

Title 14 Land Use And Development

14.01 [Reserved]

Commented [JH1]: We discussed with Lisa removing this section.

14.02 Subdivision Code

14.02.010 Purpose And Application

1. The purpose of this chapter and any rules, standards and specifications adopted pursuant to it is to regulate and control the division of land within Milford City and to supplement the provisions of Utah Code (notably §10-9a-6) concerning the design, improvement, form and content, and procedures to be followed in subdividing land. To accomplish this purpose, the regulations outlined in this chapter are determined to be necessary for the public health, safety and general welfare, to promote orderly growth and development, and to promote open space protection and proper use of land, and to ensure provision for adequate traffic circulation, utilities, stormwater protection and public services.
2. The regulations set forth in this chapter shall apply to all subdivisions or parts thereof within Milford City, regardless of the intended use (commercial, residential, etc.). The requirements of this Chapter do not apply retroactively to subdivision applications or petitions that were approved by the City prior to the enactment of this ordinance.

14.02.020 Approved and Recorded Documents Required

1. No land shall be subdivided which is located wholly or in part in the City, except in compliance with this Chapter and Utah Code as adopted and amended.
2. The City shall not approve, nor shall a party record, any plat or other creating instrument for a new subdivision unless the party has properly applied under this Chapter and received approval from the Land Use Authority.
3. A subdivision of land is not valid unless its governing document is approved by the Land Use Authority and properly recorded in the County Recorder's Office.

14.02.030 Penalty for Non-Compliance

1. It is unlawful to transfer ownership of any parcel of land pursuant to an invalid subdivision.
2. Notwithstanding other penalties provided for in City ordinances, the City Council may, in its discretion, void such transfers and impose on the transferor a fine of up to \$10,000. In such case, the subdivider shall be liable to any subsequent purchasers for damages resulting from the City's voiding of a transfer.
3. The statute of limitations for the City's ability to void a transfer done pursuant to an invalid subdivision and/or impose a fine shall be five years after the plat is recorded in the County Recorder's Office. After five years, the lot(s) in question shall be treated as a legal nonconforming use, except to the extent that conditions on the lot(s) pose a substantial danger to the health or safety of inhabitants or the neighboring community.

14.02.040 Interpretation and Conflict of Laws

Where any provision in this Subdivision Chapter conflicts with state law, state law shall prevail. Where any provision in this Subdivision Chapter conflicts with other ordinances enacted by the City, the provisions in this Subdivision Chapter shall prevail unless the City intended such conflicting ordinances not in this Chapter to amend this Chapter.

14.02.050 Definitions

The following words and phrases, as used in this Chapter, shall have the following meanings. All definitions included in the Milford City Zoning Ordinance (Title 13) shall also apply to this Chapter, where and when needed. Whenever any words or phrases used in this Chapter are not defined herein, the most common usage of such word or phrase shall be deemed to apply.

1. "Advisory agency" means:
 - a. The Planning and Zoning Commission for all purposes concerning plats, and
 - b. The director of planning and development for all purposes concerning lot line adjustments.
2. "Appeal board" means the city council of Milford City unless otherwise noted.
3. "Design" means:
 - c. Street alignments, grades and widths;
 - d. Drainage and sanitary facilities and utilities, including alignments and grades thereof;
 - e. Location and size of all required easements and rights-of-way;
 - f. Fire roads and fire breaks;
 - g. Lot size and configuration;
 - h. Traffic access;
 - i. Grading;
 - j. Land to be dedicated for park or recreational purposes; and
 - k. Such other specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to insure conformity to or implementation of the general plan or any adopted specific plan.
4. "General plan" means the general policies and development plan; including all adopted elements, in effect in Milford City.
5. "Improvement" refers to such street work, storm drainage, utilities, and landscaping to be installed, or agreed to be installed, by the applicant on the land to be used for public or private streets, highways and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs as a condition precedent to the approval and acceptance of the final map thereof; or to such other specific improvements or type of improvements, the installation of which, either by the applicant, by public agencies, by private utilities, by any other entity approved by the local agency or by a combination thereof, is necessary or convenient to insure conformity to or implementation of the general plan or any adopted specific plan.

6. "Improvement plan" means a civil engineering plan to complete permanent infrastructure and municipally controlled utilities on the subdivision that is essential for the public health and safety, that is required for human occupation, or that is required by applicable law and that an applicant must install in accordance with public installation and inspection specifications for public improvements and as a condition of recording a subdivision plat.
7. "Improvement standards and specifications" means the standard details and specifications, and other standards that are adopted as supplemental to this chapter that govern the improvements to be constructed pursuant to this chapter.
8. "Land use application" means an application required by the City and submitted by a land use applicant to obtain a land use approval; this does not mean an application to enact, amend, or repeal a land use regulation.
9. "Land use authority" means an individual, board, or commission appointed or employed by the City to make land use decisions. "Land Use Authority" includes any appropriately authorized designees.
10. "Lot line adjustment" means a minor shift or rotation of an existing lot line or other adjustments where a greater number of parcels than originally existed is not created.
11. "Merger" means the joining of two or more contiguous parcels of land under one ownership into one parcel.
12. "Peripheral street" means a street where right-of-way is contiguous to the exterior boundary of a subdivision.
13. "Plat" means an instrument subdividing property into lots as depicted on a map or other graphic representation of land that a licensed professional land surveyor makes and prepares in accordance with §10-9a-603 or §57-8-13 of Utah State Code (as amended).
14. "Remainder" means that portion of an existing parcel which is not included as part of the subdivided land but must be shown on the required maps as part of the area surrounding subdivision development.
15. "Subdivision" means any land which is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions.

l. Subdivision includes:

- i. The division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
- ii. Except as provided below, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

m. Subdivision does not include:

- iii. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of

unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

- iv. A boundary line agreement recorded with the Office of the County Recorder between owners of adjoining parcels adjusting the mutual boundary in accordance with §10-9a-524 of Utah State Code (as amended) if no new parcel is created;
- v. A recorded document, executed by the owner of record revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels or joining a lot to parcel;
- vi. A boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with §10-9a-524 and §10-9a-608 of Utah State Code (as amended) if no new dwelling lot or housing unit will result from the adjustment and the adjustment will not violate any applicable land use ordinance;
- vii. A bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division is in anticipation of future land use approvals on the parcel or parcels does not confer any land use approvals, and has not been approved by the land use authority;
- viii. A parcel boundary adjustment;
- ix. A lot line adjustment;
- x. A joining of one or more lots to a parcel;
- xi. A road, street, or highway dedication plat;
- xii. A deed or easement for a road, street, or highway purpose; or
- xiii. Any other division of land authorized by law.

16. "Water conveyance facility" means a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. "Water conveyance facility" does not mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for culinary or industrial water, or any federal water project facility.

17. "Zoning regulations" means the zoning ordinance of Milford City, as adopted pursuant to state law.

14.02.060 Subdivision Land Use Authority

1. The Land Use Authority for applications under this Chapter is the Subdivision Review Committee ("SRC" or "Committee"), which consists of the following:

- a. The City Engineer;
- b. The City Foreman;
- c. The Zoning Administrator;
- d. The City Administrator;
- e. The Utility Clerk;
- f. The Zoning Commissioner;
- g. The Mayor; and
- h. The City Attorney.

2. The Subdivision Review Committee shall operate as follows:

- a. The SRC may convene on an as-needed basis to review subdivision applications.
- b. The SRC shall approve subdivision applications by majority vote.

