer.

(vi) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

(g) Blocks: Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, or waterways.

(i) 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 no exceed one thousand three hundred (1,300) feet or twelve (12) times the minimum lot width required in the zoning district, nor be less than four hundred (400) feet in length. Wherever practicable, blocks along major arterials and

collector streets shall be not less than one thousand (650) feet in length.

(ii) In long blocks the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

(iii) Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the Planning Commission through the center of blocks more than eight hundred (650) feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the Planning Commission for prospective use.

(h) Access to Primary Arterial: Where a subdivision borders on or contains an existing or proposed primary arterial, the Planning Commission may require that access to such streets be limited by one of the following means:

(i) The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial, and screening shall be provided in a strip of land along the rear property line of such lots.

(ii) A series of cul-de-sacs, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.

(iii) A marginal access or service road (separated from the primary arterial by a planting or grass strip and having access at suitable points.)

(i) Road Numbers: The sketch plat as submitted shall not indicate any names for proposed streets. The Community Development Department shall number all roads. A road that is, or is planned as a continuation of an existing road shall bear the same name.

(i) Road Regulatory Signs: The applicant shall install all traffic signs per Manual of Uniform Traffic Control Devices (MUTCD) and before issuance of certificates of occupancy for any residence within the subdivision. Street number signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Community Development Department. Speed limit signs are

to be placed at the entrance to all subdivisions from arterial, minor arterial, and collector streets. Traffic regulatory signs, information signs and safety signs shall be placed as required by the Community Development Department.

(k) Streetlights: Installation of street lights shall be required in accordance with design and specification standards approved by Clinton City Engineer. Developers shall install all streetlights before issuance of certificates of occupancy for any residence within the subdivision.

(l) Reserve Strips: The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to the street.

(m) Construction of Roads and Dead-End Roads:

(i) Construction of Roads: The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with Clinton City Transportation Master Plan. A development with homes numbering greater than 30 must have a second roadway access. Multiphase developments may exceed the 30 home maximum with approval from staff. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way including all city utilities shall be extended to the property line. A temporary turnabout shall be provided on all temporary dead-end streets, greater than one lot in depth with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

(ii) Dead-End Roads (Permanent): Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than the depth of a lot. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turn-around shall be provided at the end of a

permanent dead-end street in accordance with the Engineering and Standard Specifications and Standard Drawings of Clinton City. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the Engineering and Standard Specifications and Standard Drawings of Clinton City and the design standards of these regulations.

(2) Design Standards:

(a) General: In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation, and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are hereby required. Road classification may be indicated in the Comprehensive Plan, Transportation Master Plan or Official Map; otherwise, it shall be determined by the Planning Commission.

	<u>Local Road</u>	<u>Collector Road</u>	<u>Secondary Arterial</u>	<u>Primary Arterial</u>
<u>Min Width ROW</u>	<u>60</u>	<u>66</u>	<u>84</u>	<u>110</u>
<u>Min Width Traveled</u>	<u>36</u>	<u>42</u>	<u>60</u>	<u>86</u>
<u>Maximum Grade %</u>	<u>10</u>	<u>8</u>	<u>6</u>	<u>6</u>
<u>Minimum Curve Radius</u>	<u>100</u>	<u>100</u>	<u>300</u>	<u>500</u>
<u>Design Speed</u>	<u>25</u>	<u>35</u>	<u>40</u>	<u>50</u>

(b) Alternative Local Road Standards: The Planning Commission based upon consideration of connection with existing roadways, prospective traffic, satisfactory access to police, firefighting, snow removal, sanitation, and road-maintenance equipment, traffic and pedestrian safety, and aesthetics may develop alternative local roadway standards. The Planning Commission when considering alternate local road designs may require other amenities. Other considerations may be but are not limited to such items as central parking requirements, landscaping, standardized park strip designs, and wider sidewalks. In no consideration shall roadway buildup be reduced below that required

in the Engineering and Standard Specifications and Standard Drawings of Clinton City.

(c) Road Surfacing and Improvements: After sewer, water, secondary water, storm drain, land drain and utilities with associated conduits have been installed by the developer or appropriate utility company, the developer shall construct curbs and gutters and shall surface or cause to be surfaced road-ways to the widths prescribed in these regulations. All surfacing shall be of a character established in the Engineering and Standard Specifications and Standard Drawings of Clinton City. Types of pavement shall be as outlined in the Engineering and Standard Specifications and Standard Drawings of Clinton City or as established by a soils engineer after a complete soils analysis and with the concurrence of the City Engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to the Engineering and Standard Specifications and Standard Drawings of Clinton City and shall be incorporated into the construction plans required to be submitted by the developer for plat approval. The developer is responsible to have a maintenance coat applied to the surface of all new pavement as outlined in the Engineering and Standard Specifications and Standard Drawings of Clinton City.

(d) Excess Right-of-Way: Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three-to-one.

(e) Limited Access Highway: In residential districts where a limited access highways is so located as to affect the subdivision of adjoining lands a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to a limited access highway. This buffer strip shall be the full width of the lot and shall not be counted as part of the lot when averaging is figured as allowed in the Zoning Ordinance. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structure on this land is prohibited"

(f) Intersections:

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(i) 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 seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet there from. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission.

(ii) 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 center-line offsets of less than 150 feet 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 (800) feet apart.

(iii) Minimum curb radius at the intersection of two (2) local streets shall be at least twenty (25) feet; and minimum curb radius at an intersection involving a collector street shall be at least twenty-five (35) feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(iv) Intersections shall be designed with a flat grade wherever practical. On rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

(v) 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.

(vi) The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.

(g) **Bridges:** Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from Clinton City. The sharing expense for the

construction of bridges not of primary benefit to the applicant as determined by the Planning Commission will be fixed by special agreement between Clinton City and the applicant. The cost of bridges that do not solely benefit the developer shall be charged to the developer pro rata based on the percentage obtained by dividing the service area of the bridge into the area of the land being developed by the subdividers.

(3) Road Dedications and Reservations:

(a) New Perimeter Streets: 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 subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.

(b) Widening and Realignment of Existing Roads: Where a subdivision borders an existing narrow road or when the Master Plan, Official Map, or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas for widening or realignment of those roads. Frontage roads and streets as described above shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development activities contribute to the need for the road expansion. Land reserved for any road 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 granted to Clinton City.

26-5-4 Drainage and Storm Sewers:

(1) **General Requirements:** The applicant shall install storm sewer facilities in a manner prescribed by the Development Standards. The Planning Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer systems or irrigation system. Storm sewers, where required,

shall be designed by the Rational Method, or other methods as approved by the City Engineer, and a copy of design computations shall be submitted along with plans. The Clinton City Storm Drain Master Plan shall be referenced during the design and approval of a storm drain system. Inlets shall be provided so that surface water is not carried across or around any intersections, nor for a distance of more than 400 feet in the gutter unless approved with finding by the Planning Commission during the preliminary design approval of a subdivision. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

(2) Nature of Storm Water Facilities:

(a) Location: The applicant may be required by the Planning Commission to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivisions. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with The construction standards and specifications.

(b) Accessibility to Public Storm Sewers:

(i) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of Clinton City Engineer. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved out-fall. Inspection of facilities shall be scheduled with and conducted by the Public Facilities Inspector.

(ii) If a connection to a public storm sewer will be provided eventually, as determined by Clinton City Engineer and the Planning Commission, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.

(c) Accommodation of Upstream Drainage Areas: A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. Clinton City Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance. The cost of oversized drainage facilities that do not solely benefit the developer shall be charged to the developer pro rata based upon the cost of sizing the pipes over that necessary for the land being developed by the subdivider.

(d) Effect on Downstream Drainage Area: Clinton City Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(e) Areas of Poor Drainage: Whenever a plat is submitted for an area that is subject to flooding, the Planning Commission may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twelve (12) inches above the elevation of the one hundred (100) year floodplain, as determined by Clinton City Engineer. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by Clinton City Engineer. The Planning Commission may deny subdivision approval for areas of extremely poor drainage.

(f) **Floodplain Area:** The Planning Commission may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that 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, except at the discretion of the Planning Commission.

(3) Dedication of Drainage Easements:

(a) General Requirements: When 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 as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(b) Drainage Easements:

During the preliminary design review process the Planning Commission may require that public utility and drainage easements be placed on the plat. These easements are to be design so as to facilitate drainage due to natural grade from one lot to another down established property lines. Easements shall be indicated on and dedicated with the plat at the time of recordation. Drainage easements shall end at a public right-of-way or into an established storm drain structure.

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 (15) feet in width for 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 easement shall extend from the road to a natural watercourse or to other drainage facilities.

When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured, assigned to the City and indicated on the plat or recorded with other appropriate instrument as approved by the Clinton City Attorney.

The applicant shall dedicate, either in fee or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the Planning Commission.

Low-lying lands along watercourses subject to flooding or over flowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedures nor for computing the area requirement of any lot.

Wetlands in subdivisions, whether or not included in areas for dedication, shall be preserved and retained in their natural state as required by federal statute. For any plat expected of containing, by the Planning Commission the developer shall obtain a study approved by the Army Corps of Engineers and adhere to all requirements of the Corps. The Planning Commission, in its review proceedings is not limited from adding to the Corp requirements.

26-5-5 WATER FACILITIES:

(1) General Requirements:

(a) The applicant shall install all water facilities in a manner prescribed by the Development Standards.

(b) When a public water main is not accessible, the developer shall take necessary action to extend the existing City water-supply for the purpose of providing a water-supply system capable of providing for domestic water use and fire protection.

(c) When a public water main is accessible, the developer shall install adequate water facilities (including fire hydrants) subject to the specifications of state or local authorities. All water mains shall be at least eight (8) inches in diameter.

(d) Water main extensions shall be approved by the City Engineer and Planning Commission and when applicable by the state.

(e) The location of all fire hydrants, all water supply improvements, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be borne by the developer and included in the subdivision improvement

agreement and security to be furnished by the developer.

(f) The cost of oversized water facilities that do not solely benefit the developer shall be charged to the developer pro rata based upon the cost of sizing the pipes over that necessary for the land being developed by the subdivider.

(g) A development with water connections numbering greater than 30 must have two main line connections interconnected from separated feeds. Developments with multiple phases may have up to 30 connections with a single feed prior to the second connection being installed with the approval of staff.

(h) Developments overlapping water system pressure zones must be designed and installed such that they are consistent with the City's Water Master Plan and to maintain the functionality of the pressure zones.

(2) **Individual Wells and Central Water Systems:** Individual Wells shall not be utilized as a source for a culinary water supply.

(3) **Fire Hydrant:** Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 500 feet apart and within 250 feet of any structure or meet the requirements of the state adopted fire code which ever is the more stringent and the locations shall be approved by the Clinton City Fire Department as part of the preliminary approval process. 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.

26-5-6 SEWERAGE FACILITIES:

(a) **General Requirements:**

(i) The applicant shall install sanitary sewer facilities in a manner prescribed. All plans shall be designed and approved in accordance with the Development Standards, rules, regulations, and standards of Health Department, and other appropriate agency. Necessary action shall be taken by the applicant to extend the sanitary sewer system into the North Davis County Sewer District system.

(b) **Mandatory Connection to Public Sewer System:** If a public sanitary sewer is within 300 feet of the property the owner of the property shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be

unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.

(c) **Lift Station System:**

(i) If public sewer facilities are not available and a lift station is required to service a development, the developer shall extend the development system to join an existing City or NDCSD main. The developer shall be responsible to construct all parts of the system including the lift station for the purpose of providing a sanitary sewer system capable of providing for waste removal from each proposed lot within the development.

(A) The developer is to comply with the requirements of the City Engineer for the design of the lift station.

(B) The cost of oversized lift station facilities that do not solely benefit the developer shall be charged to the developer pro rata based upon the cost of sizing the system over that necessary for the land being developed by the subdivider.

(d) **Design Criteria for Sanitary Sewers:**

(A) General Guidelines: The Development Standards are the primary source for the design criteria. These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances when considered justified by Clinton City Engineer.

(B) Design Factors: Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented below should be adequate in each case for the particular type of development indicate. sewers shall be designed for the total tributary area using the following criteria:

(C) *Tables Go Here*

(D) These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 300 acres to a design factor of .01 c.f.s./acre for an area of 1,000 acres unless

otherwise directed by Clinton City Engineer. Design factors for watersheds larger than 1,000 acres shall be .01 c.f.s./acre unless otherwise directed by Clinton City Engineer.

(E) Maximum Size: The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by Clinton City Engineer.

(F) Minimum Size: No public sewer shall be less than eight (8) inches in diameter.

(G) Minimum Slope: All sewers shall be designed to give mean velocities when flowing full of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an N value of 0.013. The design slopes shall be evenly divisible by four (4). The slopes shall be minimum for the size indicated. Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving under thirty (30) houses. Sewers at the upper end shall have a minimum slope of 0.76 percent. When lateral sewers serve less than ten (10) houses, the minimum slope shall be not less than one (1) percent. (See table below)

(H) Table

(I) Alignment: All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by Clinton City Engineer.

(J) Manhole Location: Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections; and at distances not greater than 400 feet for sewers 15 inches and smaller, and 500 feet for sewers 18 inches in diameter and larger.

(K) Manholes: The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches except where required to match crowns. The use of drop manholes will require approval by Clinton City Engineer. The minimum inside diameter of the manholes shall conform to those specified by Clinton City Engineer. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

(L) Sewerage Locations: Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-ways when possible. Imposed loading shall be considered in all locations. Not less than six (6) feet of cover shall be provided over the top of pipe in street an alley rights-of-way or three (3) feet in all other areas.

(M) Cleanouts and Lampholes: Cleanouts and lampholes will not be permitted.

(N) Water Supply Interconnections: There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

(O) Relation of Sewers to Water Mains: A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer line. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two (2) feet above the sewer.

26-5-7 SIDEWALKS:

(1) Required Improvements:

(a) Sidewalks shall be included within the dedicated nonpavement right-of-way of all roads shown in _____.

(b) Concrete curbs are required for all roads when sidewalks are required by these regulations or when required in the discretion of the Planning Commission.

(c) Sidewalks shall be improved as required in Section 5.3(2)(b) of these regulations. A median strip of grassed or landscaped areas at least two (2) feet wide shall separate all sidewalks from adjacent curbs.

(2) Pedestrian Accesses:

(i) The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other

nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.

