



## Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050  
Phone: (385) 468-6700 • Fax: (385) 468-6674

# Town of Brighton Planning Commission

## Public Meeting Agenda

### Wednesday, October 16, 2024 6:00 pm

#### Location:

##### Join meeting in WebEx

Meeting number (access code): 961 841 420

<https://slco.webex.com/meet/wgurr>

Join meeting in WebEx (download available at <https://www.webex.com/downloads.html> for Windows, Android, and Apple devices)

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Dial [wgurr@slco.webex.com](mailto:wgurr@slco.webex.com)

You can also dial 173.243.2.68 and enter your meeting number.

Need help? Go to <http://help.webex.com>

**Anchor Location:** Big Cottonwood Fire Station  
7688 South Big Cottonwood Canyon Road

**UPON REQUEST, WITH 5 WORKING DAYS NOTICE, REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED. PLEASE CONTACT WENDY GURR AT 385-468-6707.  
TTY USERS SHOULD CALL 711.**

The Planning Commission Public Meeting is a public forum where, depending on the agenda item, the Planning Commission may receive comment and recommendations from applicants, the public, applicable agencies and MSD staff regarding land use applications and other items on the Commission's agenda. In addition, it is where the Planning Commission takes action on these items, which may include: approval, approval with conditions, denial, continuance, or recommendation to other bodies as applicable.

## BUSINESS MEETING

- 1) Approval of the September 18, 2024 Planning Commission Meeting Minutes.  
(Motion/Voting)
- 2) Other Business Items. (As Needed)

## **PUBLIC HEARING(S)**

**OAM2024-001256** – Amendment to 19.12.030 of the Brighton Code to change the term of service for planning commission members from four (4) years to five (5) years. **Planner:** Curtis Woodward (Discussion/Motion)

**OAM2024-001271** – Public Hearing on Drafted Title 18 (Subdivisions). MSD Staff has been working on draft amendments to Title 18 (Subdivisions) of the Town of Brighton Municipal Code in response to comply with 2024 Utah State Legislative Mandates. This change affects all areas within the Town of Brighton. The drafted sections of Title 18 will be proposed as a repeal and replacement of existing Title 18 of the Municipal Code. This change covers ordinance text amendments ONLY. There is no map amendments proposed at this time. **Planner:** Brian Tucker, Planning Manager (Discussion/Motion)

**OAM2024-001275** - Amendment to Section 19.04.020 (30), the definition of “Lot of Record” and to Section 19.04.030, the definition of “Lot” of the Town of Brighton Municipal Code. MSD Staff is proposing to combine these two definitions into one to create consistency in the code. **Planner:** Brian Tucker, Planning Manager (Discussion/Motion)

## **ADJOURN**

# **Rules of Conduct for Planning Commission Meetings**

## **PROCEDURE FOR PUBLIC COMMENT**

1. Any person or entity may appear in person or be represented by an authorized agent at any meeting of the Commission.
2. Unless altered by the Chair, the order of the procedure on an application shall be:
  - a. The supporting agency staff will introduce the application, including staff's recommendations and a summary of pertinent written comments and reports concerning the application
  - b. The applicant will be allowed up to 15 minutes to make their presentation.
  - c. The Community Council representative can present their comments as applicable.
  - d. Where applicable, persons in favor of, or not opposed to, the application will be invited to speak.
  - e. Where applicable, persons opposing the application, in whole or in part will be invited to speak.
  - f. Where applicable, the applicant will be allowed 5 minutes to provide concluding statements.
  - g. Surrebuttals may be allowed at the discretion of the Chair.

## **CONDUCT FOR APPLICANTS AND THE PUBLIC**

1. Speakers will be called to the podium by the Chair.
2. Each speaker, before talking, shall give his or her name and address.
3. All comments should be directed to the Commissioners, not to the staff or to members of the audience.
4. For items where there are several people wishing to speak, the Chair may impose a time limit, usually 3 minutes per person, or 5 minutes for a group spokesperson. If a time limit is imposed on any member or spokesperson of the public, then the same time limit is imposed on other members or spokespersons of the public, respectively.
5. Unless otherwise allowed by the Chair, no questions shall be asked by the speaker or Commission Members.
6. Only one speaker is permitted before the Commission at a time.
7. The discussion must be confined to essential points stated in the application bearing on the desirability or undesirability of the application.
8. The Chair may cease any presentation or information that has already been presented and acknowledge that it has been noted in the public record.
9. No personal attacks shall be indulged in by either side, and such action shall be sufficient cause for stopping the speaker from proceeding.
10. No applause or public outbursts shall be permitted.
11. The Chair or supporting agency staff may request police support to remove offending individuals who refuse to abide by these rules.
12. After the public comment portion of a meeting or hearing has concluded, the discussion will be limited to the Planning Commission and Staff.