2. For purposes of subdivision applications, the Subdivision Review Committee shall be responsible for the following, but may delegate any responsibility to City staff:

- a. Rendering land use decisions related to applications under this Chapter.
- b. Reviewing all applications under this Chapter in an impartial manner and according to the standards and deadlines described in this Chapter.
- c. Holding a public hearing for applications when required by this Chapter.
- d. Providing feedback to applicants on their applications in the manner required by this Chapter.
- e. Scheduling and holding a pre-application meeting with potential applicants as required by this Chapter.
- f. Keeping subdivision application forms and related informational material up to date and publicly accessible and distributing such forms and materials to potential applicants.
- g. Providing notice to entities and parties as required by this Chapter.
- h. Signing final application approvals as required by this Chapter. This task shall be performed by the Mayor.
- i. Ensuring that documents are properly recorded with the County as required by this

Commented [2]: This is the list of proposed Committee members given to us by the City. This is actually a rather long list of people to include in the Committee and the City might want to consider cutting it down.

Commented [JH3R2]: Also note that the City initially wanted a member of the City Council to be on this committee. After another look at state law, we realized that members of the Council are also banned from being involved in this approval process.

Commented [JH4]: Another option is to make this unanimous.

Chapter.

4. As subdivision application decisions are administrative, not legislative, the Land Use Authority is authorized to make any land use decision described by this Chapter without City Council approval.
5. Except when operating as the Appeal Authority, the City Council shall not require the Land Use Authority to approve or deny an application under this Chapter.

14.02.070 Subdivision Appeal Authority

1. The Appeal Authority for City decisions relating to this Chapter, except where otherwise noted, is the City Council.
2. The Appeal Authority shall hear appeals on final decisions made by the Land Use Authority and shall hear complaints about the conduct of the Land Use Authority in administering the provisions of this Chapter.
3. A party appealing or complaining of a Land Use Authority's decision under this Chapter must exhaust its remedies under this section (by appealing or complaining to the Appeal Authority) before bringing an action against the City in a court of law.
4. A party who has submitted a subdivision application or petition may appeal or complain to the Appeal Authority under this Chapter. In such an appeal or complaint, the party may appeal or complain only regarding the Land Use Authority's treatment of that party's own application; a third party may not appeal or complain of Land Use Authority decisions or conduct.
5. A party desiring to appeal or complain of a Land Use Authority decision shall submit to the Appeal Authority the following in writing:
 - a. A brief explanation of the relief the party is seeking, the reason the party submitted its application or petition, the Land Use Authority's decision and treatment of the application or petition, and why the applicant believes the Land Use Authority misapplied the provisions of this Chapter or abused the discretion given it by this Chapter.
 - b. The most recent version of the application or petition the party submitted.
 - c. Any supplemental documentation or information that the Appeal Authority requests.
 - d. All appeals and complaints must be emailed or mailed to the City Recorder using the Recorder's official City address and/or email account listed on the City website.
6. After receiving a complete appeal or complaint in accordance with this Section, the Appeal Authority shall deliver a decision to the applicant, in writing, no later than 30 calendar days after the Appeal Authority receives the appeal or complaint.

14.02.080 Subdivision Application Process and Requirements

1. To be considered complete, a subdivision application must include at least the following elements:
 - a. An approved land use application that describes how the property will be used after it is subdivided.
 - i. If the intended use is permitted by right under City ordinances, the land use application must include citations to the specific ordinance(s) that the applicant believes authorizes the intended use.
 - ii. If the intended use requires a conditional use permit or is otherwise conditioned on City approval, the land use application must include an *approved*, City-issued permit authorizing the intended use. Should an applicant seek a use permit concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the use permit is issued.
 - iii. If the intended use requires a rezoning, the applicant must obtain the rezoning before submitting an application under this Chapter. Should an applicant seek a rezoning concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the rezoning is effectuated.
 - b. A plat, unless exempted under Section 14.02.090. The plat must be drawn to scale, in detail, and in accordance with generally accepted surveying standards and the acceptable filing standards of the County Recorder's Office. **The plat must include:**
 - i. The proposed subdivision name, which must be distinct from any subdivision name on a plat recorded in the County Recorder's office.
 - ii. The name of the owner(s) of the parcel to be subdivided
 - iii. An identification and legal description of the subdivision.
 - iv. The location of the subdivision.
 - v. A graphic scale and north arrow.
 - vi. The date of preparation.
 - vii. A vicinity map, showing all lots and streets in the subdivision and abutting streets and public right of way.
 - viii. The boundaries, course, and dimensions of all proposed parcels.

Commented [5]: Just a note that once we're done with the substantive changes, we'll check all these internal cross references.

Commented [JH6]: To create this list, we combined the state's requirements with what the City currently requires (14.02.370). Let us know if there's anything else you'd like to add.

- ix. All existing structures.
- x. The lot or unit reference; block or building reference; street or site address; street name or coordinate address; acreage or square footage for all parcels, units, or lots; and length and width of the blocks and lots intended for sale.
- xi. Every existing right-of-way and recorded easement located within the plat for underground, water, and utility facilities.
- xii. Any known and unrecorded water conveyance facility located, entirely or partially, within the plat.
- xiii. Whether any parcel is intended to be used as a street or for any other public use.
- xiv. Location, width, and other dimensions of proposed streets, alleys, easements, parks, and other open spaces to be dedicated to the public, with a complete description.
- xv. The high-water marks of all rivers, streams and location of any designated wetlands.
- xvi. The locations of prominent natural features such as rock outcroppings, woodlands, steep slopes, and potential natural hazards.
- xvii. The existing sanitary sewers, storm drains, water supply mains and culverts within the subdivision or within 100 feet thereof.
- xviii. Any restrictive covenants.
- xix. If any portion of the proposed subdivision is within 300 feet of an Agriculture Protection Area, the notice language found in Utah Code §17-41-403(4).
- xx. If any portion of the proposed subdivision is within 1,000 feet of an Industrial Protection Area, the notice language found in Utah Code §17-41-403(4).
- xxi. If any portion of the proposed subdivision is within 1,000 feet of a Critical Infrastructure Materials Protection Area, the notice language found in Utah Code §17-41-403(4).
- xxii. If any portion of the proposed subdivision is within 1,000 feet of a Mining Protection Area, the notice language found in Utah Code §17-41-403(4).
- xxiii. If any portion of the proposed subdivision is within 1,000 feet of a Vested Critical Infrastructure Materials Operation (extracting,

excavating, processing, or reprocessing sand, gravel, or rock aggregate where that use is not permitted by City ordinances), the notice language found in Utah Code §10-9a-904.

xxiv. If the subdivision includes a condominium, the requirements found in Utah Code §57-8-13, as amended.

b. Reports and Studies, including:

- i. A traffic study, if one is required by an applicable UDOT Access Management Plan.
- ii. Any other study or report reasonably necessary to ensure compliance with City design standards and improvement requirements.

c. An improvement plan, created in accordance with applicable portions of this Title, for all public improvements proposed by the applicant or required by City ordinances. In addition to the requirements mentioned elsewhere in this Title, the improvement plan must contain:

- i. An engineer's estimate of the cost of completing the required improvements.
- i. Grading plans, including all proposed changes in grade.
- ii. Existing and finished contours at intervals of at least 5 feet.
- iii. A drainage plan.
- iv. Proposed on-site and off-site water facilities, sanitary sewers, storm drain facilities and fire hydrants.
- v. Proposed street lighting.
- i. Proposed or required fencing (including location, height and material).
- ii. A vegetation preservation and protection plan, including trees and other vegetation proposed to be planted.
- iii. A landscaping plan for all areas of the proposed development.

d. Certifications, including:

- i. An affidavit from the applicant certifying that the submitted information is true and accurate.
- ii. Certificate of the engineer and site planner as to the accuracy of the plat.