26-5-8 UTILITIES:

(a) Location:

(i) All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivisions. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(b) Easements:

(A) Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

(B) When topographical or other conditions are such as to make impractical the inclusions of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

26-5-9 PUBLIC USES:

(1) Parks, Playgrounds, and Recreation Areas:

(a) Recreation Standards: The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Master Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown

and marked on the plat, "Reserved for Park and/or Recreation Purposes." When recreation areas are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing tree (3) acres of recreation area for every one hundred (100) dwelling units. The Planning Commission may refer such proposed reservations to Clinton City official or department in charge of parks and recreation for recommendation. The developer shall dedicate all such recreation areas to Clinton City as a condition of final subdivision plat approval.

(i) Table of Recreation Requirements:

(ii) Table

Multifamily and High-Density Residential. The Planning Commission shall determine the acreage for reservation based on the number of dwelling units per acre to occupy the site as permitted by the Zoning Ordinance.

(b) Minimum Size of Park and Playground Reservations: In general, land reserved for recreation purposes shall have an area of at least four (4) acres. When the percentages from the Table of Recreation Requirements would create less than four (4) acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Here recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in Section 5.9(1)(a), the provisions of Section 5.9(1)(d) shall be applicable.

(c) Recreation Sites: Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the subdivision improvement agreement and security. A recreation site shall have a total frontage on one (1) or more streets of at least two hundred (200) feet, and no other dimension of the site shall be less than two hundred (200) feet, and no other dimension of the site shall be less

than two hundred (200) feet in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to Clinton City or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to Clinton City for park purposes shall have prior approval of Clinton City and shall be shown marked on the plat. "Reserved or Park and/or Recreation Purposes."

(d) Alternative Procedure: Money in Lieu of Land: Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in Section 5.9(1)(a), the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with Clinton City a cash payment in lieu of land reservation. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by Clinton City. The deposit shall be sued by Clinton City for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general neighborhood of subdivisions. The Planning Commission shall determine the amount to be deposited, based on the following formula: two hundred dollars (\$200) multiplied by the number of times that the total area of the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in section 5.9(1)(a), but not including any lands reserved through density zoning.

(e) Applicability to Land Utilizing Average Density: Any subdivision plat in which the principle of average density of flexible zoning has been utilized shall not be exempt from the provisions of its section, except as to such portion of land which is actually dedicated to Clinton City for park and recreation purposes. If no further area, other than the area to be reserved through averaging, is required by the Planning Commission, the full fee shall be paid as required in Section 5.9(1)(d). If further land is required for reservation, apart from that reserved by averaging, credit shall be given as provided by Section 5.9(1)(d).

(f) Other Recreation Reservations: The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposed in addition to the requirements of this section.

(2) Other Public Uses:

(a) Plat to Provide for Public Uses: Except when a applicant utilizes planned unit development or density zoning in which land is set aside by the developer as required by the provision of the Zoning Ordinance, whenever a tract to be subdivided includes a school, recreation uses [in excess of the requirements of Section 5.9(1)], or other public use as indicated on the Master Plan or any portion thereof, the space shall be suitably incorporated by the applicant into its sketch plat. After proper determination of its necessity by the Planning Commission and the appropriate local government official or other public agency involved in the acquisition and use of each such site and a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the applicant into the preliminary and final plats.

(b) Referral to Public Body: The Planning Commission shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The Planning Commission may propose alternate areas for such acquisition and shall allow the public body or agency 30 days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

(c) Notice to Property Owner: Upon a receipt of an affirmative report, the Planning Commission shall notify the property owner and shall designate on the preliminary and final plats that area proposed to be acquired by the public body.

(d) Duration of Land Reservation: The acquisition of land reserved by a public agency on the final plat shall be initiated within twelve (12) months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by a sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed 12 months shall result in the removal of the "reserved" designation from the

property involved and the freeing of the property for development in accordance with these regulations.

26-5-10 Preservation of Natural Features and Amenities:

(1) **General:** Existing features that would add value to residential development or to Clinton City as a whole, such as trees, as herein defined, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. o trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The sketch plat shall show the number and location of existing trees as required by these regulations and shall further indicate all those marked for retention and the location of all proposed shade trees required along the street side of each lot as required by these regulations.

(2) **Shade Trees Planted by Developer:** As a requirement of subdivision approval the applicant shall plant shade trees on the property of the subdivisions. Such trees are to be planted within five (5) feet of the right-of-way of the road or roads within and abutting the subdivision, or, at the discretion of the Planning Commission, within the right-of-way of such roads. One (1) tree shall be planted for every forty (40) feet of frontage along each road unless the Planning Commission, upon recommendation of Clinton City Engineer, shall grant a waiver. The waiver shall be granted only if there are trees growing along the right-of-way or on the abutting property which, in the opinion of the Planning Commission, comply with these regulations.

(a) New trees to be provided pursuant to these regulations shall be approved by Clinton City Engineer and shall be planted in accordance with the regulations of Clinton City Engineer. The trees shall have a minimum trunk diameter (measured twelve [12] inches above ground level) of not less than two (2) inches. Only Oak, Honey Locust, Hard Maples, Ginkgo, or other long-lived shade trees, acceptable to Clinton City Engineer and to the Planning Commission, shall be planted.

(b) Shade Tree Easement and Dedication. The preliminary plat and final plat shall reserve an

easement authorizing Clinton City to plant shade trees within five (5) feet of the required right-of-way of Clinton City. No street shall be accepted for dedication until Clinton City Engineer shall inform the Planning Commission and Clinton City that compliance, where necessary, has been made with these regulations.

26-5-11 Nonresidential Subdivisions:

(1) **General:** If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to the land shall make provision as the Planning Commission may require. A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Ordinance. Site plan approval and nonresidential subdivision plat approval may proceed simultaneously at the discretion of the Planning Commission. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Planning Commission, and shall conform to the proposed land use and standards established in the Master Plan, Official Map, and Zoning Ordinance.

(2) **Standard:** In addition to the principles and 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 is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(a) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

(b) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

(c) Special requirements may be imposed by Clinton City with respect to street, curb, gutter, and sidewalk design and construction.

(d) Special requirements may be imposed by Clinton City with respect to the installation of public utilities, including water, sewer, and storm water drainage.

(e) 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 up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

(f) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential areas.

26-5-126-5-12 General Improvements:

(1) **Conformance to Applicable Rules and Regulations:** In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:

- (a) All applicable statutory provisions.
 - (b) The Clinton City Zoning Ordinance, building and housing codes, and all other applicable laws of Clinton City.
 - (c) The Official Comprehensive Plan, Master Land Use Map, Sanitary Sewer Master Plan, Culinary Water Master Plan, Storm Drain Master Plan, Transportation Master Plan, Parks master Plan, and Capital Improvements Program of Clinton City.
 - (d) The Master Plan of the Davis and Weber Counties Canal Company or current provider of pressure irrigation to the City.
 - (e) The special requirements of these regulations and any rules of the Health Department and/or appropriate state or substate agencies.
 - (f) The rules of the Utah Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting street.
 - (g) The Engineering and Standard Specifications and Standard Drawings of Clinton City.
 - (h) Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in Section 1.4 of these regulations.
- (2) **Adequate Public Facilities:** No preliminary plat shall be approved unless the Planning Commission determines that public facilities will be adequate to support and serve the area and proposed subdivision. The applicant shall, at the request of the Planning Commission, submit sufficient information and data on the proposed

subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy will include roads and public transportation facilities, sewerage, storm drain, land drain, secondary water and culinary water service.

(a) **Planning:** Periodically Clinton City will establish by action of the City Council, after public hearing, guidelines for the determination of the adequacy of public facilities and service. To provide the basis for the guidelines, the Council must prepare and analysis of current growth and the amount of additional growth that can be accommodated by the future public facilities and service. The Council must also make changes in preliminary plat approval criteria it finds appropriate in the light of its experience in administering these regulations.

(b) **Information:** The applicant for a preliminary plat must, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities and services by possible uses of said subdivision.

(c) **Comprehensive Master Plan Consistency Require:** Proposed public improvements shall conform to and be properly related to Clinton City's comprehensive plan and all applicable capital improvements plans.

(d) **Water:** All habitable buildings and buildable lots shall be connected to the Clinton City public culinary water system.

(e) **Secondary Water:** All properties and buildable lots shall be connected to the Davis and Weber Counties Canal Company or current managers of the system pressure irrigation system. There shall be no physical connection between a public or private potable water supply system and a secondary water pressure irrigations system.

(f) **Wastewater:** All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.

(g) **Land Drains:** Ground water drainage improvements shall be constructed to accommodate potential ground water runoff and shall be designed to prevent adding to the ground water situation within the City.

(h) **Stormwater Management:** Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. Clinton City may require the use of control methods such as retention or detention, and/or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.

(i) **Roads:** Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development.

(j) **Extension Policies:** All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. Clinton City may require the applicant of a subdivision to extend offsite improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of plat approval.

(3) **Self-Imposed Restrictions:** If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Ordinance or these regulations, such restrictions or reference to those restrictions shall be required to be indicated on the subdivision plat, and restrictive covenants shall be recorded with the Davis County Recorder in a form to be approved by Clinton City Attorney. The subdivider shall grant to Clinton City the right to enforce the restrictive covenants.

(4) **Plats Straddling Municipal Boundaries:** Whenever access to the subdivision is required across land in another local government, the Planning Commission and City Council may request assurance from Clinton City Attorney that access is legally established, and from Clinton City Engineer that the access road is adequately improved, or that a guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

(5) **Monuments:** The applicant shall place permanent reference monuments in the

subdivision as required in these regulations and as approved by the City Engineer.

(a) Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corner. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits.

(b) The external boundaries of a subdivision shall be monumented in the field by monuments of solid iron rods at least thirty (30) inches long and one-half (1/2) inches in diameter and shall have caps attached indicating the surveyor accomplishing the survey. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points along the meander line, except that when such corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.

(c) All internal boundaries and those corners and points not referred to in the preceding paragraph shall be monumented in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves, and at all angle points in any line.

(d) The lines of lots that do not front on a street shall be monumented in the field by iron rods at least thirty (30) inches long and one-half (1/2) inch in diameter. The lines of lots that front on a street shall be monumented in the curb at the extension of the property line. These monuments shall be nails of sufficient size to make a permanent reference point in the curb.

(e) All monuments required by these regulations shall be set flush with the ground and planted in such a manner that they will not be removed by frost. All monuments in the right-of-way shall be constructed as outlined in the Engineering and standard Specifications and Standard Drawings of Clinton City.

(f) All monuments shall be properly set in the ground and approved by the City Engineer or his representative prior to the time the City Council grants conditional acceptance of the subdivision.

(6) **Character of the Land:** Land that the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations,

adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of Clinton City Engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.

(7) **Subdivision Name:** The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in Davis County. The Planning Commission shall have final authority to designate the name of the subdivision, which shall be determined at preliminary plat approval.

(8) **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 or on uncompacted fill in accordance with the Engineering and Standard Specifications and Standard Drawings of Clinton City.

26-5-226-5-13 Lot Improvements:

(1) **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 buildings on the lots from an approved street.

(2) **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 those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with the Zoning Ordinance and these regulation. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plat. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback 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.

(3) **Lot Orientation:**

(i) The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.

(4) **Double Frontage Lots and Access to Lots:**

(a) **Double Frontage Lots:** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterial or to overcome specific disadvantages of topography and orientation.

(b) **Access from Major and Secondary Arterials:** Lots shall not, in general, derive access exclusively from a major or secondary street. Where driveway access from a major or secondary street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major and secondary arterials.

(5) **Soil Preservation, Grading, and Seeding:**

(a) **Soil Preservation and Final Grading:** No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot precovered with soil with an average depth of at least six (6) inches which shall contain no particles more than two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation seriously damaged. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting.

(b) **Lot Drainage:** Lots shall be laid out so as to provide positive drainage away from all

buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. ~~Each lot shall be graded such that run off water is directed to fronting roads or existing swales as approved by the City.~~ Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

(c) **Lawn-Grass Seed and Sod:** Lawn-grass seed shall be sown at not less than four (4) pounds to each one-thousand (1,000) square feet of land area. In the spring, the seed shall be sown between March 15 and May 15; and in the fall, the seed shall be sown between August 15 and September 30. The seed shall consist of a maximum of ten percent (10%) rye grass by weight and minimum of ninety percent (90%) of permanent bluegrass and/or fescue grass by weight. All seed shall have been tested for germination within one (1) year of the date of seeding, and the date of testing shall be on the label containing the seed analysis. All lots shall be seeded from the roadside edge of the unpaved right-of-way back to a distance of twenty-five (25) feet behind the principal residence on the lot. No certificate of occupancy shall be issued until respreading of soil and seeding of lawn has been completed; except that between October 1 and March 15, and between May 15 and August 15, the applicant shall submit an agreement in writing signed by the developer and the property owner, with a copy to the Building Inspector, that respreading of soil and seeding of lawn will be done during the immediate following planting season as set forth in this section, and leave a cash escrow for performance in an amount determined from time to time by the City Council and published in the Clinton City Consolidated Fee Schedule. Sod may be used to comply with any requirement of seeding set forth herein.

(6) **Debris and Waste:** No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

(7) **Waterbodies, Watercourses, and**

Wetlands: If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. No more than twenty-five percent (25%) of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land that is under water. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by Clinton City Engineer.

(8) **Subdivision Improvement Agreement and**

Security to Include Lot Improvement: The applicant shall enter into a separate subdivision improvement agreement secured by a cash escrow to guarantee completion of all lot improvement requirements including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass seeding, removal of debris and waste, fencing, and all other lot improvements required by the Planning Commission and approved by the City Council. Whether or not a certificate of occupancy has been issued, Clinton City may enforce the provisions of the subdivision improvement agreement where the provisions of this section or any other applicable law, ordinance, or regulation have not been met.

~~26-5-326-5-14~~ **Roads:**

(1) **General Requirements:**

- (a) **Frontage on Improved Roads:** No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street unless such street is:
- (i) An existing state road or county street; or
 - (ii) A street shown upon a plat approved by the Planning Commission and recorded in the Davis County Recorder's office. Such street must be suitably improved as required by the Engineering and Standard Specifications and Standard Drawings of Clinton City, or be secured by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations or the Official Map Plan.

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(b) Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.

(c) **Level of Service:** The applicant for any development projected to generate more than 1,000 vehicle trip ends per day shall submit a traffic impact analysis.

(d) **Grading and Improvement Plat:** Roads shall be graded and improved and conform the Engineering and Standard Specifications and Standard Drawings of Clinton City and shall be approved as to design and specifications by the Clinton City Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.

(e) **Classification:** All roads shall be classified as a major arterial, minor arterial, collector or local. In classifying roads, Clinton City shall consider projected traffic demands after 20 years of development.