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### MEETING MINUTE SUMMARY

#### TOWN OF BRIGHTON PLANNING COMMISSION MEETING

Wednesday, September 18, 2024 6:00 p.m.

Approximate meeting length: 1 hour 54 minutes

Number of public in attendance: 11

Summary Prepared by: Wendy Gurr

Meeting Conducted by: Commissioner Machlis

**\*NOTE: Staff Reports** referenced in this document can be found on the State website, or from Planning & Development Services.

### ATTENDANCE

#### Commissioners and Staff:

Commissioners	Public Mtg	Business Mtg	Absent
Donna Conway	x	x	
Don Despain (Chair)			x
Ulrich Brunhart	x	x	
Tom Ward	x	x	
Ben Machlis (Vice Chair)	x	x	
Phil Lanuoette (Alternate)			x
John Carpenter (Alternate)			x

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Jim Nakamura	x	x
Curtis Woodward	x	x
Trent Sorensen	x	x
Kara John	x	x
Polly McLean	x	x

### BUSINESS MEETING

Meeting began at – 6:01 p.m.

- 1) Approval of Minutes from the August 21, 2024 Planning Commission Meeting.

**Motion:** To approve Minutes from the August 21, 2024 Planning Commission Meeting as presented.

**Motion by:** Commissioner Ward

**2<sup>nd</sup> by:** Commissioner Brunhart

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

- 2) Other Business Items. (As Needed)

*Ms. McLean advised Title 18 is coming in October. MSD staff has been working on more complete changes than just state code and will ask for a recommendation. Commissioner Ward asked for more time to review documentation and submitted at least a week prior to the planning commission and posted online. Commissioner Machlis said they don't want to handicap staff and express in advance the bigger things as a goal, but not mandated.*

### PUBLIC HEARING(S)

Hearings began at – 6:07 p.m.

**OAM2024-001259** - Consideration and possible action on an Ordinance amending 19.42.030 Accessory Dwelling Units, Internal to clarify that Short Term Rental Use is not permitted on properties with Accessory Dwelling Units, that the Accessory Dwelling Unit is the unit not being lived in by the owner, and to clarify the definitions of 19.04.020 (19) dwelling units, (54) Owner Occupancy, (59) Primary Dwelling, and (66) Second kitchen. **Planner:** Jim Nakamura (Discussion/Motion)

*Greater Salt Lake Municipal Services District Planner Jim Nakamura and Polly McLean, Attorney provided an analysis of the code amendments.*

*Commissioners, Counsel, and staff had a brief discussion regarding renting long term requirement for business licenses, current three applications have come in for an ADU, but one is not using it as a STR. Difference between an ADU and a duplex, water and uses, conservation and water contingency plan, occupancy going up and water use will go up as well and will hit the limit of capacity of delivering water, water meter installation with tiered water rate structure. New builds can't require how many bathrooms, but requirement for fixtures.*

*Mr. Sorensen explained that to qualify as a duplex, the building must meet a one-hour fire rating for safety to ensure tenants are protected from one another. Additionally, furnace ducts cannot connect the two units. This is based on the international building code. To promote IADUs as a means of creating affordable housing, the state relaxed some of the building code. But to ensure safety, the owner must live primarily in one part of the IADU because it's expected an owner would have oversight by being in the home opposed to two sets of tenants. Having a caretaker doesn't exempt the home, it would need to be upgraded to meet the building code. An IADU can have a door separating the two units and can have the minimum level of sheetrock. It must share a meter, electricity, and heating whereas a duplex the utilities are separate like in a townhome. The challenge is enforcing the owner lives there.*

*Commissioner Brunhart motioned to open the public hearing, Commissioner Ward seconded that motion.*

## **PUBLIC PORTION OF HEARING OPENED**

**Speaker # 1:** Citizen

**Name:** Morgan on behalf of Carole McCalla

**Address:** Not provided

**Comments:** Morgan read Ms. McCalla's submitted letter. (Attached)

**Speaker # 2:** Citizen

**Name:** Brian Reynolds

**Address:** 12274 East Willow Loop Road

**Comments:** Mr. Reynolds said concurs with the thoughts put forth. Each property has a total capacity. Allocation to IADU and doesn't agree with loading up a STR. With respect to the IADU, if you decide to have one reduces the impact to the STR. Capacity to one use or another. Focus on capacity and allow the owner a tradeoff. Appears there's a consensus of having the owner in the property. Maybe one use shouldn't be emphasized over another.

