

CLINTON CITY
SUBDIVISION ORDINANCE

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SECTION 1

GENERAL PROVISIONS

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1-1. General. These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of Clinton City. ✓

1-2. Policy.

- (1) It is hereby declared to be the policy of Clinton City to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the City pursuant to the official master plan of Clinton City for the orderly, planned, efficient, and economical development of the City. ✓
- (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 available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, electrical and natural gas distribution facilities, transportation facilities, and improvements. ✓
- (3) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Master Plan, Official Map, and the capital facilities plan 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

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housing codes, public works development standards, zoning ordinances, Master Plan, Official Map and land use plan, and capital facilities plan and program of the City.

1-3. Purposes. 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 Master 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 and the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of all parts of the City.
- (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, schools, parks, playgrounds, recreation, streets, curb and gutter, sidewalk, storm drainage, and other public 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 resubdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.
- (9) To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- (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 the natural beauty and topography of the City and to insure 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 land as established in the zoning ordinance of Clinton City.

(13) SEE 97-15 ✓
1-4. Jurisdiction.

- (1) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City.
- (2) No land shall be subdivided within the corporate limits of the City until:
 - (a) the developer or his agent shall submit a sketch plat of the parcel to the Planning Commission through its planning staff.
 - (b) the developer or his agent shall obtain approval of the sketch plat and preliminary and final approval of the plat itself by the Planning Commission; and
 - (c) the approved plat is filed with the County Recorder.
- (3) No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations.

1-5. Interpretation, Conflict, and Separability.

- (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.
- (2) Conflict. Conflict with Public and Private Provisions.
 - (a) Public Provisions. The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever

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provisions are more restrictive or impose higher standards shall control.

(b) **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 higher standards than the requirements of these regulations, or the determinations of the Planning Commission or the City 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 determinations made thereunder.

(3) **Separability.** If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgement shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof 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.

1-6. Saving Provision. 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.

1-7. Reservations and Appeals. Upon the adoption of these regulations according to law, the Subdivision Regulations of Clinton City adopted July 14, 1969, as amended, are hereby repealed, except as to such sections expressly retained herein.

See 97-15
1-8. Amendments. This subdivision ordinance may be amended from time to time by the City Council after holding a public hearing. At least ten (10) days notice of the time and place of such

hearing shall be published in a newspaper of general circulation in the City. All proposed changes and amendments shall be proposed by or submitted to the Planning Commission for its recommendation, which, within thirty days, shall be forwarded to the City Council for its consideration. Failure of the Planning Commission to submit a recommendation within the prescribed time shall be deemed approval by such Commission of the proposed change or amendment. The City Council shall uphold or overrule the recommendation of the Planning Commission by a majority vote of its members within thirty days following the final vote of the Planning Commission.

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1-9. **Conditions.** 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 Clinton City. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the City and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.

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1-10. Resubdivision of Land.

- (1) Procedure for Resubdivision. For any change in a map 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.
- (2) Procedure for Subdivisions Where Future Resubdivision Is Indicated. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into small building sites, the Planning Commission may require that such parcel of land 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.

1-II. Vacation of Plats.

- (1) 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.
- (2) 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

which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

- (3) 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.
- (4) 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.

1-12. Variances.

(1) General. Where the City Council 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 to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the City Council shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- (b) the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property in the City.
- (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 variance will not in any manner vary the provisions of the Zoning Ordinance, Master Plan, or Official Map.

(2) Conditions. In approving variances, the City Council may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.

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97-13 (3) Procedures. A petition for any such variance shall be submitted in writing by the developer at the time when the

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preliminary plat is filed for the 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.

Within 30 days after receipt of the petition, the Planning Commission shall forward a recommendation of approval or denial to the City Council. Failure of the Planning Commission to submit a recommendation within the prescribed time shall be deemed approval by the Commission of the requested variance. The City Council shall uphold or overrule the recommendation of the Planning Commission by a majority of its members after holding a public hearing. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. Property owners within 300 feet of the proposed subdivision boundaries shall also receive notification of the public hearing. The decision of the City Council shall be final.

1-13. Enforcement, Inspections, Violations, and Penalties.

(1) General.

- (a) It shall be the duty of the Zoning Enforcement Officer, as designated by the City Manager, to enforce these regulations and to bring to the attention of the City Prosecuting Attorney any violations or lack of compliance herewith.
- (b) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Commission, in accordance with the provisions of these regulations, and filed with the County Recorder of Deeds.
- (c) The subdivision of any lot or any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
- (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.

- (2) Inspection. Appropriate departments of the City shall inspect or cause to be inspected all buildings, streets, cement work, fire hydrants, and water supply and sewage disposal systems in the course of construction, installation or repair.

Excavation for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by the City. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector. Funds held in bond or escrow will not be released for any work which has not been inspected by the appropriate City department.

- (3) Violations and Penalties. Whomever shall violate any of the provisions of this Ordinance shall be guilty of a Class B Misdemeanor and, upon conviction of any such violation, shall be punishable by a fine of not more than \$299 or by imprisonment for not more than six months or by both fine and imprisonment or by the penalty for transfer and sale of property provided in Section 10-9-26 of the Utah Code Annotated, 1953.

SECTION 2

DEFINITIONS

- 2-1. Usage
- 2-2. Definitions

2-1. Usage.

- (1) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
- (2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations".
- (3) A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

2-2. Definitions.

Adjacent Landowners. Any property owner of record, according to the records of the County Recorder, whose property adjoins or abuts property proposed for subdivision, or any portion thereof.

Alley. A public or private right-of-way which is less than 26 feet wide primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant. The owner of land proposed to be subdivided or his representative. A representative shall be required to provide legal documentation to prove he has consent from the legal owner of the property.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or boundary lines of municipalities.

Bona Fide Division or Partition of Agricultural Land for Agricultural Purposes. The division of a parcel of land into three 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.

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Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council wherever a bond is required by these regulations.

Building. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

Capital Improvements Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual City's operating expenses, for the purchase, construction, or replacement of the physical assets for the community are included.

City. Clinton City, Utah.

City Council. The City Council of Clinton City, Utah.

City Engineer. A professional, registered engineer retained by Clinton City, Utah.

Construction Plan. The maps or drawings 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 City Council as a condition of the approval of the plat.

Developer. The owner of land proposed to be subdivided or his representative. A representative shall be required to provide legal documentation to prove he has consent from the legal owner of the property.

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Frontage. All the property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

Grade. The slope of a road, street, or other public way, specified in percentage (%) terms.

Joint Ownership. Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of

imposing subdivision regulations.

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^{DELETED}
Lot. A portion of a subdivision or parcel of land intended as a unit for building development or transfer of ownership. A parcel of land having frontage upon a road or street, occupied or to be occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot area as are required by the zoning ordinance.