(f) **Topography and Arrangement:** Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain 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 Engineering and Standard Specifications and Standard Drawings of Clinton City.

(i) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established on the Official Map and/or Comprehensive Plan.

(ii) All thoroughfares 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.

(iii) Minor or local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(iv) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use

of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.

(v) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracks. All streets required to be extended to the boundary lines of the subdivision shall be properly barricaded to the satisfaction of the City Engineer.

(vi) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

(g) **Blocks:** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, or waterways.

(i) 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 (1,300) feet or twelve (12) times the minimum lot width required in the zoning district, nor be less than four hundred (400) feet in length. Wherever practicable, blocks along major arterials and collector streets shall be not less than one thousand (650) feet in length.

(ii) In long blocks the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

(iii) Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the Planning Commission through the center of blocks more than eight hundred (650) feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined

suitable by the Planning Commission for prospective use.

(h) **Access to Primary Arterial:** Where a subdivision borders on or contains an existing or proposed primary arterial, the Planning Commission may require that access to such streets be limited by one of the following means:

(i) The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial, and screening shall be provided in a strip of land along the rear property line of such lots.

(ii) A series of cul-de-sacs, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.

(iii) A marginal access or service road (separated from the primary arterial by a planting or grass strip and having access at suitable points.)

(i) **Road Numbers:** The sketch plat as submitted shall not indicate any names for proposed streets. The Community Development Department shall number all roads. A road that is, or is planned as a continuation of an existing road shall bear the same name.

(j) **Road Regulatory Signs:** The applicant shall install all traffic signs per Manual of Uniform Traffic Control Devices (MUTCD) ~~deposit with Clinton City at the time of final subdivision approval the sum outlined in the City Consolidated Fee Schedule for each road sign and/or regulatory sign required by the Community Development Department. Clinton City Public Works shall install all road signs and~~ before issuance of certificates of occupancy for any residence within the subdivision. Street number signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Community Development Department. Speed limit signs are to be placed at the entrance to all subdivisions from arterial, minor arterial, and collector streets. Traffic regulatory signs, information signs and safety signs shall be placed as required by the Community Development Department.

(k) **Streetlights:** Installation of street lights shall be required in accordance with design and specification standards approved by Clinton City Engineer. Developers shall install all streetlights

before issuance of certificates of occupancy for any residence within the subdivision.

(l) **Reserve Strips:** The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to the street.

(m) **Construction of Roads and Dead-End Roads:**

(i) **Construction of Roads:** The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with Clinton City Transportation Master Plan. ~~A development with homes numbering greater than 30 must have a second roadway access. Multiphase developments may exceed the 30 home maximum with approval from staff.~~ If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way including all city utilities shall be extended to the property line. A ~~temporary turnabout~~ temporary turnabout shall be provided on all temporary dead-end streets, greater than one lot in depth with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

(ii) **Dead-End Roads (Permanent):** Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than the depth of a lot. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turn-around shall be provided at the end of a permanent dead-end street in accordance with the Engineering and Standard Specifications and Standard Drawings of Clinton City. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the Engineering and Standard Specifications and Standard Drawings of Clinton City and the design standards of these regulations.

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(2) **Design Standards:**

(a) **General:** In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation, and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are hereby required. Road classification may be indicated in the Comprehensive Plan, Transportation Master Plan or Official Map; otherwise, it shall be determined by the Planning Commission.

	Local Road	Collector Road	Secondary Arterial	Primary Arterial
Min Width ROW	60	66	84	110
Min Width Traveled	36	42	60	86
Maximum Grade %	10	8	6	6
Minimum Curve Radius	100	100	300	500
Design Speed	25	35	40	50

(b) **Alternative Local Road Standards:** The Planning Commission based upon consideration of connection with existing roadways, prospective traffic, satisfactory access to police, firefighting, snow removal, sanitation, and road-maintenance equipment, traffic and pedestrian safety, and aesthetics may develop alternative local roadway standards. The Planning Commission when considering alternate local road designs may require other amenities. Other considerations may be but are not limited to such items as central parking requirements, landscaping, standardized park strip designs, and wider sidewalks. In no consideration shall roadway buildup be reduced below that required in the Engineering and Standard Specifications and Standard Drawings of Clinton City.

(c) **Road Surfacing and Improvements:** After sewer, water, secondary water, storm drain, land drain and utilities with associated conduits have been installed by the developer or appropriate utility company, the developer shall construct curbs and gutters and shall surface or cause to be surfaced road-ways to the widths prescribed in these regulations. All surfacing shall be of a character established in the Engineering and

Standard Specifications and Standard Drawings of Clinton City. Types of pavement shall be as outlined in the Engineering and Standard Specifications and Standard Drawings of Clinton City or as established by a soils engineer after a complete soils analysis and with the concurrence of the City Engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to the Engineering and Standard Specifications and Standard Drawings of Clinton City and shall be incorporated into the construction plans required to be submitted by the developer for plat approval. The developer is responsible to have a maintenance coat applied to the surface of all new pavement as outlined in the Engineering and Standard Specifications and Standard Drawings of Clinton City.

(d) **Excess Right-of-Way:** Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three-to-one.

(e) **Limited Access Highway:** In residential districts where a limited access highway is so located as to affect the subdivision of adjoining lands a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to a limited access highway. This buffer strip shall be the full width of the lot and shall not be counted as part of the lot when averaging is figured as allowed in the Zoning Ordinance. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structure on this land is prohibited"

(f) **Intersections:**

(i) 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 seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet there from. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission.

(ii) 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 center-line offsets of less than 150 feet 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 (800) feet apart.

(iii) Minimum curb radius at the intersection of two (2) local streets shall be at least twenty (25) feet; and minimum curb radius at an intersection involving a collector street shall be at least twenty-five (35) feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(iv) Intersections shall be designed with a flat grade wherever practical. On rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

(v) 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.

(vi) The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.

(g) **Bridges:** Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from Clinton City. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Planning Commission will be fixed by special agreement between Clinton City and the applicant. The cost of bridges that do not solely benefit the developer shall be charged to the developer pro rata based on the percentage obtained by dividing the service area of the bridge into the area of the land being developed by the subdividers.

(3) **Road Dedications and Reservations:**

(a) **New Perimeter Streets:** 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 subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.

(b) **Widening and Realignment of Existing Roads:** Where a subdivision borders an existing narrow road or when the Master Plan, Official Map, or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas for widening or realignment of those roads. Frontage roads and streets as described above shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development activities contribute to the need for the road expansion. Land reserved for any road 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 granted to Clinton City.

26-5-426-5-15 Drainage and Storm Sewers:

(1) **General Requirements:** The applicant shall install storm sewer facilities in a manner prescribed by the Development Standards. The Planning Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer systems or irrigation system. Storm sewers, where required, shall be designed by the Rational Method, or other methods as approved by the City Engineer, and a copy of design computations shall be submitted along with plans. The Clinton City Storm Drain Master Plan shall be referenced during the design and approval of a storm drain system. Inlets shall be provided so that surface water is not carried across or around any intersections, nor for a distance of more than 400 feet in the gutter unless approved with finding by the Planning Commission during the preliminary design approval of a subdivision. When

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calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

(2) **Nature of Storm Water Facilities:**

(a) **Location:** The applicant may be required by the Planning Commission to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivisions. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with The construction standards and specifications.

(b) **Accessibility to Public Storm Sewers:**

(i) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of Clinton City Engineer. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved out-fall. Inspection of facilities shall be scheduled with and conducted by the Public Facilities Inspector.

(ii) If a connection to a public storm sewer will be provided eventually, as determined by Clinton City Engineer and the Planning Commission, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.

(c) **Accommodation of Upstream Drainage Areas:** A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. Clinton City Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance. The cost of oversized

drainage facilities that do not solely benefit the developer shall be charged to the developer pro rata based upon the cost of sizing the pipes over that necessary for the land being developed by the subdiviver.

(d) **Effect on Downstream Drainage Area:**

Clinton City Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(e) **Areas of Poor Drainage:** Whenever a plat is submitted for an area that is subject to flooding, the Planning Commission may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twelve (12) inches above the elevation of the one hundred (100) year floodplain, as determined by Clinton City Engineer. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by Clinton City Engineer. The Planning Commission may deny subdivision approval for areas of extremely poor drainage.

(f) **Floodplain Area:** The Planning Commission may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that 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, except at the discretion of the Planning Commission.

(3) **Dedication of Drainage Easements:**

(a) **General Requirements:** When 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 as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(b) **Drainage Easements:**

During the preliminary design review process the Planning Commission may require that public utility and drainage easements be placed on the plat. These easements are to be design so as to facilitate drainage due to natural grade from one lot to another down established property lines. Easements shall be indicated on and dedicated with the plat at the time of recordation. Drainage easements shall end at a public right-of-way or into an established storm drain structure.

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 (15) feet in width for 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 easement shall extend from the road to a natural watercourse or to other drainage facilities.

When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured, assigned to the City and indicated on the plat or recorded with other appropriate instrument as approved by the Clinton City Attorney.

The applicant shall dedicate, either in fee or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the Planning Commission.

Low-lying lands along watercourses subject to flooding or over flowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be

computed in determining the number of lots to be utilized for average density procedures nor for computing the area requirement of any lot.

Wetlands in subdivisions, whether or not included in areas for dedication, shall be preserved and retained in their natural state as required by federal statute. For any plat expected of containing, by the Planning Commission the developer shall obtain a study approved by the Army Corps of Engineers and adhere to all requirements of the Corps. The Planning Commission, in its review proceedings is not limited from adding to the Corp requirements.

26-5-526-5-16 WATER FACILITIES:

(1) General Requirements:

(a) The applicant shall install all water facilities in a manner prescribed by the Development Standards.

~~(a)~~

(b) When a public water main is not accessible, the developer shall take necessary action to extend the existing City water-supply for the purpose of providing a water-supply system capable of providing for domestic water use and fire protection.

(c) When a public water main is accessible, the developer shall install adequate water facilities (including fire hydrants) subject to the specifications of state or local authorities. All water mains shall be at least eight (8) inches in diameter.

(d) Water main extensions shall be approved by the City Engineer and Planning Commission and when applicable by the state.

(e) The location of all fire hydrants, all water supply improvements, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be borne by the developer and included in the subdivision improvement agreement and security to be furnished by the developer.

(f) The cost of oversized water facilities that do not solely benefit the developer shall be charged to the developer pro rata based upon the cost of sizing the pipes over that necessary for the land being developed by the subdivider.

(g) A development with water connections numbering greater than 30 must have two main

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line connections interconnected from separated feeds. Developments with multiple phases may have up to 30 connections with a single feed prior to the second connection being installed with the approval of staff.

~~(h)~~ Developments overlapping water system pressure zones must be designed and installed such that they are consistent with the City's Water Master Plan and to maintain the functionality of the pressure zones.

~~(2)~~ **Individual Wells and Central Water Systems:**

~~(2)~~ Individual Wells shall not be utilized as a source for a culinary water supply.

~~(4)~~ **Fire Hydrant:**

~~(3)~~ Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 500 feet apart and within 250 feet of any structure or meet the requirements of the state adopted fire code which ever is the more stringent and the locations shall be approved by the Clinton City Fire Department as part of the preliminary approval process. 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.

26-5-626-5-17 SEWERAGE FACILITIES:

(a) **General Requirements:**

(i) The applicant shall install sanitary sewer facilities in a manner prescribed. All plans shall be designed and approved in accordance with the Development Standards, rules, regulations, and standards of Health Department, and other appropriate agency. Necessary action shall be taken by the applicant to extend the sanitary sewer system into the North Davis County Sewer District system.

(b) **Mandatory Connection to Public Sewer System:** If a public sanitary sewer is within 300 feet of the property the owner of the property shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.

(c) **Lift Station System:**

(i) If public sewer facilities are not available and a lift station is required to service a development,

the developer shall extend the development system to join an existing City or NDCSD main. The developer shall be responsible to construct all parts of the system including the lift station for the purpose of providing a sanitary sewer system capable of providing for waste removal from each proposed lot within the development.

(A) The developer is to comply with the requirements of the City Engineer for the design of the lift station.

(B) The cost of oversized lift station facilities that do not solely benefit the developer shall be charged to the developer pro rata based upon the cost of sizing the system over that necessary for the land being developed by the subdivider.

(d) **Design Criteria for Sanitary Sewers:**

(A) **General Guidelines:** The Development Standards are the primary source for the design criteria. These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances when considered justified by Clinton City Engineer.

(B) **Design Factors:** Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented below should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria:

(C) **Tables Go Here**

(D) These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 300 acres to a design factor of .01 c.f.s./acre for an area of 1,000 acres unless otherwise directed by Clinton City Engineer. Design factors for watersheds larger than 1,000 acres shall be .01 c.f.s./acre unless otherwise directed by Clinton City Engineer.

(E) **Maximum Size:** The diameter of sewers proposed shall not exceed the diameter of

the existing or proposed outlet, whichever is applicable, unless otherwise approved by Clinton City Engineer.

(F) **Minimum Size:** No public sewer shall be less than eight (8) inches in diameter.

(G) **Minimum Slope:** All sewers shall be designed to give mean velocities when flowing full of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an N value of 0.013. The design slopes shall be evenly divisible by four (4). The slopes shall be minimum for the size indicated. Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving under thirty (30) houses. Sewers at the upper end shall have a minimum slope of 0.76 percent. When lateral sewers serve less than ten (10) houses, the minimum slope shall be not less than one (1) percent. (See table below)

(H) **Table**

(I) **Alignment:** All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by Clinton City Engineer.

(J) **Manhole Location:** Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections; and at distances not greater than 400 feet for sewers 15 inches and smaller, and 500 feet for sewers 18 inches in diameter and larger.

(K) **Manholes:** The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches except where required to match crowns. The use of drop manholes will require approval by Clinton City Engineer. The minimum inside diameter of the manholes shall conform to those specified by Clinton City Engineer. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

(L) **Sewerage Locations:** Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from

street or alley right-of-ways when possible. Imposed loading shall be considered in all locations. Not less than six (6) feet of cover shall be provided over the top of pipe in street an alley rights-of-way or three (3) feet in all other areas.

(M) **Cleanouts and Lampholes:** Cleanouts and lampholes will not be permitted.

(N) **Water Supply Interconnections:** There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

(O) **Relation of Sewers to Water Mains:** A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer line. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two (2) feet above the sewer.