*Mr. Reynolds submitted two letters prior to the meeting (attached) and said he wanted to address the affidavits. Mr. Reynolds said he didn't understand why the requirement is made. When he sells his property, the buyer would be responsible for applying for the STR. If the buyer must pursue as an applicant, there is an obligation to follow the license. In the manner conducting a STR is irrelevant. Affidavit will sit in the file for 20 years, he won't remember but the title company will. No mechanism to update code requirements*

*that need to reflect in the letter. Better solution if changes in the ordinance, buyers responsibility to be aware.*

**Speaker # 3: Citizen**

**Name:** Chad Smith

**Address:** Willow Loop Road

**Comments:** Mr. Smith said worried when reviewing the packet and recommendation and agrees with concerns. How to best align goals and where do we want ADU's, and STR. Current proposal written says its legal but removing rights to point out clarity. Benefits to allowing ADU's and STR. State and county definition is a dwelling unit to be used for long term rentals. Conflict when assuming talking about caretaker unit. Personal situation is not to have the occupancy go up, but full-time residence and make money while subsidizing own mortgage but use as friends come over, occasional rental. Alternative if passed and STR not allowed. Would have to leave when her sister does to rent the whole home. Much prefer fewer people, two bedrooms rented. Encourage to consider what types of rentals and ADU's.

**Speaker # 4: Citizen**

**Name:** Wendy Smith

**Address:** Willow Loop Road

**Comments:** Ms. Smith said appreciates the comments Tom made tonight. Don't think need to chose one. Longtime housing for workforce and living in the canyon. Expensive to live in the canyon and not fortunate to have purchase years ago. The families to incentivize is difficult to do with the costs and don't want to limit and use in their homes how to use their properties. People want to come here with beautiful resources. Want both and provide STR and long-term housing. She wants this body to not forward this how it is written. Definition for changing a kitchen. Take the comments received and come up with other language.

**Speaker # 5: Citizen**

**Name:** Amy Kelley

**Address:** Willow Loop Road

**Comments:** Ms. Kelley said appreciates the conversation. Would like to understand more of what this body does. Polly mentioned earlier is it to long term situation available or STR's safer with owner occupancy or require owner primary residence. Would like these addresses and what the intent is. Property owners trying to plan for futures. They have built current property and thinking of family needs and important part of community aspect and property owners be thoughtful on how to use your property. Respect the canyon and resources. Would like to hear more of the intent of what an IADU is.

***Comments from Chat:***

***Tara Paras 9/18/2024 7:26 PM • Here is the Internal Accessory Dwelling Unit state code reference.***

***[https://le.utah.gov/xcode/Title10/Chapter9a/C10-9a-S530\\_2023050320230503.pdf](https://le.utah.gov/xcode/Title10/Chapter9a/C10-9a-S530_2023050320230503.pdf)***

***(4) A municipality may:***

- (a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;***
- (b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;***
- (c) require a primary dwelling: (i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces required under the municipality's land use regulation, except that if the municipality's land use ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection (4)(c)(i); and (ii) to replace any parking***

spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to: Utah Code Page 2 (i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that: (A) have a final plat approval dated on or after October 1, 2021; and (B) comply with applicable land use regulations; or (ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and (l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

**Tara Paras 9/18/2024 7:30 PM • 10-9a-530 Internal accessory dwelling units.**

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b)

(i) "Primary dwelling" means a single-family dwelling that:

(A) is detached; and

(B) is occupied as the primary residence of the owner of record. (ii) "Primary dwelling" includes a garage if the garage:

(A) is a habitable space; and

(B) is connected to the primary dwelling by a common wall. (2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use;

(b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling; (ii) total lot size;

(iii) street frontage; or

(iv) internal connectivity; and

(c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

**Tara Paras 9/18/2024 7:31 PM** • (a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

*This section states a municipality ...may...record a notice ....but it does not state you have to record a notice*