97-15

^{LOT, AGRICULTURAL BUILDING, CORNER, INTERIOR, DEVELOPMENT STANDARDS} See 20.
Lot Improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded or escrowed as provided in these regulations.

Major Street Plan. See Official Map.

Master Plan. A comprehensive plan for development of the City, prepared and adopted by the Planning Commission, pursuant to state law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

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Off-Site Facilities ^{IMPROVEMENTS} Improvements not on individual lots but generally within the boundaries of the subdivision which they serve. Certain off-site facilities shall be properly bonded or escrowed as provided in these regulations.

Official Map. The map established by the City Council pursuant to law showing the streets, highways, parks, drainage systems, and setback lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the City Council.

Owner. 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 these regulations.

Parcel of Land. Contiguous quantity of land, in possession of, or owned by, or recorded as the property of, the same claimant person. Land in one ownership, but physically divided by a public highway, road or street, is not considered contiguous under this definition, and may therefore be used as two (2) or more individual parcels of land.

Planning Commission. The City Planning Commission of Clinton City.

Planning Staff. Professional City Staff or hired consultants charged with administering the planning activities of the City.

Plat. A map or depiction of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys or other divisions and dedications.

Plat, Final. A proposed subdivision drawn accurately to scale and which has all measurements, data, certificates and dedications thereon, which are required for approval and acceptance by the proper agencies and for recording in the office of the County Recorder.

Plat, Preliminary. A drawing, to scale, representing a proposal to subdivide a tract, lot or parcel of land, but which does not have the certificates and dedications necessary for acceptance by the City.

Plat, Sketch. A sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the developer to save time and expense in reaching general agreement with the Planning Staff as to the form of the plat and the objectives of these regulations.

Property, Intervening. Property located between the existing utilities and public service facilities, and the property under development.

Protection Strip. A strip of land bordering both the boundary of a subdivision and a street within the subdivision for the purpose of controlling the access to the street of property owners abutting the subdivision.

Public Improvement. Any drainage ditch, subsurface drainage system, storm drainage system, 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 affect an improvement for which City responsibility is established. All such improvements shall be properly bonded or escrowed.

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

Right-of-Way. 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 another 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. (See street).

Screening. Either (a) a strip of at least five (5) feet wide, densely planted (or having equivalent natural growth) with 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.

Street. A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare not less than twenty-six (26) feet wide which has been made public by right of use and which affords the principal access to abutting property.

Re-def. 1st 2nd etc.
Street, Arterial. A street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated on the Major Street Plan as a controlled-access highway, major street, parkway, or other equivalent term to identify those streets comprising the basic structure of the street plan.

Street, Collector. A street, existing or proposed, of considerable continuity, which is the main means of access to the Major Street System.

Street, Cul-de-sac. A minor terminal street provided with a turnaround with a 100-foot minimum diameter. Cul-de-sac streets shall not be any longer than four hundred feet (400') from the centerline of the adjoining street to the center of the turnaround, and cannot provide frontage for more than fifteen (15) dwelling units.

Street, Minor. A street, existing or proposed, which is supplementary to a collector street and of limited continuity, which serves or is intended to serve the local needs of a neighborhood.

Street, Private. A thoroughfare within a subdivision which has been reserved by dedication unto the developer or lot owners to be used as private access to serve the lots platted within the subdivision. Private streets shall comply with the adopted street cross section standards of the City and shall be maintained by the developer or other private agency.

SEE 9715
Subdivision. The division of any tract, lot, or parcel of land as an undivided tract by one individual, or by joint tenants, or tenants in common or by the entirety, into two (2) or more lots, plots, sites, parts, or other divisions of land for the purpose, whether immediate or future, of sale, lease, or of building development. This definition shall not include a bona fide division or partition of agricultural land larger than ten (10) acres for agricultural purposes nor shall it include or

apply to any cemetery or burial plot, while used for that purpose, or the allocation of land in the settlement of an estate, or to a court decree for the distribution of property. The word "subdivide" and any derivative thereof shall have reference to the term "subdivision" as herein defined.

For the purpose of these regulations, a subdivision of land shall include: (1) the dedication of a road, highway, or street through a tract of land, regardless of area, which may create a division of lots or parcels constituting a "subdivision"; (2) further division of land heretofore divided or platted into lots, sites, or parcels for the purpose of building development, whether immediate or future.

Subdivision, Minor. A "minor subdivision" shall be any division of land which: (1) consists of fewer than five (5) lots; (2) does not require the dedication of any land for streets or other public uses; (3) will not be traversed or abutted by a proposed street or a street to be widened as portrayed on the Major Street Plan or on the Official Map; (4) each of the lots complies with the width and area requirements of the Zoning Ordinance; and (5) the lots are not part of a minor subdivision approved less than three years earlier.

Utilities. Gas lines, culinary water lines, sewer lines, electric power transmission lines, telephone transmission lines, with all poles, wires, pipes, guy wires, bracing, pertaining thereto, and irrigation water.

Zoning Ordinance. The Zoning Ordinance for Clinton City, as adopted and amended by the City Council.

SECTION 3

SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

- 3-1. General Procedure
- 3-2. Sketch Plat
- 3-3. Preliminary Plat
- 3-4. Final Subdivision Plat
- 3-5. Signing and Recording of Subdivision Plat

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3-1. General Procedure.

(1) Classification of Subdivisions. Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure, which includes basically two (2) steps for a minor subdivision and three (3) steps for a major subdivision:

- (a) Minor Subdivision
 - (i) Sketch Plat
 - (ii) Preliminary Subdivision Plat
- (b) Major Subdivision
 - (i) Sketch Plat
 - (ii) Preliminary Plat
 - (iii) Final Subdivision Plat

(2) Official Submission Dates. For the purpose of these regulations, the date of the regular meeting of the City Council at which the public hearing on final approval of the subdivision plat, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat at which the statutory period required for formal approval or disapproval of the plat shall commence to run.

(3) NOTICE OF PUBLIC HEARING 97-15

3-2. Sketch Plat.

(1) Discussion of Requirements. Before preparing the sketch plat for a subdivision, the applicant should discuss with the Planning Staff the procedure for adoption 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 Planning Staff shall also advise the applicant, where appropriate, to discuss the proposed subdivision with those officials who must

eventually approve these aspects of the subdivision plat coming within their jurisdiction.

(2) Application Procedure and Requirements. Prior to subdividing land, an owner of the land, or his representative, shall file an application for approval of a sketch plat. The application shall:

(a) Be made on forms available at the Planning Staff office.