~~26-5-7~~ **26-5-18 SIDEWALKS:**

(1) Required Improvements:

(a) Sidewalks shall be included within the dedicated nonpavement right-of-way of all roads shown in _____.

(b) Concrete curbs are required for all roads when sidewalks are required by these regulations or when required in the discretion of the Planning Commission.

(c) Sidewalks shall be improved as required in Section 5.3(2)(b) of these regulations. A median strip of grassed or landscaped areas at least two (2) feet wide shall separate all sidewalks from adjacent curbs.

~~(d)~~ **(d) Park strip areas wher rear or side lots are facing UDOT streets and the future maintenance may be required of the City. must have hard surface such as concrete installed unless otherwise required by staff.**

~~(e)~~ **(e) Pedestrian Accesses:**

(i) The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements

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at least twenty (20) feet in width. Easements shall be indicated on the plat.

26-5-826-5-19 UTILITIES:

(a) **Location:**

(i) All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivisions. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(b) **Easements:**

(A) Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

(B) When topographical or other conditions are such as to make impractical the inclusions of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

26-5-926-5-20 PUBLIC USES:

(1) **Parks, Playgrounds, and Recreation Areas:**

(a) **Recreation Standards:** The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Master Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown and marked on the plat, "Reserved for Park

and/or Recreation Purposes." When recreation areas are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing tree (3) acres of recreation area for every one hundred (100) dwelling units. The Planning Commission may refer such proposed reservations to Clinton City official or department in charge of parks and recreation for recommendation. The developer shall dedicate all such recreation areas to Clinton City as a condition of final subdivision plat approval.

(i) Table of Recreation Requirements:

(ii) Table

Multifamily and High-Density Residential. The Planning Commission shall determine the acreage for reservation based on the number of dwelling units per acre to occupy the site as permitted by the Zoning Ordinance.

(b) **Minimum Size of Park and Playground**

Reservations: In general, land reserved for recreation purposes shall have an area of at least four (4) acres. When the percentages from the Table of Recreation Requirements would create less than four (4) acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Here recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in Section 5.9(1)(a), the provisions of Section 5.9(1)(d) shall be applicable.

(c) **Recreation Sites:** Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the subdivision improvement agreement and security. A recreation site shall have a total frontage on one (1) or more streets of at least two hundred (200) feet, and no other dimension of the site shall be less than two hundred (200) feet, and no other dimension of the site shall be less than two hundred (200) feet in depth. The

Planning Commission may refer any subdivision proposed to contain a dedicated park to Clinton City or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to Clinton City for park purposes shall have prior approval of Clinton City and shall be shown marked on the plat, "Reserved or Park and/or Recreation Purposes."

(d) Alternative Procedure: Money in Lieu of Land: Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in Section 5.9(1)(a), the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with Clinton City a cash payment in lieu of land reservation. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by Clinton City. The deposit shall be used by Clinton City for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general neighborhood of subdivisions. The Planning Commission shall determine the amount to be deposited, based on the following formula: two hundred dollars (\$200) multiplied by the number of times that the total area of the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in section 5.9(1)(a), but not including any lands reserved through density zoning.

(e) Applicability to Land Utilizing Average Density: Any subdivision plat in which the principle of average density of flexible zoning has been utilized shall not be exempt from the provisions of its section, except as to such portion of land which is actually dedicated to Clinton City for park and recreation purposes. If no further area, other than the area to be reserved through averaging, is required by the Planning Commission, the full fee shall be paid as required in Section 5.9(1)(d). If further land is required for reservation, apart from that reserved by averaging, credit shall be given as provided by Section 5.9(1)(d).

(f) Other Recreation Reservations: The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposed in addition to the requirements of this section.

(2) Other Public Uses:

(a) Plat to Provide for Public Uses: Except when a applicant utilizes **planned unit development** or density zoning in which land is set aside by the developer as required by the provision of the Zoning Ordinance, whenever a tract to be subdivided includes a school, recreation uses [in excess of the requirements of Section 5.9(1)], or other public use as indicated on the Master Plan or any portion thereof, the space shall be suitably incorporated by the applicant into its sketch plat. After proper determination of its necessity by the Planning Commission and the appropriate local government official or other public agency involved in the acquisition and use of each such site and a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the applicant into the preliminary and final plats.

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(b) Referral to Public Body: The Planning Commission shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The Planning Commission may propose alternate areas for such acquisition and shall allow the public body or agency 30 days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

(c) Notice to Property Owner: Upon a receipt of an affirmative report, the Planning Commission shall notify the property owner and shall designate on the preliminary and final plats that area proposed to be acquired by the public body.

(d) Duration of Land Reservation: The acquisition of land reserved by a public agency on the final plat shall be initiated within twelve (12) months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by a sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed 12 months shall result in the removal of the "reserved" designation from the

property involved and the freeing of the property for development in accordance with these regulations.

26-5-1026-5-21 Preservation of Natural Features and Amenities:

(1) **General:** Existing features that would add value to residential development or to Clinton City as a whole, such as trees, as herein defined, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. o trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The sketch plat shall show the number and location of existing trees as required by these regulations and shall further indicate all those marked for retention and the location of all proposed shade trees required along the street side of each lot as required by these regulations.

(2) **Shade Trees Planted by Developer:** As a requirement of subdivision approval the applicant shall plant shade trees on the property of the subdivisions. Such trees are to be planted within five (5) feet of the right-of-way of the road or roads within and abutting the subdivision, or, at the discretion of the Planning Commission, within the right-of-way of such roads. One (1) tree shall be planted for every forty (40) feet of frontage along each road unless the Planning Commission, upon recommendation of Clinton City Engineer, shall grant a waiver. The waiver shall be granted only if there are trees growing along the right-of-way or on the abutting property which, in the opinion of the Planning Commission, comply with these regulations.

(a) New trees to be provided pursuant to these regulations shall be approved by Clinton City Engineer and shall be planted in accordance with the regulations of Clinton City Engineer. The trees shall have a minimum trunk diameter (measured twelve [12] inches above ground level) of not less than two (2) inches. Only Oak, Honey Locust, Hard Maples, Ginkgo, or other long-lived shade trees, acceptable to Clinton City Engineer and to the Planning Commission, shall be planted.

(b) Shade Tree Easement and Dedication. The preliminary plat and final plat shall reserve an

easement authorizing Clinton City to plant shade trees within five (5) feet of the required right-of-way of Clinton City. No street shall be accepted for dedication until Clinton City Engineer shall inform the Planning Commission and Clinton City that compliance, where necessary, has been made with these regulations.

26-5-1126-5-22 Nonresidential Subdivisions:

(1) **General:** If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to the land shall make provision as the Planning Commission may require. A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Ordinance. Site plan approval and nonresidential subdivision plat approval may proceed simultaneously at the discretion of the Planning Commission. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Planning Commission, and shall conform to the proposed land use and standards established in the Master Plan, Official Map, and Zoning Ordinance.

(2) **Standard:** In addition to the principles and 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 is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(a) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

(b) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

(c) Special requirements may be imposed by Clinton City with respect to street, curb, gutter, and sidewalk design and construction.

(d) Special requirements may be imposed by Clinton City with respect to the installation of public utilities, including water, sewer, and storm water drainage.

(e) 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 up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

(f) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential areas.

Chapter 6. Impact Fees Related to Development

26-6-1	Purpose
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26-6-15	Adjustments
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26-6-17	Penalty Provision

26-6-1 Purpose: The Council of Clinton City (the "Council") finds and determines that growth and development activity in the City will create additional demand and need for culinary water facilities, waste water (sanitary sewer) facilities, storm drain facilities, roadway facilities, publicly owned parks, open space and recreational facilities and trails, and police and fire facilities in the City.

(a) The Council has directed that Master Plans be developed for the areas listed in **1. above** that are impacted and that these Plans outline future improvements needed due to growth. Except for the Parks Master Plan, the City Engineer, under contract developed the Plans; city staff developed the Parks Plan.

(b) The Council has obtained, through contract with a consultant specializing in the development of impact fees an Impact Fee and Capital Facilities Plan based upon the Master Plans adopted by the City.

(c) The Council finds that persons responsible for growth and development activity should pay a proportionate share of the cost of such planned facilities needed to serve the growth and development activity. The Council further finds that impact fees are necessary to provide public facilities. Therefore, pursuant to Utah Code Title 11, Chapter 36, the Council adopts this Section

to assess impact fees for planned public facilities as outlined in the capital facilities and master plans. The provisions of this Section shall be liberally construed in order to carry out the purposes of the Council in establishing the impact fee program.

26-6-2 Definitions: The following definitions shall apply for purposes of this Section unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined by their usual and customary meaning or as defined in Utah Code §11-36-102.

(1) "**Accessory structure**" means a subordinate building or structure, located on the same lot with the main building, occupied by or devoted to an accessory use. When an accessory structure is attached to the main building in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main building.

(2) "**Accessory use**" means a use that:

(a) Is subordinate in area, extent and purpose to, and supports a principal use;

(b) Is customarily found as incidental to such principal use;

(c) Contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use;

(d) Is located on the same zoning lot as such principal use; and

(e) Is under the same ownership or control as the principal use.

(3) "**Building permit**" means an official document or certification which is issued by the building officials of the City and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

(4) "**Capital facilities**" means the facilities or improvements included in a capital budget.

(5) "**Capital facilities plan**" or the "**plan**" means the capital facilities plan of the City, as amended from time to time, and supporting documents, and as adopted pursuant to Utah Code Section 11-36-201, as amended.

(6) "**Change in use**" means: a change from the existing occupancy classification to a new

classification as outlined in the Building Codes adopted by the State and this City.

- (7) **"City"** means Clinton City, Utah.
- (8) **"City Engineer"** means the duly appointed and acting City Engineer for the City.
- (9) **"Council"** means the Municipal Council of the City.
- (10) **"Department"** means the Department of Community and Economic Development of the City.
- (11) **"Developer"** means an individual, group of individuals, partnership, corporation, Limited Liability Company, association, Municipal Corporation, state agency, or other person undertaking development activity, and their successors and assigns.
- (12) **"Development activity"** means any construction or expansion of a building, structure or use; any change in use of a building or structure; the subdivision of land; the seeking of plat approval, planned development approval, site plan approval, lot line adjustment, or conditional use permit approval; or any other change in use of land that creates additional demand and need for public streets and roads, publicly owned parks, open space recreational facilities and trails, police or fire facilities.
- (13) **"Development approval"** means any written authorization from the City, other than a building permit, which authorizes the commencement of a development activity, including, but not limited to, plat approval, planned development approval, site plan approval, lot line adjustment, and a conditional use permit.
- (14) **"Encumbered"** means to reserve, set aside, or otherwise earmark impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for planned facilities.
- (15) **"Fee payer"** means a person, corporation, partnership, incorporated association, or any other similar entity, or a department or bureau of any governmental entity or municipal corporation paying the impact fee.
- (16) **"Fire/EMS facilities impact fee"** means the impact fee designated to pay for fire/EMS facilities.
- (17) **"Impact fee"** means a payment of money imposed by the City on development activity pursuant to this Section as a condition of

granting a building permit in order to pay for the planned facilities needed to serve new growth and development activity. "Impact fee" does not include a tax, a special assessment, a hook-up fee, a fee for project improvements, a reasonable permit or application fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent impact fee analysis, or the administrative fee required for an appeal.

- (18) **"Independent impact fee calculation"** means the impact calculation or economic documentation prepared by a fee payer to support the assessment of an impact fee other than by the use of the schedules attached in Appendix "A" to this Section.
- (19) **"Net positive fiscal impact"** means new revenue to the City in excess of the cost of the necessary infrastructure and municipal services attributable to a development activity.
- (20) **"Offset"** means to balance or compensate through comparison of the value of qualifying improvements constructed as part of a development activity and impact fees due as a result of the development activity.
- (21) **"Owner"** means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.
- (22) **"Parks and recreation impact fee"** means the impact fee designated to pay for publicly owned parks, open space, recreational facilities and trails.
- (23) **"Planned facilities"** means public facilities such as storm water facilities, water facilities, wastewater collection facilities, transportation facilities, parks, open space and recreational facilities and trails, police and fire/EMS facilities included in the capital improvements plan of the City.
- (24) **"Police facilities impact fee"** means the impact fee designated to pay for police facilities.
- (25) **"Qualifying improvement"** means any portion of the infrastructure listed in the Capital Facilities Plan.
- (26) **"Residential unit"** means any building or portion thereof which contains living facilities including provisions for sleeping, cooking, eating, and sanitation, as required by the City, for not more than one family, and including site-

built buildings, manufactured homes and modular homes. This does not include a tent, a recreational coach or trailer, hotel, motel, hospital, nursing home, or assisted living facility.

(27) **"Standard of service"** means the quantity and quality of service that the Council has determined to be appropriate and desirable for the City. A measure of the standard of service may include, but is in no way limited to, maximum levels of congestion on City streets and roads, maximum commute times, maximum wait at stops, minimum police service capabilities, minimum fire suppression capabilities, minimum park space of per capita for a variety of types of parks, minimum distance from residences to parks, and any other factors the Community Development Director may deem appropriate.

(28) **"State"** means the State of Utah.

(29) **"Storm water facilities impact fee"** means the impact fee designated to pay for storm water facilities.

(30) **"Transportation facilities impact fee"** means the impact fee designated to pay for streets and transportation facilities.

(31) **"Water systems impact fee"** means the impact fee designated to pay for the culinary water systems.

26-6-3 Applicability:

(1) Impact fees shall apply to all new development activity in the City unless otherwise provided herein.

(2) Park impact fees shall apply only to new residential development activity.

(a) The movement of a structure onto a lot shall be considered development activity and shall be subject to the impact fee provisions, unless otherwise provided herein.

26-6-4 Payment of Impact Fees:

(a) The impact fees for all new development activity shall be calculated and collected in conjunction with the application for the building permit for such development activity.

(b) Until any impact fee required by this ordinance has been paid in full, no building permit for any development activity shall be issued.

(c) A stop work order shall be issued on any development activity for which the applicable impact fee has not been paid in full.

(d) The Council may, during the development approval process create a contractual fee payment schedule not specifically related to the issuance of building permits.

26-6-5 Service Areas:

(1) The City shall constitute a single service area and all real property located within the corporate boundaries of the City shall be included within such service area.

(2) The appropriateness of the designation and boundaries of the service areas shall be reviewed periodically by the City as part of the impact fee revision process. Following such review and a public hearing, the service areas may be amended.