Commented [JH7]: If the City has issues with soil, water, or flooding, it may want to require additional studies.

- iii. Certification that the surveyor who prepared the plat:
 - (1) Holds a license in accordance with Utah Code 58-22; and
 - (2) Either
 - (a) Has completed a survey of the property described on the plat in accordance with state requirements and has verified all measurements; or
 - (b) Has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and
 - (3) Has placed monuments as represented on the plat.
- iv. A Title Report or Title Insurance Policy for the land to be subdivided verifying property ownership.
- v. A Tax Clearance Certificate from the state indicating that all taxes, interest, and penalties owing on the land have been paid.
- vi. A letter of approval from the the local health department, the local fire department, and the local public safety answering point.
- e. A completion assurance for all public improvements required by the approved improvement plan, or a statement that such improvements will be completed before development occurs on the proposed subdivision and before the applicant records the plat, as required by chapter 14.02.140 of this Title.
- f. Binding dedication documents, including:
 - i. As applicable, formal, irrevocable offers for dedication to the public of streets, City uses, utilities, parks, easements, or other spaces.
 - ii. If the plat is to be part of a community association, signed and binding documents conveying to the association all common areas.
- g. Copies, including:
 - i. One electronic copy of the final plat in AutoCAD format (DWG or DXF), with a projection assigned to the file(s) and with the proper metadata that describes what coordinate system/projection the data is assigned to.
 - ii. A PDF document of the complete application (including the plat and all other plans and supporting documents required by this Subsection).

- iii. Nine 8.5" x 11" printed copies of the complete application, delivered to the City office, for review.
 - iv. A copy of the plat drawn on Mylar for signing and recording. The applicant may wait to produce this recording-form copy until the Subdivision Review Committee has completed two review cycles, but in such case, the Committee need not approve the application until this copy has been produced and reviewed.
 - h. Payment of any application-processing fees required by the City (see the City's Fee Schedule). In addition to the posted fees on the City's Fee Schedule, the applicant shall be liable for all reasonable costs incurred by the City by obtaining engineering and legal review of the application.
2. The Subdivision Review Committee shall produce, maintain, and make available to the public a list of the specific items that comprise complete applications and a breakdown of any fees due upon submission or approval of the applications.
3. The Subdivision Review Committee may require, and the applicant shall provide, additional information beyond the requirements of this Section or those published by the City relating to an applicant's plans to ensure compliance with City ordinances and approved standards and specifications for construction of public improvements and to protect the health and safety of City residents.
4. Notwithstanding 14.02.080.1, the Subdivision Review Committee may, in its sole discretion, waive any of the specific requirements found in this Section.

Commented [8]: We will provide the City with "application forms" that cover this requirement and match what your code says.

14.02.090 Exceptions to Specific Application Requirements

1. Agricultural Land:

- a. Applications to subdivide agricultural land are exempt from the plat requirements (but not the other application requirements) of Section 14.02.080 if the resulting parcels:
 - i. Qualify as land in agricultural use under Utah Code §59-2-502;
 - ii. Meet the minimum size requirement of applicable City land use ordinances; and
 - iii. Are not used and will not be used for any nonagricultural purpose.
- b. For subdivision applications for which this exception applies, an applicant may submit to the City—in place of a plat—a record of survey map that illustrates the boundaries of the parcels.
- c. If the City approves a subdivision application based on a record of survey map, the applicant shall record the map, signed by the City, with the County Recorder's Office. This shall be done in the same manner as is done for a plat under Sections 14.02.130 and 14.02.140.

- d. If a parcel resulting from a subdivision under this exception ever ceases to be used for agriculture, the subdivision shall become invalid. The City may, in its discretion, impose the penalty in Section 14.02.030 and/or require a subdivision amendment before issuing a building permit.

2. Minor Subdivisions:

- a. Any subdivision of land, of no more than six (6) lots, may be sold by metes and bounds without the necessity of recording a plat if:
 - i. The parcel(s) is(are) within the boundaries of Milford City.
 - ii. The parcel or parcels are not traversed by the mapped lines of a proposed street as shown in the General Plan of Milford City, UT and does not require the dedication of any land for street or other public purposes; and
 - iii. Is composed of lots that are each fronted by an existing improved street.
 - iv. The SRC has granted permission for the application to proceed as a minor subdivision.
- b. For subdivision applications for which this exception applies, an applicant shall submit to the City—in place of a plat—both:
 - i. A record of survey map that illustrates the boundaries of the parcels; and
 - ii. A legal metes-and-bounds description that describes the parcels illustrated by the survey map.
- c. If the City approves a subdivision application based on a record of survey map and metes-and-bounds description, the applicant shall record the map and description, signed by the City, with the County Recorder's Office. This shall be done in the same manner as is done for a plat under Section 14.02.140, except that the City shall also provide the notice required in Utah Code §10-9a-605(1).

3. Development Agreements:

- a. Subdivisions platted in a valid development agreement are exempt from the application requirements (Section 14.02.080) and review and approval requirements (Section 14.02.120) of this Chapter.
- b. Clauses in a valid development agreement with the City superseded all conflicting requirements in this Title, except where a clause in the development agreement poses a substantial danger to the health and safety of City residents.

14.02.100 Pre-Application Meeting

- 1. A party intending to submit a subdivision application under this Chapter may request a pre-application meeting with the SRC or delegated City staff to present the concept of the proposed development or subdivision and to review any element of the party's proposed subdivision application. A potential applicant may present any materials for discussion that he or she desires, including a project sketch, a concept plan, improvement plans, a plat, or a complete

Commented [JH9]: Allowing minor subdivisions to proceed without a plat is optional. If you like this idea, the state law permits you to extend this limit up to 10 lots. Or we can also get rid of it.

Commented [JH10R9]: One potential issue that that a developer might try to use this as a loophole (by developing 6 lots at a time).

application.

- a. If a party requests a pre-application meeting, the City shall schedule the meeting within 15 business days after the request. The meeting shall be scheduled at the earliest convenient opportunity, and, at the option of the party requesting the meeting, shall occur within 20 business days after scheduling.
- b. The SRC or delegated City staff shall conduct the meeting, provide feedback on materials as requested by the party, and shall provide or have available on the City website the following at the time of the meeting:
 - i. Copies of applicable land use regulations,
 - ii. A complete list of standards required for the project, and
 - iii. Relevant application checklists.

14.02.110 Notice to Affected Entities

1. Within 15 calendar days after receiving a complete subdivision application under this Chapter, City staff shall provide written notice of the proposed subdivision to the facility owner of any known water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat.
 - a. To determine whether any water conveyance facility is located within 100 feet of a proposed subdivision, City staff shall review information:
 - i. From the facility owner under Utah Code §10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;
 - ii. From the state engineer's inventory of canals; or
 - iii. From a licensed surveyor who has consulted with a representative of an existing water conveyance facility that services an area near the land the application concerns.
2. To give water conveyance facilities time to provide feedback on subdivision applications, the Subdivision Review Committee shall not approve a subdivision application under this Chapter sooner than 20 calendar days after the applicant submits a complete application. This waiting period does not apply to revised applications the applicant may submit during the application review process.
 - a. A water conveyance facility owner's failure to provide comments to the Subdivision Review Committee about a subdivision application does not affect or impair the Subdivision Review Committee's authority to approve the subdivision application.

14.02.120 Review

1. The Subdivision Review Committee shall review each subdivision application in accordance with the requirements of this Section before approving or denying the application.

Commented [11]: This second deadline is not required by state law and therefore can be adjusted (or technically removed). While the state does not say when the meeting must be held (only scheduled), the City may include this to ensure that the meeting actually happens and that it does within a reasonable time.