**Tara Paras 9/18/2024 7:31 PM** • Can we clarify the wording of may versus must in the state code?

**Tara Paras 9/18/2024 7:39 PM** • I don't believe it has to be it...it was intended ....can you clarify intended versus it has to be

*Commissioner Ward motioned to open the public hearing, Commissioner Brunhart seconded that motion.*

#### **PUBLIC PORTION OF HEARING CLOSED**

*Commissioners, staff, and counsel had a brief discussion regarding whether there is a duplex in the canyon, and if so, does it have two water shares, full-time renter/full-time contact. Workshop with planning commission and STR task force, and representatives from the water company. Grandfather existing 6, but none moving forward. Goals options: principle residence and short term rental, long term caretaker/ 24 hour contact, no two str in the same property, rent the entire house and have a STR, no affidavit revoked and can it be taken off state code, include and require water company supply demand study for permits, conservation water scarcity and contingent plan, and if you live there you can do a STR-permit by right.*

*Ms. McLean read the State code definition 10-9a-5.*

*Focus on IADU, keep interaction between IADU and STR in the STR ordinance. Focus on affidavit and what's in there and what we're doing with that, incentive compliance. 5.19.090, definition of STR.*

**Motion:** To continue file #OAM2024-001259 Consideration and possible action on an Ordinance amending 19.42.030 Accessory Dwelling Units, Internal to clarify that Short Term Rental Use is not permitted on properties with Accessory Dwelling Units, that the Accessory Dwelling Unit is the unit not being lived in by the owner, and to clarify the definitions of 19.04.020 (19) dwelling units, (54) Owner Occupancy, (59) Primary Dwelling, and (66) Second kitchen to the Town of Brighton Council for approval until a workshop is organized to discuss broader policy issues and staff consider issues addressed and workshop outline.

**Motion by:** Commissioner Machlis

**2<sup>nd</sup> by:** Commissioner Brunhart

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

*Commissioner Brunhart motioned to adjourn, Commissioner Ward seconded that motion.*

#### **MEETING ADJOURNED**

**Time Adjourned – 7:55 p.m.**

Kara,

Can I submit this statement for the planning commission tonight to be read, please? I tried to keep it short.

"I would like to request that the planning commission recommend to town council to remove any and all language in the town ordinances forbidding homes with an IADU from operating as a short term rental (STR) with the following conditions:

1. the water company of the STR give written approval of water availability
2. the restriction that the property cannot operate as TWO STRs.

Given that the town is not involved in the water business, any restrictions based on water usage should be avoided by town ordinances. If water is removed as a factor in the town's decision to NOT allow STRs in homes with IADUs, I would like to ask:

What issues arise for the town or local community if an STR with an IADU is rented to a long term caretaker or is owner occupied? I believe that there are NO ISSUES. It is an enhancement to the community if a long term renter or owner is present. Do the planning commission members understand my logic and agree with me on this fact? If not, please explain.

Rather than make the whole process more complicated with the proposed IADU affidavit, simply allow ALL homes with an IADU approved by the MSD (state mandate in mind) to operate as an STR with 1. water company approval and 2. restriction on operating more than ONE STR

Given that STRs are only allowed in the Brighton Loop area, Solitude and Silver Fork, where measures have already been taken to cap Silver Fork's STR growth at 15% and Solitude is not as issue, we are not talking about a huge surge in IADUs in STRs canyon wide. The potential to provide affordable housing and oversight on short term renters is greater than any threat to community. Thank you."

Thanks,  
Carole

Kara:

Please submit this public comment to the Planning Commission.

In all due respect, I would ask the Planning Staff as to what they are trying to accomplish through such proposed regulations?

In my view, there's no functional distinction (occupancy, water usage, parking or any other resource utilisation) between an STRs property with or without a IADU.

For example: Should the owner elect to include the IADU as part of the short term rental it serves solely as an additional kitchen, bedroom and bathroom being made available to the STR guests, and as such, is subject to the same regulations as any other bedroom or bathroom.

Should the owner decide to occupy that IADU, they shall then have to reduce the number of bedrooms and bathrooms being made available to the STR guests. Essentially, their actions reduce the number of bedrooms/bathrooms being made available to the STR guests. As such, there's no difference in the overall utilization of the property - it's simply a trade off between who's utilizing that space.

The same argument pertains as to whether the owner is occupying IADU as a primary or secondary residence. What's the difference?