26-6-6 Calculation of Impact Fees Based on Fee Schedule: Impact fees shall be calculated as follows:

(1) Independent Impact Fee Calculation:

Unless an applicant requests an independent impact fee calculation as set forth in Section 6.16, the impact fees shall be calculated for the proposed development activity based on the permit allowing the use, according to the Clinton City Consolidated Fee Schedule adopted, from time to time by resolution of the Council less any applicable offsets under Section 6.7.

(2) **Adopted Fees:** The impact fee schedule attached as Appendix "A" and published annually in the Clinton City Consolidated Fee Schedule.

(3) **Units of Development:** The units of development activity specified in the Clinton City Consolidated Fee Schedule shall be interpreted as follows:

(a) Residential, single family detached impact fees shall be collected by unit. For the purposes of this Section, modular or manufactured homes are considered residential.

(b) Residential, all other fees shall be collected by unit.

(c) Building square footage shall be measured in terms of gross floor area, which is the area included within the exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior

walls shall be the usable area under the horizontal projection of the roof or floor above.

Per acre shall be measured in terms of gross acreage of the site being developed.

(ii) **Unspecified Categories:**

(A) For categories of uses not specified in the applicable impact fee schedule, the Community Development Director shall apply the category of use set forth in the applicable fee schedule that is deemed to be most similar to the proposed use.

(iii) **Mixed Uses:**

(A) If the development plan approval or permit for the proposed development activity indicates a mix of uses in the development, the impact fees shall be calculated separately for each use according to the fee schedule, and the results aggregated.

(iv) **Remodeling or Changes of Use:**

(A) For an addition to or remodeling or replacement of existing structures, or for a change in use of an existing structure, the impact fee to be paid shall be the difference, if any, between:

The fee, that would be payable for existing development activity on the site or, in the case of demolition or removal of a structure, the previous development activity on the site; provided that the demolition or removal has occurred within twelve (12) months after the date of submittal of the application for which impact fees are assessed; and

The fee, that would be payable for the total development activity on the site for the new development.

(v) **Estimate of Fees:**

(A) Upon written request of an applicant, the Community Development Director shall provide an estimate of the current fee based on the data provided by the applicant. However, the Community Development Director shall not be responsible for determining, at such preliminary date, the accuracy of the information provided, nor shall such estimate provide any vested rights.

26-6-7 Exemptions:

(1) **Categories:**

(A) The following shall be exempted from the payment of all impact fees:

(a) Replacement of a structure with a new structure of the same size and use at the same site or lot when a building permit for such replacement is obtained within twelve (12) months after the demolition or destruction of the prior structure or mobile home and the replacement is completed within twenty-four (24) months after the granting of the building permit.

(b) Alterations, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing unit where no additional units are created and the use is not materially changed.

(c) Construction of accessory structures that will not create significant impacts on the planned facilities.

(d) Miscellaneous accessory improvements to use, including but not limited to fences, walls, swimming pools, and signs.

(e) Demolition or moving of a structure.

(f) Placing on a lot in the City a temporary construction trailer or office, but only for the life of the building permit issued for the construction served by the trailer or office.

(g) Any development activity not involving the construction or placement of a structure or building, including but not limited to the mere subdivision of land, installation of utilities, or the use of land for limited recreational, agricultural, filling or dredging purposes, which, as demonstrated by the developer in writing to the Community Development Director, will not result in a net increase in demand on facilities covered by impact fees.

(2) **Nonresidential Construction:**

Nonresidential construction shall be exempted from the payment of the park impact fees.

(3) **Determination of Exemption:**

The Community Development Director shall determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the Community Development Director shall be in writing and shall be subject to the appeals procedures set forth in this Section.

(4) **City Subsidy of Fees:** Upon the determination of the Council, after review and recommendation by the Community Development Director, following the filing with the Community Development Director of a

petition of the developer, if any portion of a development activity is funded or subsidized in whole or in part with City funds or funds of the City's Redevelopment Agency, the impact fee allocable to such funded or subsidized portion of the development activity shall be reduced by the amount of such funding or subsidy. The City or Redevelopment Agency shall use moneys in its general fund to pay for any planned facilities necessitated by the exempted development activity.

26-6-8 Offsets to Impact Fees: The Council upon recommendation of the Community Development Director, may approve offsets against the impact fee that would otherwise be due for a development activity in accordance with the following provisions.

(1) **Qualified Improvements:** An offset shall be granted for qualifying improvements that are required to be made by a developer as a condition of development approval.

(2) **Offsets for Like Improvements:** Offsets shall be allowable and payable only to offset impact fees otherwise due for the same category of improvements. Unless otherwise expressly agreed to in writing by the City, offsets shall not result in reimbursement from the City or constitute a credit against future fees, and shall not constitute a liability of the City for any deficiency in the offset.

(3) **Equal Value:** Offsets shall be given only for the value of any construction of improvements or contribution or dedication of land or money by a developer or his predecessor in title or interest for qualifying improvements of the same category for which an impact fee was imposed.

(4) **Appraisals:** The person applying for an offset shall be responsible for providing and paying for appraisals of land and improvements, construction cost figures, and documentation of all contributions and dedications necessary to the computation of the offset claimed. The Council shall not grant offsets to any person who cannot provide such documentation in such form as the Community Development Director may reasonably require.

The value of land dedicated or donated shall be based on the appraised land value of the parent parcel on the date of transfer of ownership to the City, as determined by a MAI-certified appraiser approved by the City and paid for by the applicant, who used generally accepted appraisal

techniques. The City maintains the right to challenge any appraisal based upon an appraisal of its own.

(5) **Expiration of Claim:** Offsets provided for qualifying improvements meeting the requirements of this section shall be valid from the date of approval until six (6) years after the date of approval or until the last date of construction of the project, whichever occurs first.

(6) **Claim Shall Run With the Land:** The right to claim offsets shall run with the land and may be claimed only by owners of property within the development area for which the qualifying improvement was required.

(7) **Time of Application:** Any claim for offsets must be made in writing, not later than the time of submittal of a building permit application or an application for another permit subsequent to development approval that is subject to impact fees. Any claim not so made shall be deemed waived.

26-6-9 Developer Payback Agreements for Impact Fees: Where a development activity includes or requires a qualifying improvement, the City and the developer may agree in writing to have the developer participate in the financing or construction of part or all of the qualifying improvements. Such agreement may provide for cash reimbursements, for the developer's participation in the financing or construction of the qualifying improvements.

The agreement shall include:

(1) **Estimated Costs:** The estimated cost of the qualifying improvements, using the lowest responsive bid by a qualified bidder, which bid is approved by the Community Development Director; or, if no bid is available, the estimated cost certified by a licensed Utah engineer and approved by the Community Development Director, Community Development Director approval will be based upon recommendations from the City Engineer;

(2) **Schedule:** A schedule for initiation and completion of the qualifying improvement;

(3) **Standards:** requirement that the qualifying improvement be designed and completed in compliance with any applicable City and State laws and regulations;

(4) **Method of Payment:** The method of payment is to be set by the Council and may be

either up-front lump sum, partial lump sum and payments, or payments but is not to be in lieu of payment of impact fees; and

(5) **Other Requirements:** Such other terms and conditions as deemed necessary by the City.

26-6-10 Challenges and Appeals:

(1) **Procedure:** A challenge to an impact fee may be made as outlined in Utah Code §11-36-401 and 402.

(2) **Payment Under Protest:** Any fee payer may pay the impact fees imposed by this Section under protest in order to obtain a building permit, and thereafter may appeal the validity or amount of such payment to the Council as outlined in 6.16 below. Appeals regarding the impact fees imposed on any development activity may only be taken from the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fees at issue have been paid.

(3) **Arbitration:** If, pursuant to Utah Code Section 11-36-402, as amended, a person submits an impact fee challenge to arbitration, the City shall not agree to participate in binding arbitration.

26-6-11 Fund Accounting for Impact Fees:

(1) **Separate Accounts:** The City shall establish a separate interest bearing accounting fund for each type of planned facility for which an impact fee is collected. Such fees shall be invested by the City and the yield on such fees, at the actual rate of return to the City, shall be credited to such accounting fund periodically in accordance with the accounting policies of the City, subject to a deduction by the City of a reasonable cash management fee. Cash management fees shall be as adopted, by resolution, from time to time by the Council.

(2) **Yield on Funds:** Any yield on such accounting fund into which the fees are deposited shall accrue to that fund and shall be used for the purposes specified for such fund.

(3) **Record Keeping:** The City shall maintain and keep financial records for each such accounting fund, showing the source and amount of all monies collected, earned and received by the fund, and each expenditure from such fund, in accordance with normal City accounting practices, and at the end of each fiscal year shall prepare a report on each such fund showing such information. The records of such fund shall be

open to public inspection in the same manner as other financial records of the City.

(4) Expenditure:

(A) Impact fees shall be expended or encumbered within six (6) years after their receipt, unless the Council identifies, in writing, an extraordinary and compelling reason to hold the impact fees longer than six (6) years. Under such circumstances, the Council shall establish an absolute date by which the impact fees shall be expended.

26-6-12 Refunds:

(1) **Failure to Expend Funds:** If the City fails to expend or encumber the impact fees as required by Section 6.11.4, all current owners of the property on which impact fees have been paid shall receive a pro rata refund of such impact fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

(2) **Notification of Property Owners:** The City shall notify the owner or owners of property for which such a refund may be made, by first class mail deposited with the United States Postal Service, at the last known address of such property owners.

(3) **Application for Funds:** In order to receive such a refund, the owner or owners of the subject property must, within twelve (12) months after the mailing of such notice by the City, make a written request for a refund to the Community Development Director, including a certification that such person is a record owner of the property and that he or she is entitled to the refund. The Community Development Director may rely on such certification, in the absence of a written certification by another person asserting that the proposed payee is not the proper payee. If in doubt as to whom to pay such funds, the Community Development Director may deposit the funds with an appropriate court for disposition as the court may determine. In that event, the City may deduct from the funds deposited an amount equal to the reasonable costs, including attorney's fees, of causing the funds to be deposited with the court.

(4) **Unclaimed Funds:** Any impact fees for which no application for a refund has been made within such one-year period shall be retained by the City and expended on appropriate planned facilities.

(5) **Yield on Returned Funds:** Refunds of impact fees under this section shall include any interest earned on the impact fees by the City.

(6) **Terminated Fees:** When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered impact fees from any terminated component or components, including interest earned, shall be refunded pursuant to this section. The City shall publish notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all owners of property for which a refund may be made by first class mail at the last known address of such property owners. All funds available for refund shall be retained for a period of twelve (12) months following the second publication. At the end of that period, any remaining funds shall be retained by the City, but must be expended for appropriate planned facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the impact fee account(s) being terminated.

(7) **Refunds to Developers:** The City shall refund to a developer any impact fees paid by that developer, plus interest earned on the impact fees, if:

- (a) The developer does not proceed with the development activity for which the impact fees were imposed;
- (b) The developer files with the Community Development Director a written request for the refund not later than thirty (30) calendar days after the expiration of the building permit (or any extension thereof) in connection with which the impact fees were assessed;
- (c) The fees have not been spent or encumbered; and
- (d) The Community Development Director determines that no impact has resulted from the contemplated development activity.

(8) **Administrative Fee for Refunds:** The City shall charge an administrative fee for verifying and computing the refund equal to the lesser of three percent (3%) of the amount of the refund or the City's actual cost of such verification and computing.

26-6-13 Use of Funds:

(1) **Intent and Purpose:** Within the following guidelines impact fees shall be used solely for the purposes for which they were received.

(a) Except as provided in Section 6.12.4 or 6.12.6, impact fees shall not be imposed to make up for deficiencies in existing facilities serving existing developments.

(b) Impact fees shall not be used for maintenance or operation.

(c) Impact fees may be spent for planned facilities, including but not limited to planning, land acquisition, construction, engineering, architectural, permitting, financing, administrative expenses, mitigation costs, capital equipment pertaining to planned facilities, and any other similar expenses which can be capitalized pursuant to generally accepted accounting principles.

(d) Impact fees may also be used to recoup improvement costs previously incurred by the City to the extent that new growth and development activity will be served by the previously constructed improvements or incurred costs.

(e) Impact fees may be used to recoup the cost of studying, analyzing, and preparing the impact fees.

(f) Impact fees may be used to pay debt service on bonds or similar debt instruments issued to finance planned facilities to the extent such planned facilities serve the development activity for which the impact fees were imposed.

(g) Impact fees may be used to reimburse the city for public facility costs previously incurred by a local political subdivision to the extent that new growth and development will be served by the previously constructed improvement. Reimbursement funds will be returned to the account from which it was utilized for payment of the previously constructed improvements.

26-6-14 Impact Fee as Supplemental Regulation to Other financing Methods:

Except as otherwise provided herein, impact fees are in addition to any other requirements, taxes, fees, or assessments imposed by the City on development activity or the issuance of building permits or certificates of occupancy. Impact fees are intended to be consistent with the City's General Plan, Capital Facilities Plan, land development ordinances, and other City policies, ordinances and resolutions by which the City

seeks to ensure the provision of capital facilities in conjunction with development activity.

In addition to the use of impact fees, the City may finance qualifying capital improvements through the issuance of bonds, the formation of assessment districts, or any other authorized mechanism, in such manner and subject to such limitations as may be provided by law.

26-6-15 Adjustments:

(1) **Reevaluation of Study:** The Community Development Director may propose, to the Council annual adjustments to the impact fees or service areas periodically, after a study and proper notice as provided in Utah Code Title 11, Chapter 36, as amended.

(2) **Annual Adjustments:** The Community Development Director may propose, to the Council annual adjustments to the impact fees designed to adjust the fees due to inflation and changes in the construction cost calculations. These recommendations may be based upon the Engineering News Record (www.enr.com), Construction Cost Index.

(3) **Review Specific to Development:** The Community Development Director may propose, to the Council an adjustment to the standard impact fee in the schedule of impact fees at the time of review and approval of the development activity by the Council, to:

- (a) Respond to unusual circumstances in specific areas.
- (b) Ensure that the impact fees are imposed fairly.

Adjustments to impact fees will only be reviewed during the review and approval process for a development activity. Once a development is approved impact fees will not be adjusted.

26-6-16 Independent Impact Fee Analysis:

(1) **Notice of Appeal:** If a fee payer desires not to have the impact fees determined according to the schedule set forth in Appendix "A," then the fee payer shall prepare and submit to the City an independent impact fee analysis. This analysis shall be equal, in scope to that analysis, accomplished by the City to establish the fees outlined in Attachment "A". Independent impact fee analysis shall be made by filing a written notice of appeal with the City Recorder. Appeals shall specify the grounds thereof. The appellant shall also submit, in writing, stating whether or

not information, relative to the impact fee is requested. The lack of said request will indicate the appellant does not request such information.