Commented [12]: This is spelled out in state law (§10-9a-603(3)(d)). If you don't think the city will have an issue with remembering to meet this requirement, then we can cut it from the code.

Along those lines, if the city owns all the water facilities, then we can get rid of this whole section.

Commented [JH13R12]: Note that this includes secondary and irrigation canals, ditches, pipes, etc. only, not culinary water or sewer.

2. The review process begins when an applicant submits a complete application.
 - a. The Subdivision Review Committee shall not review an incomplete subdivision application, except to determine whether the application is complete.
 - b. If the Subdivision Review Committee determines that an application is incomplete, it shall notify the applicant of the incompleteness, highlighting any insufficiencies and explaining that the application will not be reviewed until it is complete.
3. After the applicant submits a complete application, the Subdivision Review Committee shall review and provide feedback to the applicant in up to four “review cycles.”
 - a. A review cycle consists of the following phases:
 - i. Phase #1: The applicant submits a complete application (or, if after the first cycle, submits a revised version of the complete application).
 - ii. Phase #2: The Subdivision Review Committee reviews the application in detail and assesses whether the application conforms to local ordinances.
 - iii. Phase #3: The Subdivision Review Committee responds to the applicant, citing any missing requirements or areas of noncompliance and providing a detailed list of necessary revisions to the applicant. For any **required** modification or addition to the application or request for more information, the Subdivision Review Committee shall be specific and include citations to ordinances, standards, or specifications that require the modification or addition and shall provide the applicant with an index of all requested modifications or additions.
 - iv. Phase #4: The applicant revises the application, addressing each comment or **requirement** the Subdivision Review Committee made. The applicant must submit both revised plans and a written **explanation** in response to the City’s review comments, **identifying** and explaining the applicant’s revisions and reasons for **declining** to make revisions, if any. If the applicant fails to respond to a comment made by the Subdivision Review Committee in its review, the review cycle is not complete and will remain open until the applicant addresses all comments.

Table A – Review Cycles, Hearings, and Timelines by Subdivision Use Type			
Use Type	Max Review Phases	Max Public Hearings	City Turnaround Deadline**
1-2 Family Residential*	4	1	30 Business Days
All Other Uses	4	1	60 Business Days

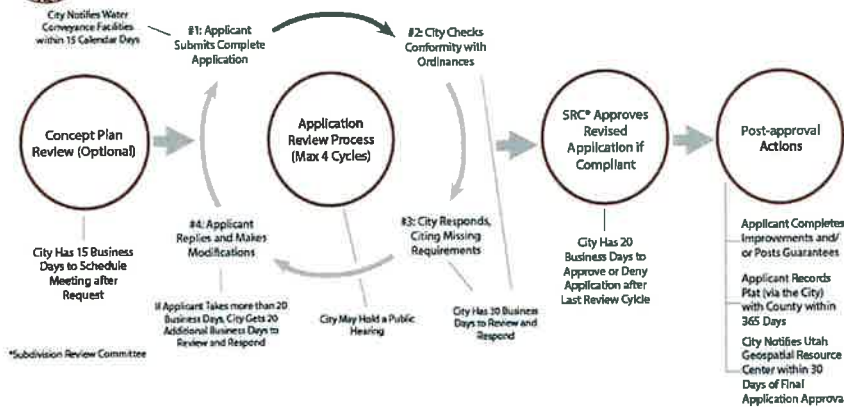
*Includes single-family homes, duplexes, and townhomes.
 **Describes the total time (per review cycle) the City may take to complete both Phase #2 and Phase #3.

Commented [14]: The City can adjust this deadline as it pleases.

Commented [JH15R14]: The City can also adjust the review phase limit and public hearing limits for “all other uses”.



SUBDIVISION APPLICATION REVIEW PROCESS



Commented [JH16]: We will update this flowchart once we're done making substantive changes to the process. If you like the idea of it, we can leave it here in the code and/or put in on the application forms in an instructional page.

4. The Subdivision Review Committee (and any other representatives of the City) shall adhere to the maximum number of review cycles and the review deadlines described in Table A, except as described below. If no further revisions are needed, the Subdivision Review Committee may end the review period early and approve or deny the application.

- This provision notwithstanding, for any subdivision application that affects property within an identified geological hazard area, the City is exempt from limits on the number of permitted review cycles and the City's deadlines for reviewing and responding (Phases #2 and #3).
- If the applicant makes a material change to the application not requested by the City at any point in the review process, the Subdivision Review Committee may restart the review process, but only with respect to the portion of the application that the material change substantively affects.
- If an applicant takes longer than 40 business days to submit a revised subdivision improvement plan responding to the City's requests for modifications and additions (in Phases #1 and #4), the City shall have an additional 20 business days to review and respond to the revised application (Phases #2 and #3 of the next review cycle or issuing an approval decision).
- If an applicant takes longer than 180 calendar days to submit a revised application and respond to the City's requests for modifications and additions (Phases #1 and #4), the application shall, at the option of the Subdivision Review Committee, expire. If an application expires, the applicant must restart the subdivision application process.

5. After the fourth or final review cycle is complete, the Subdivision Review Committee shall approve or deny the respective application within 20 business days

Commented [17]: This provision is optional and the City can extend it as long as it wants, though I wouldn't go shorter than 6 months.

- a. If the Subdivision Review Committee has not approved or denied the application within 20 business days after the fourth and final review, the applicant may request a final decision. After such a request, the City shall, within 10 business days:
 - i. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Utah Code §10-9a-508(5)(d) to review and approve or deny the revised set of plans; or
 - ii. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to the designated Appeal Authority.
6. After the Subdivision Review Committee provides comments in the fourth or final review cycle, the City shall not require further modifications or corrections to the application unless those modifications or corrections are necessary to protect public health and safety or to enforce state or federal law or unless the review cycle reset due to the applicant making a material change that the Subdivision Review Committee did not request.
 - a. With the exception of modifications or corrections **that are** needed to protect public health and safety, that are needed to enforce state or federal law, or that arise from the review cycle being reset, the City waives noncompliant subdivision-related requirements that the Subdivision Review Committee does not identify during the review process.
 - b. The applicant shall make reasonable **changes, unless** prohibited otherwise by a **contract** or deed, to the subdivision application to **accommodate** the water conveyance **facility** to the extent required by Utah Code §73-1-15.5.
7. The Subdivision Review Committee may conduct one (but no more than one) public hearing during the review period for a subdivision application.
 - a. The purpose of these public hearings is to ask questions of the applicant and receive commentary on the technical aspects of the application from affected entities, interested parties, and the public.
 - b. If the Subdivision Review Committee elects to hold this public hearing, the hearing must occur before the end of the Subdivision Review Committee's review period in the fourth or final review cycle. Scheduling issues shall not extend the review and approval deadlines in this Chapter.
 - c. Unless waived by the Subdivision Review Committee at least seven days prior to this hearing, the applicant shall mail to all property owners of property located within 500 feet of the boundary of the proposed subdivision written notice of the time, date and place where the Subdivision Review Committee will hold a public hearing to consider giving approval to the subdivision. The written notice shall also advise the property owner that she or he has the right to be present and to comment on the proposed subdivision. The applicant shall provide the Subdivision Review Committee with the names of all persons to whom the notice was mailed.
8. Other chapters of this Title notwithstanding, the Subdivision Review Committee shall approve or deny a subdivision application under this Chapter after reviewing a complete subdivision application as described in this Section. This singular application and review process includes the combined elements of traditional "preliminary" and "final" applications, as those terms are

Commented [18]: This section about the public hearing is optional, and with subdivision applications being all administrative at this point, the City may not need to hold one at all.

used in Utah Code § 10-9a-604.2. For purposes of applying Utah Code §10-91-604.1(3)(a) and §10-91-604.1(9)(b), this Chapter describes a “preliminary” review and approval, with “final” approval happening automatically when the plat is recorded.