As for the minimum lot size, parking and detached structures, are not these considerations are already covered by the FCOZ ordinances that govern the size of the structure, number of parking spaces and detached structures. Whether a property does or does not contains an IADU seems irrelevant to these considerations.

It seems the Planning Staff is proposing that properties with IADU be prevented from serving as STR's solely for the ease of the enforcement that owners not rent out their IADU's as second short term rentals. They should be reminded that the STR permit already prohibits such activity and the Town actively monitors the OTA websites (VRBO, AirBNB) for violations. To my knowledge, no violations of this nature have ever even been alleged.

And lastly, these proposed restrictions in IADU's and secondary homes as STR properties appear to operate as a means to force these properties into the LT rental pool for canyon residents. The underlying economics of such don't support such use. Rather these ill conceived efforts would have the opposite effect. For without a means of supplementary income, these properties would transition to second homes for the wealthy elite and Brighton would become more like Deer Valley.

Respectively, submitted for consideration by the Planning Commission.

Brian Reynolds

Resident of Brighton

Kara,

Please submit the following comments for the consideration of the Planning Commission.

Please explain why STR owners being forced to attest to IADU's and serve notice to all future owners must live in one of the units as their primary residence?

In my opinion, this requirement represents an irrelevant and unnecessary attestation to which the City has not considered the ramifications of its actions.

As I understand, there are no rights or benefits conveyed from the Seller of a STR property to any Buyer. That ascertain is evidence by my understanding that any perspective buyer would have to reapply for their STR permit. Accordingly, there would be no rights or benefits conveyed through the sales process. Therefore, why would the Seller have any obligation to notice a perspective buyer as to their obligation to live in a IADU as their primary residence? Would not the Buyer as the perspective STR permit applicant - with no rights or benefits having been conveyed upon him by the Seller - be solely responsible to undertake the permitting process. And, as the permit holder, they would be responsible for abiding by the requirements and obligations set forth in the STR ordinances.

Should the Buyer elect to pursue a STR application, they must undergo the same process as any other applicant. Therefore, having purchased the property from someone else has no relevance to the application process. Should they want to secure a permit, they must adhere to the same regulations as anyone else.

What purpose does this notification serve when the STR ordinances clearly state that the property shall constitute the property owner's primary residence and restrict those conditions under which the primary owner rent portions of the property?

My overriding concern however is that it places an obligation upon me that could have adverse legal consequences. For example, should the City revise the ordinance in manner contrary to this notice, who shall notify me of such change(s)? Before the City forces an obligation upon me as the property owner, they should take into consideration their own responsibility to notify me of any changes to the ordinance and legal recourse, should they fail to notify me in due course of those changes.

Why are we creating a chain of legal responsibilities for those regulations that already reside in the STR ordinances when it's not necessary?

Kindly submitted,  
Brian Reynolds  
12274 E Willow Loop Road  
Brighton

# Short-Term Rental Subcommittee, Planning Commission, and Watermasters

## WORK SESSION MINUTES: Internal Accessory Dwelling Units

Monday, September 30<sup>th</sup>, 2024, at 6:00pm

### ATTENDANCE

**Subcommittee:** Jeff Bossard, Carolyn Keigley, Barbara Cameron, Lise Brunhart, Mark Brinton, Carole McCalla

**Planning Commission:** Don Despain, Ulrich Brunhart, Ben Machlis, Donna Conway

**Watermaster:** Steve McIntosh, Ross McIntire

Staff: Kara John, Polly McLean, Curtis Woodward, Wendy Gurr, Morgan Julian, Jim Nakamura, Trent Sorensen

**Public:** Bob Barr, Brian Reynolds, Morgan Sigafoos, Chad and Wendy Smith, David Musselman, Alex's iPhone, Nima Mahak, Amy Kelley, Vita, Reyna Colwill, iPhone, Tara Paras, Jason Boal, Helen Hooper, iPhone (105)

It was decided that Don Despain would chair this workshop since he is the chair of the Planning Commission, and this meeting was recommended at their last meeting. Steve McIntosh recommended hearing from the public to know what people are thinking on the topic.