(2) **Documentation and Scope of Appeal:** The documentation submitted shall include the procedural and information requirements established for the City in Utah code §11-36-201 et seq. The Community Development Director shall review the independent impact fee analysis and provide a report to the Council concerning whether the independent impact fee analysis should be accepted, rejected, or accepted in part. The Community Development Director may require the appellant to submit additional or different documentation for consideration, if needed for a fair and just comparison with the City study. The official date of filing of an appeal shall not be set until all documentation requested by the Community Development Director has been received and accepted

(3) **Council Hearing:** The Council shall hold a hearing to consider the evidence and arguments of the appellant and shall record the hearing and retain such evidence. The hearing date and time may be set at the time the application is filed, however, unless established at the filing the hearing will not be later than the second regularly scheduled meeting after the application is filed. The Council shall issue a written decision on the appeal within thirty (30) calendar days after the date the official date that the appeal was filed.

(4) **Council Action:** The Council may adopt, reject, or adopt in part the independent impact fee analysis based on the Community Development Director's report and based on the specific characteristics of the development activity. The impact fees or alternative impact fees and the analysis shall be set forth in writing and shall be mailed to the fee payer.

(5) **Application Fees:** Any fee payer submitting an independent impact fee analysis must pay to the City a fee to cover the cost of reviewing the independent impact fee analysis. The fee shall an amount equal to the actual review costs incurred by the City, including the cost of any consultant services deemed necessary by the City. The City shall require the fee payer to post a cash deposit in the amount established by resolution of the Council prior to initiating the review, subject to refunding to the fee payer any portion of such deposit that exceeds actual costs of review. Application is not complete until such cash deposit has been submitted to the City.

(6) **Applicability of Fees:**

(A) Any independent impact fee analysis reviewed and approved or amended and approved by the Council shall apply only to the planned activity submitted by the appellant.

26-6-17 Penalty Provision: A violation of this Ordinance is a Class C misdemeanor. Upon conviction, the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution, the City shall have the power to sue in civil court to enforce the provisions of this Section.

Chapter 7. Land Readjustment

- 26-7-1** Resubdivision of Land
26-7-2 Plat Vacation

26-7-1 Resubdivision of Land:

(1) **Procedure for Resubdivision:** Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.

(2) **Resubdivision:** Resubdivision includes:

- (a) Any change in any street layout or any other public improvement;
- (b) Any change in any lot line;
- (c) Any change in the amount of land reserved for public use or the common use of lot owners; or
- (d) Any change in any easements shown on the approved plat.

(3) **Waiver:** Whenever the Planning Commission, in its sole discretion, makes a finding on the record that the purposes of these regulations may be served by permitting resubdivision by the procedure established in this Section 71 (3), the Planning Commission may waive the requirement of Section 7.01 (1). The Planning Commission, after an application for resubdivision that includes an express request for waiver, shall publish notice of the application in a local newspaper of general circulation and shall provide personal notice to property owners in the subdivision. The notice shall include:

- (a) The name and legal description of the subdivision affected by the application;
- (b) The proposed changes in the final subdivision plat;
- (c) The place and time at which the application and any accompanying documents may be reviewed by the public;
- (d) The place and time at which written comments on the proposed resubdivision may be submitted by the public; and
- (e) The place and time of the public meeting at which the Planning Commission will consider whether to approve, conditionally approve, or disapprove the proposed resubdivision.

No sooner than thirty (30) days and no later than forty-five (45) days after notice is published, the Planning Commission shall consider the application for resubdivision at a public meeting and shall approve, conditionally approve, or disapprove the application

(4) **Procedure for Subdivisions When Future Resubdivision is Indicated:** Whenever land is subdivided and the subdivision plat shows one or more lots containing more than one (1) acre of land and there is reason to believe that such lots eventually will be resubdivided, the Planning Commission may require that the applicant allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a requirement of plat approval.

26-7-2 Plat Vacation:

(1) **Owner Initiated Plat Vacation:** The owner or owners of lots in any approved subdivision, including the developer, may petition the Planning Commission to vacate the plat with respect to their properties. The petition shall be filed on forms provided by the Community Development Department.

(a) **Notice and Hearing:** The Planning Commission shall publish notice in a newspaper of general circulation and provide personal notice of the petition for vacation to all owners of property within the affected subdivision and shall state in the notice the time and place for a public hearing on the vacation petition. The public hearing shall be no sooner than fifteen (15) the notice.

(b) **Criteria:** The Planning Commission shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare; but in no event may the Planning Commission approve a petition for vacation if it will materially injure the rights of any nonconsenting property owner or any public rights in public improvements unless expressly agreed to by the City Council.

(c) **Recordation of Revised Plat:** Upon approval of any petition for vacation, the Planning Commission shall direct the petitioners to prepare a Revised Final Subdivision Plat in accordance with these regulations. The Revised Final Subdivision Plat may be recorded only after having been signed by the Chairman of the Planning Commission and the City Attorney.

(d) **Developer Initiated Vacation:** When the developer of the subdivision, or its successor, owns all of the lots in the subdivision, the developer or successor may petition for vacation of the subdivision plat and the petition may be approved, conditionally approved, or disapproved at a regular public meeting of the Planning Commission subject to the criteria in Section 72 (1)(b). The petition shall be made in triplicate on forms provided by the Planning Commission at least thirty (30) days prior to a regular Planning Commission public meeting and the Commission shall refer one (1) copy of the petition to the City Council. Regardless of the Planning Commission's action on the petition, the developer or its successor will have no right to a refund of any monies, fees, or charges paid to the municipality nor to the return of any property or consideration dedicated or delivered to the municipality except as may have previously been agreed to by the Planning Commission, the City Council, and the developer.

(2) **City Initiated Plat Vacation:**

(a) **General Conditions:** The Planning Commission, on its motion, may vacate the plat of an approved subdivision when:

(i) No lots within the approved subdivision have been sold within five (5) years from the date that the plat was signed by the Chairman of the Planning Commission;

(ii) The developer has breached a subdivision improvement agreement and the municipality is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the developer or its successor;

(iii) The plat has been of record for more than five (5) years and the Planning Commission determines that the further sale of lots within the subdivision presents a treat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the developer or its successor.

(b) **Procedure:** Upon any motion of the Planning Commission to vacate the plat of any previously approved subdivision, in whole or in part, the commission shall publish notice in a newspaper of general circulation and provide personal notice to all property owners within the subdivision and shall also provide notice to the City Council. The notice shall state the time and

place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be no sooner than thirty (30) and no later than forty-five (45) days from the date of the published and personal notice. The Planning Commission shall approve the resolution effecting the vacation only if the criteria in Section 72(1)(b) are satisfied.

(c) **Recordation of Notice:** If the Planning Commission adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the Clerk and Recorder's Office of Davis County. If the Planning Commission adopts a resolution vacating a plat in part, it shall record a copy of the resolution as described above and cause a Revised Final Subdivision Plat to be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

(3) ***** Vacation or Changing a Subdivision Plat:**

(1) **Changes to a Recorded Subdivision Plat:**

For any change in a plat of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the City council by the same procedure, rules, and regulations as for a subdivision.

(4) **Procedure for Subdivisions:**

(a) **Where Future Resubdivision Is Indicated:**

Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than twice the minimum square footage required for the zone in which the subdivision is located these lots, at the discretion of the Planning Commission may be required to have twice the minimum frontage of the zone.

(b) **Procedure for Preservation of Future Street Rights-of-Way:**

The Planning Commission may require that subdivision of property, where development is not the intent of the subdivision allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

(5) **Vacation of Plats:** Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot

therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated. Such an instrument shall be approved by the Planning Commission and City Council in like manner as plats of subdivisions. The City Council may reject any such instrument that abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys. Such an instrument shall be executed, acknowledged or approved, and recorded or

filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat. When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

Chapter 8. Specifications for Documents to be Submitted

26-8-1	Sketch Plat
26-8-2	Preliminary Plat
26-8-3	Construction Plans
26-8-4	Final Subdivision Plat

26-8-1 Sketch Plat: Sketch plats submitted to the Planning Commission, prepared in pen or pencil, shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch and shall show the following information:

(1) **Name:**

(a) Name of subdivision if property is within an existing subdivision;

(b) Proposed name if not within a previously platted subdivision The proposed name shall not duplicate the name of any plat previously recorded; and

(c) Name of property if no subdivision name has been chosen.

(2) **Ownership:**

(a) Name and address, including telephone number, of legal owner or agent of property, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;

(b) Citation of any existing legal rights-of-way or easements affecting the property;

(c) Existing covenants on the property, if any

(d) Name and address, including telephone number, of the professional person(s) responsible for subdivision design, for the design of public improvements, and for surveys

(e) Description Location of property by section, township, range, meridian and county, county coordinates, graphic scale, north arrow, and date

(f) Location of property lines, existing easements, burial grounds, railroad rights-of-way, watercourses, and existing wooded areas or trees eight (8) inches or more in diameter, measured four (4) feet above ground level; location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract; names of adjoining property owners from the latest assessments rolls within five hundred (500) feet of any perimeter boundary of the subdivision

(g) Location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto; existing permanent building and utility poles on or immediately adjacent to the site and utility rights-of-way

(h) Approximate topography, at the same scale as the sketch plat

(i) The approximate location and widths of proposed streets

(j) Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage

(k) The approximate location, dimensions, and areas of all proposed or existing lots

(l) The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision

(m) The location of temporary stakes to enable the Planning Commission to find and appraise features of the sketch plat in the field

(n) Whenever the sketch plat covers only part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than two hundred (200) feet to the inch, a sketch in pen or pencil of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street and drainage system of the remaining portion of the tract

(o) A vicinity map showing streets and other general development of the surrounding area The sketch plat shall show all school and improvement district lines with the zones properly designated

26-8-2 Preliminary Plat:

(1) **General:** The preliminary plat shall be prepared by a licensed land surveyor at a convenient scale not more than one (1) inch equals one hundred (100) feet, may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one (1) sheet is used and shall be of such size as is acceptable for filing in the office of the Recorder of Deeds, but shall not be thirty-four by forty-four (34 x 44) inches or larger The map prepared for the preliminary plat may also be used for the final subdivision plat and, therefore, should be drawn on tracing cloth or reproducible mylar Preparation in pencil will make required changes and additions easier.

(2) **Features:** The preliminary plat shall show the following:

(a) The location of property with respect to surrounding property and streets, the names of all adjoining property owners of record, or the names of adjoining developments; the names of adjoining streets

(b) The location and dimensions of all boundary lines of the property to be expressed in feet decimals of a foot

(c) The location of existing streets, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, and bridges, as determined by the Planning Commission

(d) The location and width of all existing and proposed streets and easements, alleys, and other public ways, and easement and proposed street rights-of-way and building setback lines

(e) The locations, dimensions, and areas of all proposed or existing lots

(f) The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose of those set asides, and conditions, if any, of the dedication or reservation

(g) The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor

(h) The date of the map, approximate true north point, scale, and title of the subdivision

(i) Sufficient data acceptable to the City Engineer to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments

(j) Names of the subdivision and all new streets as approved by the Planning Commission

(k) Indication of the use of any lot (single-family, two-family, multi-family, townhouse) and all uses other than residential proposed by the subdivider

(l) Blocks shall be consecutively numbered or lettered in alphabetical order The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions

(m) All lots in each block shall be consecutively numbered Outlots shall be lettered in alphabetical

order If blocks are numbered or lettered, outlots shall be lettered in alphabetical order within each block

(n) All information required on sketch plat should also be shown on the preliminary plat, and the following notations shall also be shown:

(i) Explanation of drainage easements, if any

(ii) Explanation of site easements, if any

(iii) Explanation of reservations, if any

(iv) Endorsement of owner, as follows:

Name	Date

(o) Form for endorsements by Planning Commission Chairman as follows:

Approved by Resolution of the Clinton City Planning Commission.

Name	Date

(p) The lack of information under any item specified herein, or improper information supplied by the applicant, shall be cause for disapproval of a preliminary plat.

26-8-3 Construction Plan:

(1) **General:** Construction plans shall be prepared for all required improvements Plans shall be drawn at a scale of no more than one (1) inch equals fifty (50) feet, and map sheets shall be of the same size as the preliminary plat The following shall be shown:

(a) Profiles showing existing and proposed elevations along centerlines of all roads Where a proposed road intersects an existing road or roads, the elevation along the centerline of the existing road or roads within one hundred (100) feet of the intersection, shall be shown Approximate radii of all curves, lengths of tangents, and central angles on all streets shall be shown

(b) The Planning Commission may require, where steep slopes exist, that cross-sections of all proposed streets at one-hundred-foot (100 foot) stations be shown at five (5) points as follows: On a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line, and points twenty-five (25) fee inside each property line

Chapter 9. Amendments

26-9-1 Purpose and Intent

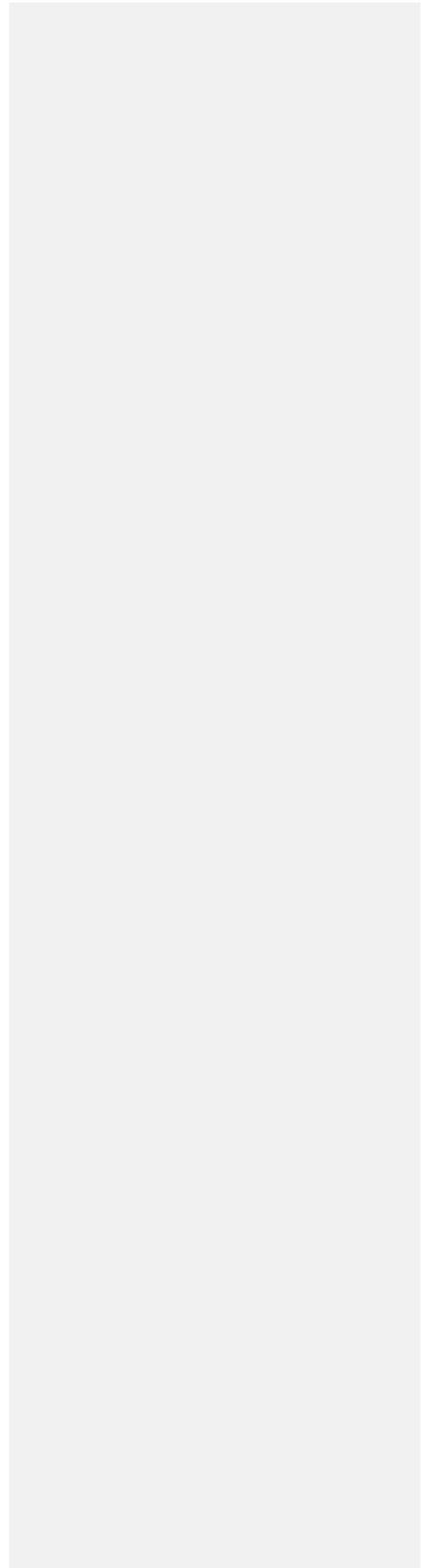
26-9-2 Amendments

26-9-1 Purpose and Intent: This Chapter lists ordinances which have effected a change upon this ordinance and the standard drawings when an ordinance is required as outlined in Chapter 1.