14.02.130 Approval

1. The Subdivision Review Committee shall approve any complete subdivision application made under this Chapter that complies with applicable municipal ordinances.
2. A subdivision application is approved when the Subdivision Review Committee certifies the approved plat, either by signing the plat directly or by attaching a signed certification to the plat.

14.02.140 Post-Approval Actions

1. The applicant shall record the approved subdivision plat with the County Recorder's Office within 12 months after the Subdivision Review Committee approves the subdivision application, provided that the applicant has completed any improvements or posted any performance guarantee required by City ordinances or described in the approved improvement plan. The applicant shall not record the approved plat until such improvements are completed or guaranteed in compliance with City ordinances and the approved improvement plan.
 - a. An approved plat not properly recorded within the timeline specified in this provision is void, unless the Subdivision Review Committee approves an extension.

14.02.150 Amending Existing Subdivisions

1. The City Council may vacate a subdivision or a portion of a subdivision by enacting an ordinance to that effect that describes the subdivision or the portion being vacated and recording that ordinance in the County Recorder's Office.
2. A property owner or agent of a property owner may correct minor typographical or clerical errors in a document of record by filing with the County an affidavit or other appropriate instrument. This provision does not apply to changing the name of a subdivision, which requires a material amendment described in the following provisions.
3. Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition the City Council to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section. This petition must meet all the requirements for a subdivision application specified in Section 14.02.080, with the following changes:
 - a. The plat (or the record of survey map, if applicable) should:
 - i. Depict only the portion of the subdivision that is proposed to be amended;
 - ii. Include a plat name distinguishing the amended plat from the original plat;
 - iii. Describe the differences between the amended plat and the original plat;
 - iv. Include references to the original plat; and

Commented [19]: The City can make this as long as it wants.

Commented [JH20]: This section describes various plat amendments, and it follows the way the state code is written about them. If you have other preferences, we can get creative here.

Commented [JH21R20]: If you like this section, we can merge it with the following few sections about amendments.

- v. Meet all the other plat requirements specified in Section 14.02.080.2.b.
 - b. The name and address of all owners of record of the land contained in the entire plat;
 - c. The name and address of all owners of record of the land adjacent to any street that is proposed to be vacated, altered, or amended; and
 - d. The signature of each of these owners who consents to the petition.
4. The City Council may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.
 5. If a petition is filed, the City Council (or City staff, as delegated) shall provide notice of the petition to:
 - a. Each utility provider that services a parcel of the subdivision. The City shall not approve an amendment petition until at least 10 calendar days after noticing these utility providers. The City may notify the utility providers in any effective manner (email, mail, etc.).
 - b. Each property owner in the subdivision. The City shall notify these property owners in the manner described in 14.02.160.
 - c. Upon receipt of a petition, the governing body shall hold the public hearing within 45 days after it is filed if:
 - a. A property owner objects in writing to the amendment within 10 days of the City notifying the property owner by mail, or
 - b. Not every property owner in the subdivision has signed the revised plat.
 7. Notwithstanding Section 14.02.150.5, the City Council need not hold a public hearing if notice has been given to adjoining property owners in accordance with any applicable local ordinance and the petition seeks to:
 - a. Join two or more of the petitioner's contiguous lots;
 - b. Subdivide one or more of the petitioner's lots;
 - c. Adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;
 - d. On a lot owned by the petitioner, adjust an internal lot restriction imposed by the local political subdivision; or
 - e. Alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not owned by the petitioner or designated as a common area.
 8. If the City Council approves the amendment petition, the City Council shall sign the amended plat in the manner described in Section 14.02.130.2, and the petitioner shall record the plat, subject to the completion or guarantee of any improvements, as described in Section 14.02.140.

14.02.160 Notice of Hearing for Plat Change

1. The City Council shall give notice of the date, place, and time of a hearing before them to consider a vacation, alteration, or amendment without a petition or to consider any petition that does not include the consent of all land owners as required by Utah Code Section 10-9a-207 & 208 by mailing the notice of hearing to all owners referred to in Utah Code Section 10-9a-207 & 208, addressed to their mailing addresses appearing on the rolls of the Beaver County Assessor.
2. If the proposed change involves the vacation, alteration, or amendment of a street, the City Council shall give notice of the date, place, and time of the hearing by:
 - a. mailing the notice as required in Subsection (1); and
 - b. either:
 - i. publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the City; or
 - ii. if there is no newspaper of general circulation in the City, post the notice for four consecutive weeks before the hearing in three public places in the City

14.02.170 Grounds for Vacation or Changing A Plat

1. Within 30 days after the public hearing required by this part, the City Council shall consider the petition.
 - a. If the City Council is satisfied that neither the public nor any person will be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the City Council, by ordinance, may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.
 - b. The City Council shall ensure that the vacation, alteration, or amendment is recorded in the office of the Beaver County Recorder.
2. An aggrieved party may appeal the City Council's decision to district court as provided in Section 10-9-1001.

14.02.180 Lot Line Adjustments

1. The fee owners of two parcels may petition to adjust the lot line separating the parcels without a subdivision amendment. Such a petition shall include:
 - a. A record of survey map and a metes-and-bounds description showing the adjustment.
 - b. An explanation of the reason for the adjustment.
 - c. Signatures from all the parcel owners involved in the adjustment.
 - d. Any other information the Planning Commission requests.
2. If the adjustment will not result in a violation of a land use ordinance or an adverse development condition, the Planning Commission shall approve the petition.

3. If the adjustment is approved, the Planning Commission shall sign the record of survey map and accompanying metes-and-bounds description, and the petitioner shall record the document in the County Recorder's Office.

14.02.190 Required Improvements

1. The applicant, as a condition of approval of the plat and prior to the recordation of the plat, consistent with The Municipal Land Use Development and Management Act, shall improve or agree and guarantee to improve all land either within or outside the subdivision to be used for public or private streets, alleys, pedestrian ways, easements or other improvements in compliance with this Ordinance.
2. Completion of improvements outlined within this Chapter shall be in compliance with any agreement entered into by the applicant and the City as well as plans and engineering standards applicable at the time of issuance of grading or building permits.

14.02.195 Improvement Exemptions

1. The following streets within Milford City are exempt from developer and/or homeowner installing the paving requirements. However, the developer and/or homeowner can at their own expense install the street improvements if desired.
 - a. Milford Heights Subdivision:
 - i. 600 West from 600 South to 900 South
 - ii. 800 South from 700 West to 550 West
 - b. Lewis Addition Subdivision:
 - iii. 700 West from Center Street to 100 North
 - iv. 100 North from 700 West to 600 West
 - c. North Milford Latey and Williams Townsite Subdivision:
 - v. 200 North From 100 East to 200 East
 - vi. 300 North from 100 East to 200 East
 - vii. 200 East from 200 North to 400 North

HISTORY

Adopted by Ord. 01-2023 on 1/17/2023

14.02.200 Improvement and Design Standards

1. The following standards shall apply to the design and construction of all improvements required by City ordinances:
 - a. The current (2007) edition of the **Manual of Standard Specifications** published by the Utah Chapter of the American Public Works Association (APWA), as amended. References to "owner" shall mean Milford City and references to "engineer" shall mean Milford City's engineer.

Commented [JH22]: Added this as the City recently amended it.

