



**CLINTON CITY PLANNING COMMISSON
CITY HALL
2267 North 1500 W Clinton UT 84015**

Planning Commission Members

*Chair – Jacob Briggs
Vice Chair – Bob Buckles
Tony Thompson
Dave Coombs
Jolene Cressall
Jeff Ritchie
Andy Hale*

Date of Meeting	May 3, 2016	Call to Order	7:03 p.m.
Staff Present	Community Development Director Will Wright and Lisa Titensor recorded the minutes.		
Citizens Present	There were none.		
Pledge of Allegiance	Commissioner Buckles		
Prayer or Thought	Commissioner Briggs		
Roll Call & Attendance	Present were: Commissioners Jacob Briggs, Bob Buckles, Dave Coombs, Jeff Ritchie and Andy Hale Excused were: Commissioners Jolene Cressall and Tony Thompson		
City Council Report	Mr. Wright reported on the April 19, 2016 City Council meeting as recorded in the minutes.		
Declaration of Conflicts	There were none.		
Approval of Minutes	Commissioner Coombs moved to approve the April 19, 2016 Planning Commission Work Session minutes. Councilmember Hale seconded the motion. Commissioners' Buckles, Coombs, Ritchie, Hale & Briggs voted in favor of the motion.		
1. WORK SESSION - SUBDIVISION ORDINANCE REVIEW			
Petitioner	Community Development		
Discussion	Chapter 1. General Provisions		
	<p>26-1-1 Title</p> <p>26-1-2 Policy</p> <p>26-1-3 Public Interest</p> <p>26-1-4 Purpose</p> <p>26-1-5 Concurrency of Utility Services</p> <p>26-1-6 Authority</p> <p>26-1-7 Jurisdiction</p> <p>26-1-8 Enactment</p> <p>26-1-9 Interpretation, Conflict and Severability</p> <p>26-1-10 Saving Provision</p> <p>26-1-11 Reservations and Repeal</p> <p>26-1-12 Amendments</p> <p>26-1-13 Public Purpose</p> <p>26-1-14 Variances, Exceptions, and Waiver of Conditions</p> <p>26-1-15 Enforcement, Violations, and Penalties</p> <p>26-1-16 Constructive Notice of Time Periods</p>		
	<p>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</p>		

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 Ordinance of Clinton City.

26-1-2 Policy.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

26-1-3 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.

26-1-4 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 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.

(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.

26-1-5 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 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.**

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.

(2) **Planning Commission.**

(a) 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.

(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) Community Development Director.

(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 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.

(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 lot line adjustments which comply with the requirements of this Title;

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

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

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

26-1-7 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.

~~(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:~~

~~(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.~~

~~(e) 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;~~

~~(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.~~

(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:

(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

(b) The subdivider or his agent has obtained approval of the preliminary plat when required, and the final plat as outlined by this ordinance; and

(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

(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

(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

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

~~(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.~~

26-1-8 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.

26-1-9 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** 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.

26-1-10 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 of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

26-1-11 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 to the extent expressly retained in these regulations.

26-1-12 Amendments.

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

(2) **“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.”** ~~Amendments to the Attachments: Due to the legal nature of the attachments and need for constant monitoring to protect the interest of the City the amendments may be changed by the Community Development Director upon review and recommendation of the Clinton City attorney.~~

~~**26-1-13 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 Variances, 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.~~

~~(1) **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.~~

(2) **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.~~

(3) **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 Adjustment, pursuant to **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.

(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.**

(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

	<p>extend utility services to any parcel created in violation of these regulations.</p> <p>(2) <u>Inspections.</u> 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.</p> <p>(3) <u>Violations and Penalties.</u> Any violations of this Ordinance shall be a Class ‘C’ misdemeanor.</p> <p>Where applicable, each day of noncompliance shall constitute a separate violation.</p> <p>(4) <u>Civil Enforcement.</u> 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.</p> <p><u>26-1-17 Constructive Notice of Time Periods.</u> 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.</p> <p>(6) 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.</p>
<p>Commissioners Issues and Concerns</p>	<ul style="list-style-type: none"> • <i>There were none.</i>
<p>ADJOURNMENT</p>	<p>Commissioner Buckles moved to adjourn. Commissioner Coombs seconded the motion. All those present voted in favor, the meeting adjourned at 9:16 p.m.</p>