26-9-2 Amendments:

(1) Amendments made to the Subdivision Ordinance of the City of Clinton are indicated by footnotes and references are as follows:

(a)



Chapter 10. Validity, Notices and Effective Date

- 26-10-1** Validity
- 26-10-2** Conflict with Governing Provisions
- 26-10-3** Violation - Penalty
- 26-10-4** Severability
- 26-10-5** Recession
- 26-10-6** Office of Responsibility
- 26-10-7** Effective Date

26-10-1 Validity: This ordinance is a codification and complete rewrite of the existing Ordinance No. 85-1S, The Subdivision Ordinance of the City of Clinton.

26-10-2 Conflict with Governing Provisions: Should there be a conflict between the provisions of this Title and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a Public Way, the more restrictive provisions of the aforesaid documents shall apply.

26-10-3 Violation - Penalty: (1) Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this Ordinance or failure to comply with an order of suspension, revocation, correction, restoration, repair, stop work or other direction from the Public Facilities Inspector or his representative, shall be guilty of a Class C misdemeanor unless otherwise classified in the Utah Code Annotated.

(2) The violation of any provision of this code or any other ordinance of the city shall be punishable by fines and imprisonment according to state law.

(3) Every day any violation of this code, or any other ordinance of the city, law, rule or regulation in conjunction with this Ordinance shall continue, it shall constitute a separate offense.

(4) No criminal conviction shall excuse the Person from otherwise complying with the provisions of this Chapter.

26-10-4 Severability: In the event that any provision of this Ordinance is declared invalid for any reason, the remaining provisions shall remain in effect.

26-10-5 Recession: Upon adoption of this ordinance Clinton City Ordinance Number 85 – 1S, The Subdivision Ordinance of the City of Clinton is rescinded along with all changes and amendments.

26-10-6 Office of Responsibility: The Community Development Director is charged with management of this ordinance. All recommended changes to this ordinance are to be processed through the Community Development Department.

26-10-7 Effective Date: This Ordinance shall take effect upon its adoption and posting.

Chapter 1. Attachments

- 26-11-1** General
- 26-11-2** Subdivision Improvement
- 26-11-3** Agreement
- 26-11-4** Subdivision Escrow Agreement
- 26-11-5** Impact Fee Schedule

SUBDIVISION IMPROVEMENT AGREEMENT

Agreement made this _____ day of _____, 2001, between Clinton City, a municipal corporation of the State of Utah located in Davis County, hereinafter called "City", and _____ of _____, Utah, hereinafter called "Subdivider"

Recitals

The Subdivider has presented to the City a proposed final plat of the subdivision and the construction drawings for improvements on certain land in Clinton City to be known as _____, here after called the "Subdivision" and has requested formal approval and acceptance of the final plat of the subdivision by the Clinton City Council

Now, therefore, in consideration of the premises and the benefit to be derived from the mutual observance of the covenants herein contained, the parties agree as follows:

1. Grant of Approval: The city hereby grants to the Subdivider approval of the Subdivision and will sign and record the plat of the Subdivision in accordance with the Clinton City Subdivision Ordinance, this agreement and the approved construction drawings
2. Compliance with Standards and Approved Construction Drawings: The Subdivider agrees to comply with all of the ordinances, rules, regulations, requirements and standards of the City and State of Utah and with the approved construction drawings with respect to the construction and completion of said subdivision. In particular, the Subdivider agrees to install and complete all of the off-site improvements associated with the subdivision within the time hereinafter stated including, but not limited to the following:

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>
INSERT A COMPREHENSIVE, ITEMIZED LIST OF THE ITEMS AND QUANTITIES OF ITEMS THAT MAKE UP THE IMPROVEMENTS WITHIN THE SUBDIVISION LIST IS TO BE PROVIDED BY THE DEVELOPER AND REVIEWED AND APPROVED BY THE CITY ENGINEER		

The Subdivider shall provide a cost estimates for all required improvements to the City Engineer. These estimates shall be in a form acceptable to the City Engineer and shall include a description of all materials needed for completion of the improvements, quantity of each material needed for completion of the improvements, cost per unit of all materials and total cost for the materials. Subdivider further warrants and guarantees that said subdivision improvements shall be made in accordance with the City ordinances, rules, regulations, requirements and standards and with this Subdivision Improvement Agreement and Approved Construction Drawings and shall remain in good condition for a period of two years following conditional acceptance by the City.

All work shall be subject to the inspection of the Clinton City Public Facilities Inspector or City Engineer, and any question as to conformity with the city specifications or standards or to the technical sufficiency of the work shall be decided by the Public Facilities Inspector or City Engineer.

Building permits shall be issued only after the plat has been and necessary improvements have been installed on the lots involved such that the lots satisfy fire and building codes requirements.

3. Time for Completion: All of the said improvements associated with the subdivision shall be fully installed, completed and have passed inspection by the Public Facilities Inspector or City Engineer and Conditionally Accepted by the City Council within two years following the date on which the City Council approves the final plat of the subdivision. Prior to the end of the two-year period, the City Council may grant an extension of up to one (1) year for completion of the improvements within a subdivision. The Subdivider, in writing shall make

ATTACHMENT A1

application for an extension with a copy provided to the Escrow Agent of record. Upon action by the Council, the Community Development Director shall notify the Subdivider and Escrow Agent of the action taken by the Council. The decision to grant any extension period shall be within the sole discretion of the City. At the end of the additional time period, if the improvements have not been completed the city may take the action outlined 4 below.

4. **Default by Subdivider:** Should the Subdivider fail or refuse to make the improvements required as outlined in this agreement or the City Subdivision Ordinance within two (2) years following the date on which the Council approves the final subdivision plat, the City may any such approval shall be deemed to have expired. Additionally: 1) If the city is required to disconnect public utilities that may have been connected the city may file a lien against the property to recoup any costs incurred; and 2) The city may, for the purpose of public notice record a document with the Davis County Recorder's Office indicating the incomplete status of the subdivision.
5. **Recording of Plat:** Prior to the Mayor signing or recording of the subdivision plat the Subdivider shall apply for and receive Conditional Acceptance of all improvements associated with the subdivision. Prior to application for Conditional Acceptance the Developer shall have had all improvements pass inspection by the Public Facilities Inspector or City Engineer and establish a security for guarantee of all improvements. Plats may be recorded prior to Conditional Acceptance when a Subdivision Escrow Agreement has been established between the city and subdivider.
6. **Security:** As security for compliance with all City ordinances, rules, regulations, requirements and standards and with the Subdivision Improvement Agreement and Approved Construction Drawing the Subdivider shall establish a cash escrow account or surety bond in the amount of 15% of the cost of all improvements associated with the Subdivision. The cash escrow or bond shall be established with a state licensed institution approved to conduct business in this capacity and shall be acceptable to the City. The Subdivision Escrow Agreement shall be established in a form designated by the City. The security is to guarantee the improvements associated with the subdivision and insure that they are installed in accordance with the City ordinances, rules, regulations, requirements and standards and with the Subdivision Improvement Agreement and Approved Construction Drawing. The guarantee shall be held by the Escrow/Bonding Agent for a minimum period of two years after conditional acceptance of all improvements by the City. The 15% security must be established prior to the issuing of any building permits.
7. **Conditional Acceptance:** After establishment of the required security and all improvements associated with the subdivision are installed and have passed inspection the Council may grant Conditional Acceptance.
8. **Failure of Improvements:** The City shall notify the Subdivider in writing with a copy provided to the Escrow/Bonding Agent, if the improvements fail or fail to comply with City ordinances, rules, regulations, requirements and standards or with the Subdivision Improvement Agreement and Approved Construction Drawing. If the defects are not corrected within thirty (30) days after the notice is sent by the City, the City may declare the guarantee funds on deposit with the Escrow/Bonding Agent forfeited, and the proceeds of the account shall be used to make repairs or install the improvements required by the City ordinances, rules, regulations, requirements and standards or the Subdivision Improvement Agreement and Approved Construction Drawing. The guarantee funds shall be applied toward 1) construction or installation of the improvements in accordance with City standards; or 2) repair of the improvements to bring them into conformity with City standards; and 3) for payment of legal costs and administrative charges incurred or assessed by the city. Notwithstanding the foregoing, the Subdivider will remain liable to the City for any deficiency after application of the fifteen percent (15%) and shall pay the difference to the City on demand.
9. **Final Acceptance:** After all improvements associated with the Subdivision have been installed and at the end of the two-year guarantee period, upon written request from the Subdivider and with written verification of compliance, by the Public Facilities Inspector or City Engineer the Community Development Director shall present the Subdivision to the City Council for Final Acceptance of all improvements. After Final Acceptance by the Council the Community Development Director shall release all funds being held in escrow/bond to the Subdivider. At this time the Subdivider shall be released of all obligation to the city under this Subdivision Improvement Agreement.
10. **Duty to Inform City of Any Transfers:** Subdivider agrees that he will inform the City, with formal written notice by certified mail of any conveyance, sale, or transfer of any interest whatsoever in the subdivision that is the subject of this agreement, and that any conveyance, sale or transfer shall be subject to the terms of this agreement. Notice shall contain the names, addresses, phone numbers and contact persons of the purchaser.

ATTACHMENT A1

- 11. Applicability of Ordinances: This agreement does not supersede the Clinton City Subdivision Ordinance, but implements it and all other ordinances and regulations applicable to the subdivision of land and construction of improvements thereon

Subdivider agrees to comply in all respects with the provisions of the Clinton City Subdivision Ordinance and any other ordinances or regulations relating to the subdivision of land. No provision of this agreement shall limit the city in its rights or remedies under the Subdivision Ordinance or other applicable ordinances or laws of the State

- 12. Appeals to Action by the City: The Subdivider may request a hearing before the City Council for a review of the opinion of the Community Development Director, Public Facilities Inspector or City Engineer or upon action by the City to seize a cash escrow, provided said request is made in writing and served by certified mail within thirty (30) days after written notification of any nonconformity with City ordinances, rules, regulations, requirements and standards or the Subdivision Improvement Agreement or Approved Construction Drawing or as to the insufficiency of any work

- 13. Successors, Enforcement: The terms of this agreement shall be binding upon the parties hereto, their heirs, executors, administrators, or assigns. In the event either party must take legal action to enforce the terms of this agreement the prevailing party shall recover its costs of court, including a reasonable attorney's fee

In witness whereof the parties have executed this agreement the day and year first above written

CLINTON CITY, A Municipal Corporation of the State of Utah:

BY:
A DEMAR MITCHELL, MAYOR

ATTEST;

DENNIS W CLUFF, CITY RECORDER

SUBDIVIDER

BY;

(name and title)

ACKNOWLEDGMENT OF DEVELOPER
(IF AN INDIVIDUAL, ASSOCIATION OR PARTNERSHIP)

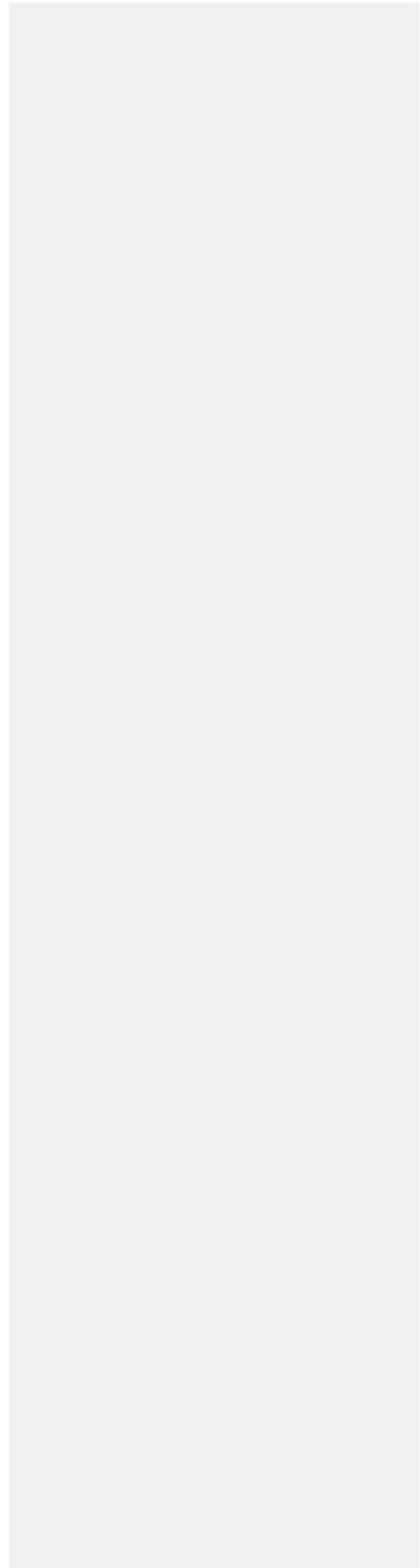
STATE OF UTAH)

: §§

County of _____)

On the _____ day of _____, _____, the signer(s) of the above instrument, who duly acknowledged to me that he executed the same on behalf of himself as an individual, an association, or partnership If for and association or partnership, acknowledges himself to be legally authorized to act on behalf of said association or partnership by executing the foregoing Developers Agreement in his capacity as an associate or partner, as the case may be, with the authority of the association or partnership to sign the agreement

Notary Public



ACKNOWLEDGMENT OF DEVELOPER
(IF A CORPORATION)