- b. The current (2007) edition of the **Manual of Standard Plans** published by the Utah Chapter of the American Public Works Association (APWA), as amended.
 - c. Any other requirements in this Title.
2. The applicant shall provide and install all required streets and related improvements, either within or outside the subdivision, in compliance with the policies and procedures of the Milford City Engineering Standards, and the serving utility company. These improvement requirements shall be imposed as a condition of approval at the plat stage, and shall be completed or bonded for prior to recordation of the plat.
 3. After final approval of the street lighting systems, it shall become the property of the City except where installed by a public utility or attached to poles or a system owned by a public utility.

14.02.210 Maps And Plats Required

1. Whenever any lands are laid out and platted, the owner of the land shall cause an accurate map or plat to be made of them that sets forth and describes:
 - a. All the parcels of ground laid out by their boundaries, course and extent, and whether they are intended for streets or other public uses, together with any areas that are reserved for public purposes; and
 - b. All blocks and lots intended for sale, by numbers, and their precise length and width.
2. The owner of the land shall acknowledge the map or plat before an officer authorized by law to take the acknowledgement of conveyances of real estate.
 - a. The surveyor making the map or plat shall certify it.
 - b. The City Council shall approve the map as provided.
3. After the map or plat has been acknowledged, certified and approved, the owner of the land shall file and record it in the Beaver County Recorder's Office.

14.02.210 Undergrounding Of Utilities

The applicant, as a condition of approval of a plat, shall provide for the undergrounding of all existing and proposed utility distribution or transmission facilities (e.g. cable television, electric, gas, telephone and water), within the subdivision and along peripheral streets.

14.02.220 Storm Drain Retention And Sewer

The applicant, as a condition of approval of the plat, shall provide and install storm drainage and/or retention improvements and sanitary sewer facilities, within and/or outside the subdivision, in compliance with the Milford City Engineering Standards.

14.02.230 Water Supply

The applicant, as a condition of approval of a plat, shall provide and install adequate water supply facilities as stipulated by the impact fee ordinance, either within and/or outside the subdivision, in compliance with the requirements of the Milford City Engineering Standards. Design and installation plans shall be subject to approval by the City Engineer.

14.02.240 Wells

Any water wells which are required to be abandoned by conditions of approval or state law shall be abandoned in a manner approved by the City Engineer and the State Department of Water Resources. The location of any well shall be delineated on the final map, and well logs, if available, shall be submitted to the City.

14.02.250 Wind Erosion

The applicant, as a condition of approval of a plat, for a subdivision located within an area subject to high wind erosion shall comply with the following standards, consistent with the General Plan and this Ordinance:

1. Lots within and/or outside of the subdivision that have had soil disturbed during construction shall be covered with protective landscaping materials, subject to the approval of the City Engineer; and,
2. Prior to and during construction, streets and disturbed open areas within and/or outside of the subdivision shall be treated by watering or other approved method to prevent fugitive dust.

14.02.260 Energy Conservation

The use of passive solar techniques should be incorporated into the design of the subdivision which serves to reduce interior summertime temperatures and increase interior wintertime temperatures.

14.02.270 Access

All subdivisions shall abut or have an approved access to a public street. In addition, the following standards shall apply:

1. Each lot or unit within the subdivision shall have approved direct access to a public or private street; and
2. Street layout shall be designed to provide for future access to, and not impose undue hardship upon, property adjoining the subdivision; and
3. Direct driveway access from individual residential lots onto divided major arterials, major arterials or minor arterials shall be avoided; and
4. In the case of private streets, the applicant shall provide an appropriate method for permanent maintenance subject to approval of the City Engineer and the City Attorney; and
5. Reserve strips, or non-access at the end of any street or at the exterior boundary of the subdivision, shall be dedicated unconditionally to the City, when required; and
6. A plat shall provide for at least two ingress and egress points from collector or, if necessary, arterial roadways.

14.02.280 Curb, Gutter And Sidewalk

Any proposed subdivision of land outside the originally recorded plats for Milford City shall be subject to the following:

1. All subdivision proposals regardless of size or exemption shall be required to provide curb, gutter, and sidewalk along all abutting roadways for a distance equal to the length of the common boundary shared with said roadway.
2. Any single family parcel(s) regardless of zoning with lot frontage requirements of 200 feet or greater are not required to provide curb, gutter, and sidewalk along roadways which are interior to the project.
3. Any single family parcel(s) regardless of zoning with lot frontage requirements of less than 200 feet are required to provide curb, gutter, and sidewalk along roadways which are interior to the project.
4. Any parcel(s) which meet the provisions of subsection 1 above shall be subject to the provisions of subsection 2 above in the event that said parcel(s) are re-zoned and re-subdivided such that resulting lots have a required lot frontage of less than 200 feet.
5. Curb, Gutter and Sidewalk. Any Subdivision, or addition of land included in the originally recorded plats for Milford City shall be subject to the following: All owners, as recorded with the Beaver County Recorder, of lot(s), parcels(s) in the City regardless of zoning, size or exemption shall be responsible to maintain, keep clear, repair or replace any curb, gutter, sidewalk, driveways or portions of same that share common boundary with the lot(s), parcel(s) and all abutting roadway.

14.02.290 Improvement Plans

Improvement Plans shall be prepared by a registered civil engineer licensed by the State of Utah, and shall include, but not be limited to, all improvements required in this Chapter.

1. Form and Content: The form, content and supporting data of an improvement plan shall conform to the requirements of the City Engineer.
2. Review and Approval by City Engineer: The applicant shall submit the preliminary improvement plans and all supporting data to the City Engineer for review. The applicant shall revise the improvement plans, if necessary, as required by the City Engineer. Upon completion of the improvement plans and satisfaction of all other requirements of this Ordinance, the applicant shall transmit the original set of improvement plans to the City Engineer for final review and signature. The originals shall be retained by the City.
3. Approval by the City Engineer shall in no way relieve the applicant or the applicant's engineer from responsibility for the design of the improvements and for any error, omission or any deficiency resulting from the design or from any required conditions of approval of the preliminary plat.
4. Revisions to Approved Plans:
 - a. By Applicant: Requests by the applicant for revisions to the approved plans, appearing necessary during construction, shall be submitted in writing to the City Engineer and shall be accompanied by revised drawings showing the proposed revision(s). If found acceptable and consistent with the approved preliminary plat, the amended originals shall be initialed by the City Engineer. Construction of any proposed revision(s) shall not proceed until the revised plans have been initialed by the City Engineer.
 - b. By City Engineer: When revisions are deemed necessary by the City Engineer to protect the public health and safety, or as field conditions may require, a request shall be made to the applicant. The applicant shall revise the plans and transmit the original(s) to the

City Engineer for initialing within the time specified by the Engineer.

- c. Construction of all, or any portion of, the improvements may be stopped by the City Engineer, until the revised drawings have been submitted, approved and initialed.

14.02.300 Supplemental Improvements

The applicant may be required to install improvements for the benefit of the subdivision which may contain supplemental size, capacity or number for the benefit of property not within the subdivision as a condition precedent to the approval of a plat map, and thereafter to dedicate such improvements to the public. However, the applicant shall be reimbursed for that portion of the cost of such improvements equal to the difference between the amount it would have cost the applicant to install such improvements to serve the subdivision only, and the actual cost of such improvements. The reimbursement shall be in conformance with an agreement approved by the Council. No improvements shall be constructed prior to approval of the agreement.