(b) Include all contiguous holdings of the owner including land in the "same ownership", as defined herein, with an indication of the portion which is proposed to be subdivided, accompanied by a declaration of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present owner as recorded in the County Recorder of Deed's office. The Declaration shall advise as to the legal owner of the property, the contract owner of the property, the date 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 a minimum of fifteen (15) copies of the sketch plat as described in these regulations and complying in all respects with these regulations.

(3) Classification. Tentative classification of the sketch layout shall be made at this time by the Planning Staff as to whether the subdivision is a major or minor subdivision as defined in these regulations.

(4) Study of Sketch Plat. The Planning Staff shall transmit the sketch plat for review to Department Heads of the City and appropriate officials or agencies of 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 Planning Staff shall request that all officials and agencies, to whom a request for review has been made, submit their report to the Planning Staff within twenty (20) days after receipt of the request.

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97-15 (5) Approval of Sketch Plat. After reviewing the sketch plat and other reports, as submitted by invited agencies and officials, the Planning Staff will advise the applicant in writing of the specific changes or additions, if any, required in the layout, and the character and extent of required improvements and reservations which will be required as a prerequisite to the approval of the subdivision plat. Additional changes may be required as a result of further

study of the subdivision in final form. Said approval shall constitute authorization to prepare and submit a preliminary plat. Such approval or disapproval shall be made by the Planning Staff within ~~thirty (30)~~ days after submission of the vicinity plan by the applicant.

60 days (97-15)

3-3. Preliminary Plat.

3-3.1 Procedures for Major Subdivision

(1) Application Procedure and Requirements. Based upon the approval of the Planning Staff of the sketch plat, the applicant should file in duplicate an application for approval of a preliminary plat. The application shall:

(a) Be made on forms available at the office of the Planning Staff together with a fee which amount shall be set by resolution of the City Council.

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(b) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, with the names of the owners as shown in the Assessor's Office showing the subdivision superimposed thereon.

(c) Be accompanied by a minimum of fifteen (15) copies of the preliminary plat as described in these regulations.

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

SEE 97-15 (e) Be presented to the Planning Staff at least two (2) weeks prior to a regular meeting of the Commission. This two week period is necessary to allow the Planning Staff to review the plat and prepare a report for the Planning Commission.

SEE 97-15 (2) Public Hearing. The Planning Commission shall hold a public hearing on the preliminary plat. The Planning Staff will submit a notice for publication in one (1) newspaper of general circulation to be published at least seven (7) days prior to the public hearing and mail notices to all property owners within 300 feet of the property covered in the preliminary plat. File copies of the preliminary plat will be maintained by the Planning Staff for public review prior to the hearing.

*Change to
14 days
"State law"*

*SEE
97-15* (3) Preliminary Approval. After the Planning Commission has reviewed the preliminary plat, the report from the Planning Staff, 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 after the date of

change - 45 days

the regular meeting of the Commission at which the public hearing on preliminary approval including adjourned date thereof, is closed. 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 other City use proposed to be dedicated to the City, the developer shall obtain approval of the park or land reservation from the City Council.

- add a last 1st phase of a subdivision*
- (4) Effective Period of Preliminary Approval. The approval of a preliminary plat shall be effective for a period of six (6) months at the end of which time final approval of the subdivision must have been obtained from the Planning Commission, although the plat need not yet be signed and filed with the County Recorder of Deeds. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new plat for preliminary approval subject to all new zoning restrictions and subdivision regulations. Preliminary approval of any undeveloped phases of a phased subdivision shall become null and void should more than two (2) years elapse between the date of conditional acceptance of the off-site improvements of the last phase by the City and the application for final approval of a subsequent phase.

- (5) Zoning Regulations. Every plat shall conform to existing zoning regulations and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to the Zoning Ordinance rendering the plat nonconforming as to bulk or use, provided that final approval is obtained within the six-month period.

3-3.2 Procedures for Minor Subdivisions

- (1) Minor subdivisions shall be subject to all of the requirements listed in Section 3-3.1 with the exception that the effective period of preliminary approval mentioned in paragraph 4 is lengthened to two years and is measured up to the time of the issuing of a building permit for any of the lots in the subdivision.
- (2) A preliminary plat shall be required for all subdivisions, but under conditions listed below, approval of the preliminary plat by the Planning Commission and by the City Council shall be authorization for the developer to sell lots within the subdivision covered by the preliminary plat by metes and bounds, and the requirements of a final plat shall be waived. When final plats are not required, the developer or landowner shall provide all the subdivision improvements required for standard subdivisions. All such improvements shall be constructed in accordance with the provisions of the Clinton City Development Standards and as defined by the City Engineer. Final plats shall not be required where all of the following conditions exist:

- (a) The subdivision consists of fewer than five (5) lots.
 - (b) The subdivision does not require the dedication of any land for street or other public purposes.
 - (c) The subdivision is not traversed or abutted by the mapped lines of a proposed street or a street to be widened, as shown on the Major Street Plan or on the Official Map.
 - (d) Each of the lots in the subdivision meets the public street frontage width and area requirements of the Zoning Ordinance, or has been granted a variance from such requirements by the Board of Adjustment under powers of the Board granted in the Zoning Ordinance.
 - (e) The lots are not part of a minor subdivision approved less than three years earlier.
- (3) All minor subdivisions are to provide a guarantee of improvements which amount is to be set by the City, and in addition approved by the City Council, as with all other subdivisions in the City. All other provisions of this subdivision ordinance shall apply to the minor subdivision.

(3) EXCEPTIONS SEE 97-15

3-4. Final Subdivision Plat.

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

The application shall:

- (a) be made on forms available at the Office of the Planning Staff together with a fee to be set by resolution by the City Council.
- (b) include the entire subdivision, or section thereof, which derives access from an existing state, county or City highway.
- (c) be accompanied by a minimum of fifteen (15) copies of the subdivision plat and four (4) copies of the construction plans, as described in these regulations. 6.
- (d) comply in all respects with the preliminary plat as approved.
- (e) 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 the City attorney.

(f) be accompanied by an inspection fee in an amount set by resolution of the City Council 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 a fee set by the Public Works Director for each street sign shown in the construction plans, which street signs shall be installed by the City.

(2) Planning Staff Review. Upon receipt of the above material, the staff will be allowed a minimum of two (2) weeks to make the necessary review and solicit comments from other involved parties. After such review, the staff will present to the Planning Commission its recommendations.

(3) Final Approval by Planning Commission. The Planning Commission shall approve, modify and approve or disapprove the final plat within thirty (30) days after the date the plat is submitted to the Planning Staff. The Commission shall set forth in detail any conditions to which the recommendation is made, or reason for recommending dismissal. The subdivision plat shall then be forwarded to the City Council for their approval.