DEVELOPER

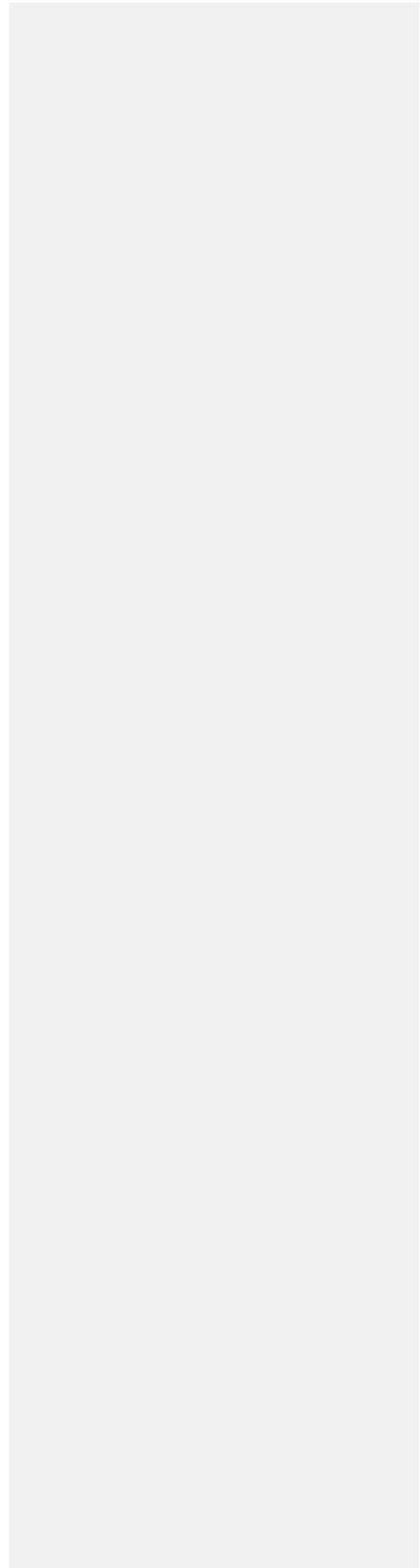
STATE OF UTAH)

: §§

County of _____)

On the _____ day of _____, _____, personally appeared before me
, who, being duly sworn, did state that he is the _____ of
, that the Subdivision Improvement Agreement was signed on behalf of said corporation by his signature under authority
of a resolution of its Board of Directors and acknowledged to me that said corporation executed the same

Notary Public



SUBDIVISION ESCROW AGREEMENT

Agreement made this _____ day of _____, 2001, between Clinton City, a municipal corporation of the State of Utah located in Davis County, hereinafter called "City", and

_____ of _____, Utah,

and _____ of _____, Utah, hereinafter called "Escrow Agent"

Recitals

- A. City and Subdivider have entered into a Subdivision Improvement Agreement, dated _____, 2001, for the subdivision of and construction of improvements on certain land in Clinton City to be known as the _____, and has requested formal approval and recording thereof by the Clinton City Council
- B. The Subdivider has further indicated that he is unable to install all of the improvements required by the Subdivision Ordinance of the City and approved construction drawings prior to signing of the final plat of the subdivision. The Subdivider hereby requests the City to allow the Subdivider to delay completion of the improvements required by the Clinton City Subdivision Ordinance in accordance with Chapter 413 of the Ordinance. The Subdivider will provide a cash escrow to the city in exchange for granting the delay of improvements as required by the City and provided by ordinance
- C. Subdivider desires to enter into this Escrow Agreement as security for Subdivider's compliance with the City ordinances, rules, regulations, requirements and standards and with the Subdivision Improvement Agreement and Approved Construction Drawing
- D. Subdivider desires to delay completion of all or some of the improvements to the subdivision property prior to recording of the subdivision plat
- E. The Clinton City Council has agreed to waive the requirement of the City Subdivision Ordinance that all improvements be completed before the final plat of the subdivision is signed or recorded, pursuant to Chapter 4 of the Clinton City Subdivision Ordinance, based on the promises and representations made in this agreement and the Subdivision Improvement Agreement

Now, therefore, the parties hereto mutually agree as follows:

1. Grant of Approval: The city will record the plat of the Subdivision upon the completion of the Subdivision Improvement Agreement, this Subdivision Escrow Agreement and any other requirements established in the subdivision approval process
2. Delay in Improvements: The city hereby grants to the Subdivider approval for delay in the completion of required improvements in the Subdivision and the Subdivider represents the Subdivider has provided the cash escrow for security for compliance
3. Building Permits: Building permits within the subdivision may be issued only after the necessary improvements have been installed on the lots involved such that the lots satisfy the requirements of public health safety and welfare
4. Security for Compliance: As security for compliance with all City ordinances, rules, regulations, requirements and standards and with the Subdivision Improvement Agreement and Approved Construction Drawing the Subdivider shall establish an escrow account in the amount of 115% of the cost of all improvements associated with the Subdivision. The cash escrow shall be established with a state licensed institution approved to conduct business in this capacity and shall be acceptable to the City. The Subdivision Escrow Agreement shall be established in a form designated by the City. Security shall be established as a cash escrow in an amount equal to 100% of the cost of all improvements associated with the subdivision, as established in the Subdivision Improvement Agreement plus an additional 15% of the cost of all improvements as a retention account

ATTACHMENT A3

5. 15% Retention Account: The additional 15% of the cash escrow, above the cost of the improvements associated with the subdivision is to serve as an inflation buffer for the city in the event the city is required to complete the improvements and as a guarantee after improvements are installed. This 15% portion may also be utilized for payment of legal costs and administrative charges incurred or assessed by the city in the event of foreclosure on an escrow.
6. Appointment of Escrow Agent _____ is hereby appointed Escrow Agent, and as Escrow Agent shall hold, in a separate escrow account, the sum specified in paragraph two (2) of this agreement, subject to the terms and conditions hereinafter set forth.
7. Deposit in Escrow: Subdivider shall deposit with Escrow Agent the sum of \$_____, which shall be held to warrant and guarantee that 1) Subdivider shall install all improvements required by the City Subdivision Ordinance and 2) the improvements installed by Subdivider will remain in good condition for a period of two years after the date of conditional acceptance of all of the required improvements. Subdivider hereby warrants that this amount is equal to the cost of all improvements required by the City Subdivision Ordinance plus 15%. Escrow Agent hereby certifies it has received and is in possession of cash in the sum described herein. If at any time prior to completion of the subdivision or acceptance of the improvements by the City, the City determines the amount held in escrow (exclusive of the 15% reserve) is not sufficient to complete the needed improvements, Subdivider agrees to put such additional amounts into escrow within 30 days of receiving written notice from the City.
8. Application of Escrow Funds: It is agreed by all parties to this agreement that the money indicated in Paragraph 6 of this agreement shall be used exclusively for the purpose of paying for the costs, labor and materials for 1) the installation of all improvements required by the Subdivision Improvement Agreement or 2) the repair, replacement or maintenance of the improvements during the two years Guarantee Period following Conditional Acceptance of all the improvements required by the Subdivision Improvement Agreement. Escrow Agent shall not release any funds or payments to Subdivider or to any other person, business or corporation, without first receiving the written authorization from the City.
9. Release of Escrow: Upon written request from the Subdivider indicating that a portion of the required improvements have been installed, and with written verification of compliance, by the Public Facilities Inspector or City Engineer, the Community Development Director may authorize the escrow agent to release funds for payment of installed improvements. The amount released by the city shall not be in excess of 100% of the amount escrowed for installed items as approved by the Public Facilities Inspector or City Engineer. At no time will any of the 15% retention account be included with a payment release.
10. Default on Improvements: Should the Subdivider fail or refuse to make the improvements required as outlined in this agreement or the City Subdivision Ordinance within two (2) years following the date on which the Council approves the final subdivision plat, the City may declare the funds on deposit with the Escrow Agent forfeited, and the proceeds of the account shall be used to install the improvements required by the City Subdivision Ordinance and approved construction drawings. The City Council may, upon written request from the Subdivider, extend the completion date set forth in such escrow for a maximum period of one (1) additional year. The Community Development Director will notify the Subdivider of the extension by mail, with a copy also sent to the Escrow Agent.

If granted, at the end of the additional year, if the improvements have not been completed, the funds on deposit with the Escrow Agent shall be forfeited and the City may use the funds to install the improvements if sufficient funds are available to complete the improvements. If the funds remaining in escrow are not sufficient to complete the improvements the funds remaining in escrow shall be forfeited to the City and the City shall make those improvements deemed most essential to the public health safety and welfare. After the successful completion of the improvements by the City and all other requirements of the City Subdivision Ordinance and this agreement, any funds remaining in the escrow account not used to install the improvements or pay other costs associated with the completion of the subdivision shall be returned to the Subdivider, less any legal or administrative fees.

If at anytime the money held by the Escrow Agent is not adequate to complete the subdivision improvements, the Subdivider shall deposit with the Escrow Agent or increasing bonding such sums as determined by the City Engineer as are needed to complete the subdivision improvements. The City shall not issue any building permits in the subdivision if the cost of improvements and the security amount falls below the amount required.

ATTACHMENT A3

11. Conditional Acceptance: At such time as the improvements required by the City Subdivision Ordinance are completed, with the exceptions outlined in the Subdivision Ordinance, Subdivider shall apply for Conditional Acceptance to the Community Development Director in writing. Application shall include detailed "as built" plans of the subdivision, showing the completed improvements, and indicating location, dimensions, materials and other information that differ from the approved construction drawings or such information that may be required by the Community Development Director. The "as built" plans shall be in a format acceptable to the Community Development Director.

Upon receipt of the application, the Community Development Director shall notify the Public Facilities Inspector, who shall inspect the improvements to verify whether they are constructed as per the approved drawings and meet the standards and requirements of the City. After inspection and verification that the improvements fully comply with City standards, the Public Facilities Inspector shall recommend in writing to the City Council that it conditionally accept the improvements.

Upon conditional acceptance by the City Council, the Community Development Director may reduce the amount held in the escrow account by the cost of the improvements conditionally accepted. At no time, however, shall the Community Development Director reduce the deposited funds to a level lower than the 15% reserve required in the original acceptance until after final acceptance.

12. Retention of Escrow Funds: A sum equal to the 15% reserve of the total cost of all improvements required by the City Subdivision Ordinance, or \$_____, shall remain with the Escrow Agent for a period of two years after conditional acceptance of all improvements in the subdivision by the City. This amount shall not be released to the Subdivider until two years have passed from the time the City has conditionally accepted the improvements in writing. The Subdivider must make a written request to the City for payment of the balance in the escrow account. The City will then inspect the improvements to make sure the improvements remain in good condition and are not in need of repair.
13. Use of the 15% Security if Improvements Need Repair or Fail: If any part of the improvements made by the Subdivider fail to remain in good condition for a period of two years after all improvements are completed, the City shall make demand upon the Subdivider to repair those improvements. All demands by the City to the Subdivider to perform correction, maintenance or repairs shall be made by mail, with a copy also provided to the Escrow Agent. If the defect is not corrected or improvements are not completed within 30 days following service of the demand, the City may correct the defect or complete improvements and charge the Subdivider's escrow account for the costs. The Subdivider may request in writing, served by certified mail, with a copy also served on the Escrow Agent by certified mail, a hearing before the Clinton City Council within the 30-day period respecting the alleged defects or incompleteness. The hearing shall be for the purpose of determining whether the Subdivider or the City shall make the repairs requested.
- The Escrow Agent, upon receiving written notification from the City of any defect, correction, maintenance or repair and upon receiving notice that the City has incurred the cost of correcting the same (either by making the repairs or contracting to have the repairs completed), shall pay to the city (or to a subcontractor specified by the city) from the escrow account the cost of correcting the defect or making the repair and Escrow Agent shall be held harmless by the parties for its payments to the city or subcontractor.
14. Termination of the escrow: Two years after the City has made conditional acceptance of all required improvements within the subdivision, and if the required improvements remain free from latent defects, the City shall grant final acceptance of the improvements after receiving a written report from the Public Facilities Inspector that he has inspected the improvements and all defects have been corrected. The City shall certify final acceptance to the Escrow Agent, who shall release to the Subdivider any monies still held in the escrow account, and the Escrow Agent shall be discharged of its obligations to the City.
15. Miscellaneous: If any party shall breach any term of this agreement, the breaching party shall pay to the non-breaching party reasonable attorney's fees incurred whether the fees are incurred before or after a suit is filed.

In witness whereof the parties have executed this agreement the day and year first above written.

CLINTON CITY, a Municipal
Corporation of the State of Utah

BY: _____
A DEMAR MITCHELL, MAYOR

ATTEST:

DENNIS W CLUFF, CITY RECORDER

SUBDIVIDER;

ESCROW AGENT ACCEPTED BY:

(signature)

(firm)

(type name and title)

(type address, include zip code)

(type address, include zip code)

(type phone)

(type phone)

(signature)

(type name and title)

IMPACT FEES						
EFFECTIVE MARCH 13, 2007						
	Parks & Recreation	Transportation	Police Facilities	Fire/EMS Facilities	Storm Water Facilities	Water System
Residential	Per Housing Unit					
Single Family Detached	\$2,027	\$770	\$99	\$166	\$2,577	\$1,586
All Others	\$1,373	\$541	\$67	\$113	\$592	\$1,074
Nonresidential	Per 1,000 Square Feet of Floor Area					
Com/Shop Ctr 10,000 SF or less		\$2,546	\$732	\$1,400		
Com/Shop Ctr 10,001 – 25,000 SF		\$2,155	\$620	\$1,185		
Com/Shop Ctr 25,001 - 50,000 SF		\$1,872	\$539	\$1,030		
Com/Shop Ctr 50,001 – 100,000 SF		\$1,564	\$450	\$860		
Com/Shop Ctr. 100,001 – 200,000 SF		\$1,338	\$385	\$736		
Com/Shop Ctr 200,001 – 400,000 SF		\$1,138	\$327	\$626		
Office/Inst 10,000 SF or less		\$872	\$227	\$435		
Office/Inst 10,001 – 25,000 SF		\$706	\$184	\$352		
Office/Inst 25,001 – 50,000 SF		\$602	\$157	\$300		
Office/Inst over 50,001 – 100,000 SF		\$513	\$134	\$256		
Office/Inst over 100,001 – 200,000 SF		\$438	\$114	\$218		
Business Park		\$491	\$128	\$245		
Light Industrial		\$268	\$70	\$134		
Warehousing		\$191	\$50	\$95		
Manufacturing		\$147	\$38	\$73		
Nonresidential	Per Acre					
A-1 Land Use					\$5,811	
A-E Land Use					\$5,734	
Nonresidential					\$12,405	
Nonresidential	Per Water Meter Size*					
	Inches	Type				
	¾	Displacement				\$1,586
	1.00	Displacement				\$3,965
	1 ½	Displacement				\$7,930
	2	Displacement/Compound				\$12,688
	3	Compound				\$23,790
	4	Compound				\$39,650