### PUBLIC INPUT

- 1) David Musselman asked what the problem is we're trying to solve.
- 2) Nima Mahak, Willow Fork Lane, would also like to understand the goal of this meeting since there were already months of hashing out STR regulations for homes that were being rented and not managed well and causing issues in the neighborhoods.
- 3) Brian Reynolds, resident of Brighton, noted the most contentious issue is whether IADUs are allowed to have STRs. It brings up a multitude of issues, beginning with the definition of an IADU. There is everything from a den being converted to an IADU to formal IADUs approved on plans. From an STR perspective, it's an issue of occupancy and what a property can support with respect to water. If capacity can be determined for a property, then it may not be relevant to define who's living there, whether it's the owner, or a secondary person in addition to an STR. Regarding his property and the potential to sell it in the future, it would be ridiculous to have to take out the IADU to do an STR.
- 4) Carole McCalla recommended starting with how to define an IADU and noted that of the IADUs existing in the canyon, only a small portion of those have STRs. She wants to understand how everyone feels about IADUs generally.

### WRITTEN COMMENT

#### 1). Jeremy and Vita Myers

I have been very concerned about the various rules that have been proposed for short term rentals in the town of Brighton over the last 2 years. The rules often seem arbitrary, create anxiety amongst homeowners that rent their homes and designed to limit the number of rentals, rather than being based in a rational strategy to address problems with short term rentals. Such rules that were considered or enacted included: needing to notify neighbors that short term rentals were occurring, the angle of the road leading to short term rental units, distance from water, needing to respond to short term rental problems within 30 minutes of a problem, such as a stranded car.

The latest rule that is being considered seems also very arbitrary and potentially just punitive. There is no face value to the consideration of the town and this working committee regarding IADUs. From my understanding there are concerns about water rights and usage that are legitimate with IADUs. We have placed a water meter on our house, which is very reasonable. Also, we have been willing to compromise and only rent the house as a full unit rather than separate units and also not utilize the IADU separate from rentals that are occurring. Although, this also does not make sense to me, this compromise is something that Vita and I can live with, and we have not utilized the IADU ourselves or as a separate rental in the past.

Any person considering willingness to not utilize and IADU and rent a house in its entirety rather than separating the units or using the IADU while rentals were occurring would conclude this should be just treated as any other house being rented for a short-term rental. I don't understand the rationale behind an arbitrary law that would preclude rentals just because an IADU was previously built into the house but not utilized.

Vita and I seek to work with the Board of the Town of Brighton, but there must be some cooperative element to understanding the goals with all of these rules. Are you seeking to address real problems or just limit short term rentals and the freedom of homeowners to utilize their properties in different ways. Short term rentals have value to the town. For instance, our property hosts many wedding parties in the summer that utilize the Silver fork lodge for weddings and if you read our guest book you would realize how many families are able to enjoy a stay in the mountains, recharge, and have tremendous connecting experiences together.

Please consider how these rules affect families like ours, that just seek to use our property in a way where we can afford to be a part of such a wonderful place and community.

## **2) Chad Smith**

Thanks in advance for the thoughtful discussion we anticipate at tomorrow's IADU workshop. I'm so appreciative of the Planning Commission's idea to convene this group in order to discuss and facilitate agreement on this multifaceted and important issue of ADUs and STRs.

I was impressed by the great points made about these issues at the last Planning Commission meeting. I was disappointed to see that the content of that meeting was not reflected with an updated proposal from staff, as it seems that there is actually little interest in disallowing STRs in all homes with ADUs. (Thank goodness!) If you weren't able to attend this Planning Commission meeting, I recommend you listen to it for the great setup it provides for your meeting in this larger group.

We should be encouraging STRs in locations where they will be least disruptive and most easily managed, and this certainly includes situations where a wall is shared with the owner or full-time caretaker. Also, allowing STRs in ADUs makes the canyon more affordable to residents who would otherwise need to remove kitchens and/or leave their homes entirely in order to rent them out (to larger groups!) in order to help subsidize their mortgage.

We want more affordable housing in our canyon, and we want minimally disruptive STRs. And we only want to take away owners' rights and flexibility when it is for the clearly-established benefit of the town. For these 3 reasons it is a "win-win-win" not to disallow STRs in ADUs! The frequently raised concern here, pitched as a "lose," is the supposed over-use of the precious water resources within any given water company. And as has been said time and again, the town shouldn't be getting into the water business, especially not by adding ordinances that restrict rights for the entire town based on the assumption that some unnecessary restriction might possibly make things easier for those water companies who are having difficulty managing their water usage or are worried about availability for unused shares. Water policy should be driven by individual water companies and based on data.

Please don't take away the flexibility in renting (long-term, short-term, and/or not at all) that will allow owners like us to afford their mortgages and remain in the canyon through decades of changing life

circumstances. Especially when they're not using more water than others and/or their water company is not in trouble.