(4) Public Hearing and Determination by City Council. Upon the forwarding of the final plat recommendation to the City Council by the Planning Commission, a public hearing shall be scheduled for the next scheduled meeting of the City Council to be held after the Planning Commission's recommendation has been made. Advertisement of the public hearing will be in the manner prescribed in Section 3-3.1(2). At the public hearing, the City Council will give an opportunity to any interested persons to examine or comment upon the plat and construction plans. After the public hearing, the City Council shall, within thirty (30) days after the closing of the public hearing, approve, modify and approve, or disapprove the subdivision application by resolution which shall set forth in detail any conditions to which the approval is subject, or reasons for disapproval. In the final resolution, the City Council shall stipulate the period of time when the performance bond shall be filed or the required improvements installed, whichever is applicable. In no event shall a performance bond be submitted later than six (6) months from the date of final resolution, together with all required documents and completion of required procedures. In no event shall the period of time stipulated by the City Council for completion of required improvements exceed two (2) years from the date of the final resolution. One copy of the final subdivision plat shall

SEE
97-12

Keep
resolution

Read on
resolution
what if no
Bond?

be returned to the developer with the date of approval, conditional approval, or disapproval, noted thereon, and the reasons therefore accompanying the plat.

(5) Submission and Review. Subsequent to the resolution of the City Council, four (4) paper copies of the construction plans, and one (1) copy of the original of the subdivision plat on reproduction mylar, and two (2) copies of the subdivision plat on paper shall be submitted to the Planning Staff for final review. No final approval shall be endorsed on the plat until a review has indicated that all requirements have been met.

(6) Vested Rights. No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the Mayor. All requirements, conditions, or regulations adopted by the City Council applicable to the subdivision or on all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the Mayor. Where the City Council has required the installation of improvements prior to signing of the final plat, the City Council shall not unreasonably modify the conditions set forth in the final approval.

3-5. Signing and Recording of Subdivision Plat.

(1) Signing of Plat.

(a) When a bond or escrow is required, the Mayor shall endorse approval on the plat after the bond or escrow has been approved by the City Council, and all the conditions of the resolution pertaining to the plat have been satisfied.

(b) When installation of improvements is required, the Mayor shall endorse approval on the 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 the City as shown by a certificate signed by the City engineer and City attorney that the necessary dedication of public lands and improvements has been accomplished.

(2) Recording of Plat.

(a) The Mayor and Planning Commission Chairman will sign the reproducible mylar original of the subdivision plat.

(b) It shall be the responsibility of the developer to file the plat with the County Recorder of Deeds' Office within thirty (30) days of the date of signature. Simultaneously with the filing of the plat, the developer shall record

the agreement of dedication together with such legal documents as shall be required to be recorded by the City attorney.

- (c) Three (3) copies of the final plat, one copy of all other legal documents required to be recorded shall be submitted to the Planning Staff with all recording data contained therein prior to the issuance of any building permits for lots in the subdivision.

SET 97-1S

define

(3) Phasing. The acceptance of subdivisions containing more than thirty (30) lots shall be done in phases. Each phase shall consist of that number of lots that can be completely developed with both off-site and on-site improvements within the two-year period provided for improvements under Section 4 of this Ordinance. Off-site improvements are construed to be those improvements required by the Clinton City Development Standards. On-site improvements shall be construed to mean the construction of the dwelling and its' appurtenant improvements on each lot. The development of the subdivision shall be in an orderly manner and in such a way that the phases will be contiguous, the required improvements will be continuous and all of the said off-site improvements will be made available for the full, effective and practical use and enjoyment thereof by lessees or grantees of any of the lands subdivided within the time hereinafter specified. Phases shall be designed to minimize the dead-ending of streets and waterlines. Phasing shall be done in such a manner to provide sufficient traffic circulation in each of the phases.

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When the off-site improvements have been one hundred (100) percent completed within the boundaries of the recorded plat and conditionally approved by the City Council upon the recommendation of the City Engineer, and the on-site improvements are seventy (70) percent complete, the developer may submit the next phase of the proposed development in accordance with the rules and regulations of this Subdivision Ordinance.

A final plat including more than thirty (30) lots will be accepted only upon the submission of qualified evidence indicating that the market absorption rate is such that the proposed subdivision will be completely developed as herein specified.

3-6 Occupancy of Dwellings or Structures Within a Subdivision (97-1S)

CHAPTER 4 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

- 4.1. IMPROVEMENTS AND SUBDIVISION IMPROVEMENT AGREEMENT
- 4.2. INSPECTION OF IMPROVEMENTS
- 4.3. ACCEPTANCE OF OFF-SITE IMPROVEMENTS
- 4.4. MAINTENANCE OF IMPROVEMENTS
- 4.5. DEFERRAL OF WAIVER OF REQUIRED IMPROVEMENTS
- 4.6. ESCROW DEPOSITS FOR LOT IMPROVEMENTS
- 4.7. ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

- 4.01 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 (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 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 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 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:**

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

CLINTON CITY SUBDIVISION ORDINANCE

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 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.

4.02 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 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 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.

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 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.

4.03 **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 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 Director indicating that the improvements have been completed, are

3. Final Acceptance:

a. The Subdivider shall request final acceptance of all improvements two years after conditional acceptance. Final inspection

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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.

4.04 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.

4.05 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.

4.06 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 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 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 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 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 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 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.

4.07 **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 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.

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>
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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.

CLINTON CITY SUBDIVISION ORDINANCE

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 application for an extension with a copy provided to the Escrow Agent of record. Upon action by the Council, the 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.

CLINTON CITY SUBDIVISION ORDINANCE

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 Director shall present the Subdivision to the City Council for Final Acceptance of all improvements. After Final Acceptance by the Council the 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 my 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.
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 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.

CLINTON CITY SUBDIVISION ORDINANCE

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 4.1.3 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.

CLINTON CITY SUBDIVISION ORDINANCE

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.
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.

CLINTON CITY SUBDIVISION ORDINANCE

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 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 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.

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 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 Director. The "as built" plans shall be in a format acceptable to the Director.

Upon receipt of the application, the 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 Director may reduce the amount held in the escrow account by the cost of the improvements conditionally accepted. At no time, however,

CLINTON CITY SUBDIVISION ORDINANCE

shall the Director reduce the deposited funds to a level lower than the 15% reserve required in the original amount 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.

SECTION 5

REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS, AND DESIGN

- 5-1. General Improvements
- 5-2. Lot Improvements
- 5-3. Roads
- 5-4. Drainage and Storm Sewers
- 5-5. Subsurface Drainage
- 5-6. Water Facilities
- 5-7. Secondary Water System
- 5-8. Sewerage Facilities
- 5-9. Sidewalks
- 5-10. Utilities
- 5-11. Public Uses
- 5-12. Irrigation Water
- 5-13. Preservation of Natural Features and Amenities
- 5-14. Nonresidential Subdivisions
- 5-15. MAILBOXES

*Add
utility &
drainage
sewer*

5-1. General Improvements.