1. The owner of property serviced by a sewer main extended by the owner 300 feet or more beyond the existing sewer facilities as measured from the point of connection with such existing facilities to the point where the extension enters the lot, parcel or tract to be served by such line, may file with the city Engineer, 2 copies of an audited report of the costs incurred for the sewer line extension and manhole construction (except laterals) as an application for the reimbursement of the costs. The reports shall be filed within 90 days after written acceptance of such extension by the City. The city Engineer shall review such documentation and shall within 45 days after acceptance of same, make a recommendation to the City Administrator that:
 - a. All or a portion of the costs be accepted or denied;
 - b. The City enter into a payback agreement with the owner or applicant. The agreement shall provide that persons making connection to the line be assessed a fee on a pro rata basis as determined by the frontage of the lot, parcel, or tract serviced by the sewer line extension and, that all fees collected shall be paid to the original builder of the line. Any such agreement shall have a maximum term of 10 years and shall not pay interest; or
 - c. The owner receive immediate payment from the sewer construction fund of the allowed costs of the construction.
2. The recommendation of the City Engineer shall be based upon the following criteria:
 - a. That the extension represents a logical and reasonable extension of the sewer line;
 - b. Properties along the extension have a reasonable probability of development within the ensuing 10 years;
 - c. There are sufficient unencumbered funds in the sewer line construction fund to finance the line;
 - d. The extension does not conflict with or delay the 5 year sewer line construction plan;
 - e. The extension is in compliance with the General Plan; and
 - f. The owner is not receiving any other form of government financing including but not limited to inducement, reimbursement, or fee waiver for such development.
 - g. Based on the above, the City Administrator shall submit a recommendation to the

Council.

3. No reimbursement shall be made hereunder unless and until the City Administration determines that the audited report and verified claim have been filed within the allotted time periods and are otherwise acceptable to the City.

14.02.310 Improvement Agreement

The improvement agreement shall be prepared and signed by the Mayor and approved as to form by the City Attorney. The agreement shall provide for the following:

1. Construction of all improvements according to approved plans and specifications on file with the City Engineer;
2. Completion of improvements within the time specified by Section 14.02.180. (Required Improvements);
3. Right by City to modify plans and specifications;
4. Warranty by applicant that construction will not adversely affect any portion of adjacent properties;
5. Payment of fees in compliance with the City's "Schedule of Fees";
6. Payment of in-lieu fees for undergrounding utilities on peripheral streets as well as payment of in-lieu fees for parkland dedication as may be required;
7. Payment of Area of Benefit Fees, if applicable;
8. Improvement security as required by Section 14.02.220. Improvement security for subdivisions of 4 or less parcels shall be provided before performance of the work;
9. Maintenance and repair of any defects or failures and causes thereof;
10. Release of the City from all liability incurred by the subdivision and payment of all reasonable attorney's fees that the City may incur because of any legal action resulting from the subdivision; and
11. Any other deposits, fees or conditions required by this Ordinance, and as may be required by the City Engineer.
12. Maps and plats, when made, acknowledged, filed, and recorded according to the procedures specified in part 6 of chapter 9a of title 10 of the Utah State Code, operate as a dedication of all streets and other public places, and vest the fee of those parcels of land in the City for the public for the uses named or intended in those maps or plats.
13. The dedication established by section 10-9a-607 of the Utah State Code does not impose liability upon the City for streets and other public places dedicated in this manner but are unimproved.

14.02.320 Completion of Improvements

1. Before a subdivision plat may be recorded, and before a building permit may be issued, all improvements required by this Chapter or other City ordinances shall be either:
 - a. Completed, inspected, and accepted by the City, or

- b. Guaranteed according to Section 14.02.320.
- 2. The decision whether to guarantee an improvement or to complete it before recording and obtaining a building permit rests solely with the applicant.
- 3. All improvements are subject to City inspection before such improvements may be accepted by the City or considered complete. The Land Use Authority shall be responsible for conducting such inspections. Improvements shall be accepted only if they conform to applicable City ordinances (notably Chapter (subdivision design standards) of this Title) and do not pose a risk to public health or safety. All public improvements are subject to the warranty described in Section 14.02.320.
- 4. The provisions of this Chapter do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

14.02.330 Improvement Security

1. General

- a. **Improvement Agreement:** The applicant shall enter into a contract with the City, acceptable to the City Attorney, to make, install and complete within the time fixed, but in no case more than two years from the date of execution of the contract, all improvements and land alteration(s) in compliance with approved plans.
- b. If an applicant elects to guarantee any required improvement, the applicant shall provide completion assurance for 110% of the cost of the improvement, guaranteeing that the improvements will be completed within two years after the date of the guarantee.
- c. For the purpose of posting an improvement guarantee, the cost of the improvement shall be determined by an engineer's estimate or licensed contractor's bid.
- d. The City shall accept any of the following forms of guarantee for an improvement:
 - i. **Bonds.** All bonds shall be executed by a surety company authorized to transact business as a surety, and have an agent for service in Utah, together with an "A" policy holder's rating and a financial rating of at least "V" in compliance with the current "Best's" ratings. The bond(s) shall contain the nearest street address of the institution providing the bond(s).
 - ii. **Cash Deposits.** In lieu of the faithful performance and labor and material bonds, the applicant may submit cash deposits or negotiable bonds of a kind approved for securing deposits of public monies under the conditions hereinafter described. Disbursements from cash deposits shall be made in compliance with a separate agreement between the applicant and the City. A bookkeeping fee of 1% of the total amount deposited with the City for each cash deposit shall be submitted with each security. Disbursements from a cash deposit in any instance shall not be permitted unless and until authorized in writing by the Director of Public Works.
 - iii. **Letter of Credit.** In lieu of faithful performance and labor and material bonds or cash deposits, the applicant may submit a letter of credit subject to the Utah Commercial Code and under the conditions hereinafter described. The letter of credit shall be issued by a financial institution organized and doing business

in, and subject to regulation by, the State of Utah or federal government, in a form, content, and duration as approved by the City Attorney, and shall pledge that the funds necessary to meet the performance are on deposit and guaranteed for payment and agree that the funds designated by the instrument shall become secured trust funds for the purposes set forth in the instrument. The letter of credit shall contain the nearest street address of the institution providing the instrument.

- iv. Other securities as approved by the Milford City Council and Milford City Attorney.
 - 1. The City Clerk shall not endorse or sign its certificate contained on the final map unless and until improvement security as herein above specified has been posted.
 - 2. The requirements stipulated above are applicable to any subdivision for which the installation of any public improvements or grading is a condition of approval.
 - 3. No final map shall be presented to the City Council for acceptance until the requirements of this Section have been met and until all charges established by the Council and pertaining to the property being subdivided have been paid.
- e. The City shall not require improvement guarantees for any of the prohibited uses listed in Utah Code §10-9a-604.5(3)(d), including improvements the City has previously inspected and accepted, private improvements that are not essential to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation.
- f. Release of Security: Security provided may not be released. In the case of a letter of credit, the issuing bank or association will receive a copy of the Notice of Completion.
- g. Progress Payments: Progress payments may be made to the applicant from any deposit money or letter of credit which the applicant may have made in lieu of providing a security bond; provided, however, that no progress payment shall be made for more than 90% of the value of any installment of work. No progress payments from cash deposits shall be made except upon certification by the City Engineer, and the applicant that work covered thereby has been completed.
- 2. Release of Security: Improvement bonds given for faithful performance of the agreement shall be released upon final inspection and acceptance by the City Engineer. The labor and material bond shall be retained to secure payment to the contractor, the subcontractors, and to persons renting equipment or furnishing labor or materials for 6 months after completion and acceptance of the work. Following the 6 month period, the labor and material security may be reduced to an amount not less than the total of all claims on which an action has been filed and notice given in writing to the City.
- 3. Maintenance Guarantee: The applicant shall guarantee all public improvements for a period of 1 year from the date of final acceptance and shall correct any and all defects or deficiencies arising during that period of limitation outlined, as a result of the acts or omissions of the applicant, its agents, or employees. The subdivision guaranty shall be backed by a bond or cash deposit in the amount of 25% of the surety posted for improvements. The City shall provide

written notice of the defect or deficiency. In any instance where the applicant fails to take action within the specified time, or when immediate action is required to protect the public health, safety and/or welfare, the City may cause the work to be performed and call on the surety for reimbursement. The maintenance security shall be submitted prior to final acceptance of the public improvements by the City.