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

- (a) All applicable statutory provisions.
- (b) The City zoning ordinance, building and housing codes, and all other applicable laws of the appropriate jurisdictions.
- (c) The Official Master Plan, Official Street Map, and Capital Facilities Plan of the City including all streets, drainage systems, and parks shown on the Official Street Map or Master Plan as adopted.
- (d) The special requirements of these regulations and any rules of the Health Department and/or appropriate state agencies.
- (e) The rules of the State Highway Department if the subdivision or any lot contained therein abuts a state highway.
- (f) The Clinton City Development Standards.

- (2) 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 thereto may be required to be indicated on the subdivision plat, or the Planning Commission may require that restrictive covenants be recorded with the County Recorder of Deeds in form to be approved by the City Attorney.
- (3) Plats Straddling Municipal Boundaries. Whenever access to the subdivision is required across land in another local government, the Planning Commission may request assurance from the City Attorney that access is legally established, and from the City Engineer that the access road is adequately improved, or that a performance bond 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.
- (4) Monuments. The applicant shall place permanent reference monuments in the subdivision as required herein 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 corners. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits.
- (b) All such monuments shall be set flush with the ground and planted in such a manner that they will not be removed by frost.
- (c) All monuments shall be properly set in the ground and approved by the City Engineer prior to the time the City Council grants conditional acceptance of the subdivision.
- (5) Character of the Land. Land which 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 which 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 and City Council upon recommendation of the City Engineer to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.
- (6) 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 Clinton City Development Standards.

- (7) Subdivision Name. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Planning Commission shall have final authority to designate the name of the subdivision which shall be determined at sketch plat approval.

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 such 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 such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the Zoning Ordinance and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard and side setbacks from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.

Incorporate width to depth ratio.



- (3) 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 arterials or to overcome specific disadvantages of topography and orientation.

- (b) Access from Primary and Secondary Arterials. Lots shall not, in general, derive access exclusively from a primary or secondary street. Where driveway access from a primary or secondary arterial 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 hazard on such street.

Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterials.

- (4) 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 final acceptance of the subdivision by the City Council, and removal of same shall be required prior to final acceptance by the City Council.
- (5) Fencing. Each developer shall be required to furnish and install fences wherever the Planning Commission determines that a hazardous condition or incompatibilities in land use may exist. The fences shall be constructed according to standards established by the Clinton City Development Standards and shall be noted as to height and material on the final construction plans. No certificate of occupancy shall be issued until said fence improvements have been duly installed.
- (6) Staking of Lots. Survey stakes shall be placed at both front and back lot corners to completely identify the lot boundaries on the ground. Back lot corners shall be marked with a metal pipe or rod driven into the ground and shall be three feet above the ground. Front lot corners shall be identified with permanent plugs in the sidewalk or back of the curb. All lot corners must be in place prior to the issuance of building permits and after the completion of all subdivision improvements. It shall be the responsibility of the lot owner to insure that all lot corners are in place prior to the issuance of the building permit.

5-3. 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 on the Official Map, or if there be no Official Map, unless such street is:
 - (i) An existing state or county highway; or
 - (ii) A street shown upon a plat approved by the City Council and recorded in the County Recorder of Deeds' office. Such street or highway must be suitably improved as required by the Clinton City Development Standards 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 Street Plan.

Wherever the area to be subdivided is to utilize existing road frontage, such road shall be suitably improved as provided hereinabove.

(b) Grading and Improvement Plan. Roads shall be graded and improved and conform to the Clinton City Development Standards and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.

(c) Topography and Arrangement

(i) Roads shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the Development Standards of Clinton City.

(ii) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated right-of-way as established on the Official Map and/or Master Plan. Such integration shall take topographical conditions into consideration. The street arrangement shall not cause unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide convenient access to it.

(iii) 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.

(iv) 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.

(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 of the most advantageous future development or adjacent tracts. 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, location of rail facilities, and the 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.

(d) Blocks

(i) 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.

(ii) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed one thousand three hundred twenty (1,320) feet or twelve (12) times the minimum lot width required in the zoning district, whichever is less, nor be less than four hundred (400) feet in length. Wherever practicable, blocks along arterials and collector streets shall be not less than 660 feet in length.

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

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 (800) 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.

(e) Access to Primary and Secondary Arterials. Where a subdivision borders on or contains an existing or proposed 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 arterial and front onto a parallel local street; no access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots.
- (ii) A marginal access or service road (separated from the primary arterial by a planning or grass strip and having access thereto at suitable points).
- (f) Road Regulatory Signs. The applicant shall deposit with Clinton City at the time of final subdivision approval a sum determined by the Director of Public Works for each road sign required by the City at all road intersections. The City shall install all road signs before issuance of certificates of occupancy for any residence on the streets approved.

Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Clinton City Director of Public Works.

(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 on the 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>
Minimum Width of Right of Way (in feet)	60	66	84	100
Minimum Width Traveled (feet)	40	46	60	80
Maximum Grade %	10	8	6	6
Minimum Radius of Curve	100	100	300	500
Design Speed	25	30	40	50

(b) Road Surfacing and Improvements. After sewer, water, gas, and buried electrical utilities as applicable have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be in accordance with the Clinton City Development Standards. Adequate provision shall be made for culverts, drains, and bridges.

(c) Railroads and Limited Access Highways. Railroad rights-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

(i) In residential districts a buffer strip at least 25 feet in depth in addition to the normal setback required in the zoning district shall be provided adjacent to the railroad right-of-way or limited access highway. 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 dwellings hereon is prohibited."

(ii) In districts zoned for business, commercial, or industrial uses the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

(iii) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way.

(d) 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 therefrom. 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) 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.

(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 developer.

- (i) The City Council, upon recommendation by the Planning Commission, may authorize a new perimeter street where the developer improves and dedicates the entire required street right-of-way width within his own subdivision boundaries. At the discretion of the City Council, after recommendation of the Planning Commission, and in accordance with all City ordinances, the developer may retain a protection strip of not less than one foot in width between the street and adjacent property. An agreement with the City, approved by the City Attorney, shall be made by the developer, contracting to dedicate the one foot or larger protection strip free of charge to the City for street purposes upon payment by the present owners of the contiguous property to the developer of a consideration named in the agreement. Such consideration is to be equal to the cost, at the time of the agreement, of the street improvements, including utility lines properly chargeable to the contiguous property, plus the value of the land from the right-of-way line to the centerline of the street at the time of the agreement, together with interest at a fair rate from the time of agreement until the time of subdivision of such contiguous property. All charges to be associated with the protection strip, as well as the interest rate, shall be recorded as part of the aforementioned agreement. All property owned by the developer shall be included on both the preliminary and final plat.

(ii) Where the developer is required to improve the full width of an existing City owned right-of-way on the perimeter of his subdivisions, the City Council may enter into a similar agreement as outlined in (i) above. In this agreement, the developer will not own a one-foot protection strip and the consideration named in the agreement will not include the value of the land or any utilities installed in the right-of-way prior to the agreement. However, the agreement will stipulate that before approval is given to development on the adjacent property abutting the street, the adjacent property owners will reimburse the aforementioned developer as outlined in the agreement.

(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 his expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these subdivision regulations. Land reserved for any 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 is granted to the City.

5-4. Drainage and Storm Sewers.

(1) General Requirements. The Planning Commission shall not recommend for approval any plat of subdivision which does not make adequate provision for storm or flood water runoff channels or basins. The City Engineer shall make the determination of adequate provision. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm drainage point of discharge from channel or conduit shall be protected from erosion by suitable structure or lining. Storm sewers, where required, shall be designed by a method approved by the City Engineer, and a copy of design computations shall be submitted along with the construction plans. All locations and sizes of storm sewer lines shall be in conformance with the Clinton City Storm Sewer Master Plan.

(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 subdivision. 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 Clinton City Development Standards.

- (b) Accessibility to Public Storm Sewers. 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 Clinton City Development Standards. However, 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 conducted by the City Engineer and/or Public Works Director.
- (c) Accommodation of Upstream Drainage Areas. A storm sewer line 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. The City Engineer shall determine the necessary size of the facility, based on the provisions of the Clinton City Development Standards and the Clinton City Storm Sewer Master Plan assuming conditions of maximum potential watershed development permitted by the Clinton City Comprehensive Plan.
- (d) Effect on Downstream Drainage Areas. The City Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. The Clinton City Storm Sewer Master Plan 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 City Council may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in a manner the City Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- (e) Detention Basins. Large multiple use detention basins serving multiple neighborhoods will be located in Clinton City as designated on the Clinton City Storm Sewer Master Plan Map. Single lot detention basins located in individual subdivisions shall not be encouraged. Should on-site water detention be desired or necessary for the feasibility of the subdivision, the detention basin must:

- (i) Serve as a multiple use area such as an open area for park activities.
- (ii) Be adequately landscaped with grass and shrubs. Such landscaping shall also include a means to keep it irrigated.
- (iii) Be designed to hold water only during a storm and shortly thereafter. At all other times, it must remain dry.

Temporary detention basins may be authorized by the City Council in which the above requirements may be relaxed. Under no circumstances shall a temporary detention basin be utilized for more than two years.

(3) Flood Plain Areas. The City Council 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 which lies within the flood plain of any stream or drainage course. These flood plain 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.

(4) Dedication of Drainage Easements.

(a) General Requirements. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose.

(b) Drainage Easements

(i) 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 such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

(ii) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

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

(iv) Low-lying lands along watercourses subject to flooding or overflowing 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 procedure nor for computing the area requirement of any lot.

5-5. Subsurface Drainage.

26- 5-6. Water Facilities.

(1) General Requirements.

- (a) Necessary action shall be taken by the applicant to provide water for the purposes of providing a water-supply system capable of providing domestic water use and fire protection.
- (b) Where a public water main is accessible the developer shall install adequate water facilities (including fire hydrants) subject to the specifications of the Clinton City Development Standards. All water mains shall be at least six (6) inches in diameter. All water lines must be extended across the entire frontage of all existing streets and to the boundary of the subdivision on all existing or proposed city streets. Sectionalizing valves shall be provided at point of connection to existing water distribution system and at every 800 feet of water main for line maintenance and repair. All legs and intersections shall also have valves.
- (c) Water main extensions shall be approved by the Clinton City Public Works Department.
- (d) To facilitate the above, the proposed location of all fire hydrants, all water lines with size indicated, and water valves shall be shown on the preliminary plat, and the cost of installing same shall be included in the performance bond to be furnished by the developer.
- (e) All proposed water improvements shall comply with the Clinton City Water Master Plan.

(2) Fire Hydrants. 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 and shall be approved by the Clinton City Fire Department. 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.

5-7. **Secondary Water System.** The applicant is not required to provide secondary water as a condition of approval. However, Clinton City will allow a developer to establish a secondary water system within his subdivision provided the design of the system meets the approval of the City Engineer.

AT INTERSECTIONS WHERE THERE ARE MORE THAN ONE SIZE OF WATERMAIN JOIN THE FIRE HYDRANTS SHALL BE ATTACHED TO THE LARGEST WATERMAIN IN THE INTERSECTION (97-15)

5-8. **Sewerage Facilities**

(1) General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the Clinton City Development Standards. Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot and to grades and sizes required by the Clinton City Development Standards. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted.

(2) Design Criteria for Sanitary Sewers.

(a) These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the City Engineer.

(b) **Design Factors.** Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to the City's Comprehensive Plan and Sewer Master Plan. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewerage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented hereinafter 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:

One- and Two-Family Dwellings	.02c.f.s./acre
Apartments	
One and Two Story	.02c.f.s./acre
Three through Six Story	.03c.f.s./acre
Commercial	
Small Stores, Offices, and Miscellaneous Business	.02c.f.s./acre

Shopping Centers	.02c.f.s./acre
High Rise	As directed by City Engineer
Industrial	As directed by City Engineer

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

- (c) 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 the City Engineer.
- (d) Minimum Size. No public sewer shall be less than eight (8) inches in diameter.
- (e) 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. Said sewers shall have a minimum slope of 0.76 percent. Where lateral sewers serve less than ten (10) houses, the minimum slope shall be not less than 1 percent. (See Table 2.)

TABLE 2. MINIMUM SLOPES FOR SEWER SIZE INDICATED

Sewer Size (in Inches)	Minimum Slope in Feet Per 100 Feet
8	0.60
10	0.44
12	0.36
15	0.28
18	0.24
21	0.20
24	0.16

- (f) Alignment. All sewers shall be laid with straight alignment and uniform grade between manholes, unless otherwise directed or approved by the City Engineer.

- (g) 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.
- (h) 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 the City Engineer. The minimum inside diameter of the manholes shall conform to the Clinton City Development Standards. 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.
- (i) 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-way where possible. Imposed loading shall be considered in all locations. Not less than six (6) feet of cover shall be provided over top of pipe in street and alley rights-of-way or three (3) feet in all other areas. All sewer lines must be extended across the entire frontage of all existing streets and to the boundary of the subdivision on all existing or proposed city streets.
- (j) 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.
- (k) Relation of Sewers to Water Mains. A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer lines. 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.

5-9. Sidewalks.

(1) Required Improvements.

(a) Sidewalks shall be included within the dedicated nonpavement right-of-way of all roads as shown in Table 3.