4. Forfeiture of Surety: In the event that the applicant fails to complete all improvement work in compliance with the provisions of this Section and the improvement agreement, and the City shall have to complete the same, the City shall call on the security for funds necessary to complete the improvement as reimbursement or shall appropriate from any cash deposit funds for reimbursement. If the amount of any security shall be less than the cost and expense incurred by the City, the applicant shall be liable to the City for such difference. Any cash remaining in the possession of the City after completion of the improvement, shall be returned to the originator minus normal administrative costs.

14.02.340 Construction And Inspection

1. The construction methods and materials for all subdivision improvements shall conform to Milford City Engineering Standards.
2. Construction shall not commence until all required improvement plans have been approved by the City Engineer and all applicable City permits have been issued. All subdivision improvements are subject to inspection by the City Engineer and shall comply with City requirements.

14.02.350 Completion Of Improvements

1. All Subdivisions: The subdivision improvements shall be completed by the applicant within twelve months, or a later time as approved by the City Engineer, not to exceed a total of twenty-four months, from final map recordation, unless an extension is granted by the City Council.
2. If the applicant fails to complete the subdivision improvements within the specified time limits, the Council may, by resolution, cause any or all incomplete improvements to be completed and the parties executing the security or securities shall be firmly bound for the payment of all necessary and appropriate costs.
3. Extensions:
 - a. The completion date may be extended by the Council upon written request by the applicant and submittal of adequate evidence to justify the extension. The request shall be made no less than thirty days prior to expiration of the subdivision improvement agreement.
 - b. The applicant shall enter into a subdivision improvement agreement extension with the City. The agreement shall be prepared by the City Engineer, approved as to form by the City Attorney, executed by the applicant and surety and transmitted to the Council for consideration. If approved by the Council, the City Clerk shall execute the agreement on behalf of the City.
 - c. In consideration of a subdivision improvement agreement extension, the following adjustments may be required:
 - i. Revision of improvement plans to provide for current design and construction standards when required by the City Engineer;

- ii. Revised improvement construction estimates to reflect current improvement costs as approved by the City Engineer;
 - iii. Increase of improvement securities in compliance with revised construction estimates;
 - iv. Inspection fees may be increased to reflect current construction costs, but shall not be subject to any decrease or refund; and
 - v. Any fees then in effect.
- d. The Council may impose additional requirements as recommended by the City Engineer or as it may deem necessary as a condition to approving any time extension for the completion of subdivision improvements.

14.02.360 Acceptance Of Improvements

1. General: After all improvement deficiencies have been corrected and "Drawings of Record" improvement plans filed, the completed subdivision improvements shall be considered by the City Engineer for acceptance. The developer shall be responsible for the cost of providing "as built" revisions to the approved original "drawings of record" on file in the office of the City Engineer. Redlined drawings shall not be accepted for "as built" revisions.
2. Acceptance of the improvements shall imply only that the improvements have been completed satisfactorily and that public improvements have been accepted for public use.
3. Acceptance of a Portion of Improvements: Upon written report of the applicant, the City Engineer may accept a portion of the subdivision improvements. The improvements shall only be accepted if the City Engineer finds that it is in the public interest, and the improvements are for the use of the general public.
4. Acceptance of a portion of the improvements shall not relieve the applicant from any other requirements imposed by this Development Code.
5. Upon acceptance of all required improvements, the applicant shall warrant that said improvements shall remain free from defects in material and workmanship for a period of 12 months after the date of acceptance by the City. The subdivider shall be solely responsible for all repairs and maintenance required to keep the improvements in good working condition for this 12-month period.

14.02.370 Dedication Of Streets, Alleys And Other Rights-Of-Way Or Easement

The applicant, as a condition of approval of a plat, shall dedicate, or make an irrevocable offer of dedication of, all parcels of land within the subdivision that are needed for streets and alleys, including access rights and abutter's rights, drainage, public open space, trails, scenic easements, public utility easements and other public easements, pursuant to The Municipal Land Use Development and Management Act. In addition, the applicant shall improve or agree to improve all the aforementioned dedications and easements.

14.02.380 Dedications

At the time of completion of roadway improvements, all roadways must be dedicated to the city as public roadways. All dedications of property to the City for public purposes may be made in fee title, and that, at the City's discretion, a grant of an easement may be accepted for open space, scenic trails, parks, and/or

public utility easements. All dedications in fee and grants of easements shall be free of liens and encumbrances except for those which the City finds would not conflict with the intended use. The City may accept an irrevocable offer of dedication in lieu of dedication.

14.02.390 Parks And Recreation Facilities

1. General: The purpose of this section is to provide for future park and recreational facilities and open space. The park and recreational facilities for which payment of a fee and/or dedication of land is required by future Impact Fee Ordinance and shall be in compliance with the policies, goals and standards contained in the Parks and Recreation Element of the General Plan.
2. Requirements: The applicant, as a condition of approval of a plat, shall pay all fees and/or dedications of land as the City Council shall impose from time to time through the enactment of Impact Fee Ordinances

14.02.400 Reservations

The applicant, as a condition of approval of a plat, may be required to reserve areas of real property for parks, recreational facilities, fire stations, libraries or other public uses.

14.02.410 Waiver Of Direct Access Rights

The City shall require as a condition of approval of a plat dedication of streets designated as arterial highways, including waiver of direct access rights, except at approved access points. The City may require as a condition of approval of a plat that dedications or offers of dedication of streets include a waiver of direct access rights to any street from any property within or abutting the subdivision. The waiver shall become effective upon acceptance of the dedication.

14.02.420 Project Phasing

In the event that required subdivision improvements are not intended to be made for the project as a whole, the subdivider shall submit a phasing plan for improvements. The phasing plan shall designate the number of phases, the number of lots per phase, the sequence of improvement, and shall be subject to all other provisions of this ordinance and the Milford City Engineering Standards.

14.02.430 Street Lights Required

All subdivision applications and other development shall provide for adequate street lighting to service the proposed subdivision or development.

14.02.440 Fire Hydrants Required

All subdivision applications and other development shall provide for adequate placement and availability of fire hydrants to service the proposed subdivision or development.

14.02.450 Drainage

All subdivision applications and other development shall provide for adequate stormwater drainage to prevent flooding in the proposed subdivision or development.

Commented [JH23]: Lisa mentioned you wanted these improvements required as well. This is just a start for you to customize further.

14.02.460 Enforcement And Penalties

The provisions for enforcement and penalties associated with this chapter shall be as stated in Utah Code Title 10, Chapter 9a, Part 802 & 803.

14.03 Disposal Of Real Property

14.03.010 Public Comment

Before the City may dispose of a significant parcel of real property, the City shall provide reasonable notice of the proposed disposition and allow the opportunity for public comment on the proposed disposition.

14.03.020 Significant Parcel Of Real Property

For the purposes of this chapter a significant parcel of real property is a parcel of real property with a value as determined by the Beaver County Assessor greater than \$5,000.00.

14.03.030 Reasonable Notice

For the purposes of this chapter reasonable notice shall consist of at least one publication in a newspaper in general circulation in Milford City and on the Utah Public Notice Website and posting public notice of the public hearing in at least three public places within Milford City, all at least fourteen (14) days before the public hearing.