(b) Concrete high-back curbs are required for all roads where sidewalks are required by these regulations or where required at the discretion of the City Council. Roll-up type curbs are not acceptable.

(2) Pedestrian Accesses. 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.

TABLE 3. SIDEWALKS REQUIRED

<u>Nature of Road</u>	<u>Residential</u>	<u>Nonresidential Business-Industrial</u>
Local Road	Both Sides 4 Feet Wide	Both Sides 6 Feet Wide
Collector Road	Both Sides 5 Feet Wide	Both Sides 6 Feet Wide
Secondary Arterial	Both Sides 5 Feet Wide	Both Sides 6 Feet Wide
Primary Arterial	Both Sides 5 Feet Wide	Both Sides 6 Feet Wide

5-10. Utilities.

(1) Location. All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Wherever existing utility facilities are located above ground, except where 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 developer's expense. Buried electrical transformers shall be located as to avoid all drainage channels or flooding due to final grade. 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.

(2) Easements.

(a) ^{SEE 97-13} Easements centered on rear lot lines shall be provided for utilities (private and municipal); such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the developer and the applicable utility companies for the establishment of utility easements established in adjoining properties.

(b) Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least seven (7) feet in width shall be provided along side or front lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

5-11. Public Uses.

(1) Recreation.

(a) 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 City Council, which improvements shall be included in the performance bond. 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 in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the City Recreation Committee for a recommendation. All land to be reserved for dedication to the City for park purposes shall have prior approval of the City Council and shall be shown marked on the plat "Reserved for Park and/or Recreation Purposes."

(b) 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 purposes in addition to the requirements of this section.

(2) Other Public Uses.

(a) Plat to Provide for Public Uses. Except when an 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 use or other public use as indicated on the Master Plan

or any portion thereof, such space shall be suitably incorporated by the applicant into his sketch plat. After proper determination of its necessity by the Planning Commission and the appropriate City 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 of Property Owner. Upon 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 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.

5-12. Irrigation Water. No irrigation ditches shall be permitted within the boundary of a subdivision or minor subdivision. All necessary irrigation ditches, whether used for the purpose of transporting irrigation or waste flow water, must be maintained within a subdivision or minor subdivision, and must be replaced with a pipe culvert. This pipe culvert shall be at least fifteen (15) inch diameter concrete pipe and be satisfactory to the irrigation company. The developer of a subdivision or minor subdivision must provide for the rights of all irrigation users, both upstream and downstream of the proposed development.

5-13. Preservation of Natural Features and Amenities.

- (1) General. Existing features which would add value to residential development or to the City as a whole, such

as trees, historic spots, and similar irreplaceable assets are encouraged to be preserved in the design of the subdivision. No 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.

5-14. 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 such land shall make such 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) Standards. 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 are specifically adapted to the uses anticipated and take 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 the City with respect to street, curb, gutter, and sidewalk design and construction.
- (d) Special requirements may be imposed by the 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 residential areas.

5-14 (3) APPROVAL OF NONRESIDENTIAL SUBDIVISIONS. SEE 97-15

5-15 MAILBOXES. SEE 00-15

CHAPTER 6

IMPACT FEES RELATED TO DEVELOPMENT

- 6.1. Purpose
- 6.2. Definitions.
- 6.3. Applicability.
- 6.4. Payment of impact fees.
- 6.5. Service areas.
- 6.6. Calculation of impact fees based on fee schedule.
- 6.7. Exemptions.
- 6.8. Offsets to impact fees.
- 6.9. Developer payback agreements for impact fees.
- 6.10. Challenges and appeals.
- 6.11. Fund accounting for impact fees.
- 6.12. Refunds.
- 6.13. Use of funds.
- 6.14. Impact fee as supplemental regulation to other financing methods.
- 6.15. Adjustments
- 6.16. Independent impact fee analysis.
- 6.17. Penalty provision.

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.

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.

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.

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.

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.

"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.

"Accessory use" means a use that:

- Is subordinate in area, extent and purpose to, and supports a principal use;
- Is customarily found as incidental to such principal use;

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- Contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use;
- Is located on the same zoning lot as such principal use; and
- Is under the same ownership or control as the principal use.

"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.

"Capital facilities" means the facilities or improvements included in a capital budget.

"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.

"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.

"City" means Clinton City, Utah.

"City Engineer" means the duly appointed and acting City Engineer for the City.

"Council" means the Municipal Council of the City.

"Department" means the Department of Community and Economic Development of the City.

"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.

"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.

"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.

"Director" means the Community and Economic Development Director of the City.

"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.

"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.

"Fire/EMS facilities impact fee" means the impact fee designated to pay for fire/EMS facilities.

"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

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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.

6.4. Payment of impact fees.

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.

Until any impact fee required by this ordinance has been paid in full, no building permit for any development activity shall be issued.

A stop work order shall be issued on any development activity for which the applicable impact fee has not been paid in full.

The Council may, during the development approval process create a contractual fee payment schedule not specifically related to the issuance of building permits.

6.5. Service areas.

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.

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.

6.6. Calculation of impact fees based on fee schedule.

Impact fees shall be calculated as follows:

- 1. 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. The impact fee schedule attached as Appendix "A" and published annually in the Clinton City Consolidated Fee Schedule.

3. 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.

d. Per acre shall be measured in terms of gross acreage of the site being developed.

4. 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.

5. 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

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according to the fee schedule, and the results aggregated.

6. 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:

a. 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

b. The fee, that would be payable for the total development activity on the site for the new development.

7. Upon written request of an applicant, the Director shall provide an estimate of the current fee based on the data provided by the applicant. However, the 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.

6.7. Exemptions.

1. 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 Director, will not result in a net increase in demand on facilities covered by impact fees.

2. Nonresidential construction shall be exempted from the payment of the park impact fees.

3. The 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 Director shall be in writing and shall be subject to the appeals procedures set forth in this Section.

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4. Upon the determination of the Council, after review and recommendation by the Director, following the filing with the 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.

6.8. Offsets to impact fees.

The Council upon recommendation of the Director, may approve offsets against the impact fee that would otherwise be due for a development activity in accordance with the following provisions.

1. 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 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. 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. 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 Director may reasonably require.

5. 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.

6. 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.

7. 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.

8. 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.

6.9. Developer payback agreements for impact fees.

Where a development activity includes or requires a qualifying improvement, the City

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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. The estimated cost of the qualifying improvements, using the lowest responsive bid by a qualified bidder, which bid is approved by the Director; or, if no bid is available, the estimated cost certified by a licensed Utah engineer and approved by the Director, Director approval will be based upon recommendations from the City Engineer;
2. A schedule for initiation and completion of the qualifying improvement;
3. A requirement that the qualifying improvement be designed and completed in compliance with any applicable City and State laws and regulations;
4. 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. Such other terms and conditions as deemed necessary by the City.

6.10. Challenges and appeals.

1. A challenge to an impact fee may be made as outlined in Utah Code §11-36-401 and 402.
2. 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. 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.

6.11. Fund accounting for impact fees.

1. 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. 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. 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. Impact fees shall be expended or encumbered within six (6) years after

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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.

6.12. Refunds.

1. 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. 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. 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 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 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 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. 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. Refunds of impact fees under this section shall include any interest earned on the impact fees by the City.

6. 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. 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 Director a written request for the refund not later than thirty (30) calendar days after the expiration of the building permit (or any extension

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thereof) in connection with which the impact fees were assessed;

c. The fees have not been spent or encumbered; and

d. The Director determines that no impact has resulted from the contemplated development activity.

8. 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.

6.13. Use of funds.

1. Impact fees shall be used solely for the purposes for which they were received.

2. 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.

3. Impact fees shall not be used for maintenance or operation.

4. 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.

5. 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.

6. Impact fees may be used to recoup the cost of studying, analyzing, and preparing the impact fees.

7. 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.

8. 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.

6.14. Impact fee as supplemental regulation to other financing methods.

1. 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.

2. 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.

6.15. Adjustments.

1. The Director may propose, to the Council adjustments to the impact fees or service areas periodically, after a study

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and proper notice as provided in Utah Code Title 11, Chapter 36, as amended.

2. The 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. The 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.

4. 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.

6.16. Independent impact fee analysis.

1. 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. The documentation submitted shall include the procedural and information requirements established for the City in Utah code §11-36-201 et seq. The 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 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 Director has been received and accepted

3. 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. The Council may adopt, reject, or adopt in part the independent impact fee analysis based on the 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. 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

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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. 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.

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.

SECTION 7

SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED

- 7-1. Sketch Plat
- 7-2. Preliminary Plat
- 7-3. Construction Plans
- 7-4. Final Subdivision Plat

7-1. **Sketch Plat.** Sketch plats submitted to the Planning Staff 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.

(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.

(3) Description. Location of property by legal description, section, township, range, graphic scale, north arrow, and date.

(4) Features.

- (a) Location of property lines, existing easements, irrigation ditches, railroad rights-of-way, watercourses, and existing and proposed fences; 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 assessment rolls within five hundred (500) feet of any perimeter boundary of the subdivision.

- (b) 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.
- (c) Approximate topography, at the same scale as the sketch plat.
- (d) The approximate location and widths of proposed streets.
- (e) Preliminary proposals for connection with existing water supply and sanitary sewage systems; preliminary provisions for collecting and discharging surface water drainage.
- (f) The approximate location, dimensions, and areas of all proposed or existing lots.
- (g) 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.
- (h) The location of temporary stakes to enable the Planning Commission to find and appraise features of the sketch plat in the field.
- (i) Whenever the sketch plat covers only a 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.
- (j) 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.

7-2. 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. It should be noted that the map prepared for the preliminary plat may also be used for the final subdivision plat and, therefore, should be drawn on reproducible mylar;

(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 and 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, irrigation ditches, 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 thereof, 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 developer 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.

(k) Indication of the use of any lot (single-family, two-family, multi-family, townhouse) and all uses other

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than residential proposed by the developer.

(l) Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivision bearing the same name shall be numbered or lettered consecutively throughout the several phases.

This needs to be changed

(m) All lots in each block consecutively numbered.

(n) Proposals for connection with existing water supply and sanitary sewage systems. Location and size of all proposed water and sewer lines, indicating placement of manholes, water valves, and fire hydrants.

(o) Provisions for collecting and discharging surface water drainage.

(p) All information required on sketch plat should also be shown on the preliminary plat, and the following notation shall also be shown:

(i) Explanation of drainage easements, if any.

(ii) Explanation of irrigation easements, if any.

(iii) Explanation of site easements, if any.

(iv) Explanation of reservations, if any.

(v) Endorsement of owner, as follows:

what is this

.....
Owner

.....
Date

(q) Form for endorsements by Commission Chairman as follows:

Approved by the Clinton City Planning Commission.

.....
Chairman

.....
Date

(r) The lack of information under any item specified herein, or improper information supplied by the applicant, shall be cause of disapproval of a preliminary plat.

7-3. Construction Plans.

(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:

D-SIZE

- (g) Title, name, address, and signature of professional engineer and surveyor, and date, including revision dates.

7-4. Final Subdivision Plat

(1) General. The final plat shall consist of a sheet of approved mylar, size of drawings shall be twenty two (22) by thirty four (34) inches with a one-half ($\frac{1}{2}$) inch border on top, bottom and right sides, the left side shall have a border of one and one-half ($1\frac{1}{2}$) inches. The plat shall be so drawn that the top of the drawing faces either North or West, whichever accommodates the drawing best. All lines, dimensions and markings shall be made on the mylar with approved waterproof black "India Drawing Ink". The plat shall be made to a scale large enough to clearly show all details, in any case not smaller than one hundred (100) feet to the inch, and workmanship on the finished drawing shall be neat, cleancut and readable. The plat shall contain the following information:

COUNTY
REQUIRETS
19750 AT
TRIM LINE

- (a) A subdivision ^{CLINTON COUNTY} name, approved by the City Planning Commission, and the general location of the subdivision, in bold letters at the top of the sheet.
- (b) A North point and scale of the drawing, and the date.
- (c) Accurately drawn boundaries, showing the proper bearings and dimensions of all boundary lines of the subdivision, properly tied to public survey monuments. These lines should be slightly heavier than street and lot lines.
- (d) The names, widths, lengths, bearings and curve data on center lines of proposed streets, alleys and easements; also the boundaries, bearings and dimensions of all portions within the subdivision, as intended to be dedicated to the use of the public; the lines, dimensions, bearings and numbers of all lots, blocks, and parts reserved for any reason within the subdivision. All proposed streets shall be named or numbered in accordance with and in conformity with the adopted street-naming and numbering system of Clinton City.
- (e) The standard forms approved by the Planning Commission lettered for the following:
- (i) Description of land to be included in subdivision.
 - (ii) Registered Professional Engineer and/or Land Surveyor's "Certificate of Survey".
 - (iii) Owner's Dedication.

(iv) Notary Public's Acknowledgement.

(v) Certificate of Approval by the City Planning Commission.

(vi) Certificate of Approval by the City's Engineer.

(vii) Certificate of Acceptance by the City Council, attested by the City Recorder.

(f) A three (3) inch by three (3) inch space in the lower right-hand corner of the drawing for recording information.

(2) Preparation. The final subdivision plat shall be prepared by a land surveyor licensed by the State of Utah.