Thanks for your consideration, and thanks for your efforts to improve our town!

### **3) Tom Ward:**

#### **BACKGROUND AND NEED**

The introductory language to the ADU code captures goals, purpose and need for the ADU and STR. These are key tools within our limited housing to support a healthy, affordable and sustainable community, while also protecting the pristine natural environment which supports our special place that is Brighton.

Specifically, short term rentals support affordability of homes and housing on the mountain by promoting residential and caretakers hosting guests. This maintains a local presence of stewardship and accountability to each mountain neighborhood.

At the same time, the size and capacity of existing and any new or redeveloped housing is strictly limited by the availability of water within the constraints of water contact terms, hydrology and geographic limits of the SLC water contracts. That is unique for each water company and water contract with Salt Lake City.

Some thoughts and suggestions for any proposed ADU or STR code changes:

1. **Accessory Dwelling Units and Short Term Rentals.**
  - a. **Locations and density.** The current policy and code does a good job toward limitations to areas where infrastructure is adequate and/or the heavy use of individuals not familiar with the Brighton area may overload and impact infrastructure (narrow or steep roads, snowplowing, water supply, public sewer, etc.), sensitive areas (streams, wetlands, etc), and community character goals.
  - b. Where the aforesaid policy dictates adequate infrastructure and protection of the community and environment, consider allowing short term rentals within the following categories:
    - i. **Owner Occupied STR.** Allow where the owner resides as a full time resident. The owner must have a backup 24/7 responsible party for when they are on vacation.
    - ii. **Caretaker Occupied STR.** Where the caretaker is also the "responsible contact" for managing and responding 24/7 to STR complaints.
    - iii. **Non-owner or caretaker STR.** As allowed under current ordinance and density requirements.

2. Water use per dwelling is limited by water company's System Capacity Study and gallons per day per ERU, which should define the max occupancy and fixtures of the home. A 12 bedroom home with 5 bathrooms and two kitchens that is used solely by an owner has the capacity to consume more water than a short or long term rental property with less bedrooms, baths and fixtures.

I recommend the concern over adequate water for buildings and structures be directed to the water companies as part of the "water letter" which they provide. Sound planning would require a water system capacity study from the water company based upon their respective SLC water contract limits, and actual water supply data and water use data. Water metering is the first step in this regard. Additional requirements of the water company are recommended to tie their unique water supply circumstances to allowable building permits. The framework can follow:

- A. The State of Utah has established water capacity study criteria for larger water systems. The Town can require a similar water system capacity study for size and bed/bath/kitchen limits of new construction or redevelopment.
- B. Water shortage contingency plans are also required of larger water systems. This would be a helpful requirement of water companies to identify how they will allocate water if and when their water source is diminished by drought or interrupted in an emergency (large leak, water main break, drought or other short or long term water supply interruption).

#### **4) Tara Paras**

Thank you all for your hard work! I would ask you to consider the ramifications of your decisions today for the immediate future and the next 10 years. Would the decision to be more restrictive cause people, families, friends, and neighbors to lose their properties that you make tonight? Are you okay with that? Or are you really trying to make this canyon more affordable for the current owners and people who work up here? Your decisions and words stated could affect people's lives that own in this community and also love this beautiful canyon. Not everyone has the privilege to be able to afford to live here full time or live here full time without having to subsidize the costs. I am asking you to please have compassion for all.

We ask you to question when counsel provides information on State Code and what that means. Is it a must or a May interpretation? What is your actual intention here? Are you trying to make it so only the Uber wealthy can afford to live here? Because if people can't subsidize income on their properties as property taxes, health conditions, economic situations for people and families, utilities, propane, and expenses go up... you might just make us be the next "Deer Valley" that you are trying to avoid.

I ask you to question your own reasoning and what your goals are. Please look at facts instead of assumptions when it comes to water usage. Sometimes people cause problems more than find solutions and we ask you to find a better solution to affordability than creating an affordability issue for owners! Thank you again for your thoughts and consideration!

#### **5) Joel Dehlin - 12282 Willow Loop. Rd.**

Thank you for allowing me to send comments since I cannot be at the meeting. We own a home in SLE1. My wife and I live there approximately half the year. We request that you not disallow homes in Brighton (or perhaps just SLE1) from renting out our homes while we occupy them.

- We occasionally rent out a portion of the home. We bought the home with that intention and have been renting it out since we purchased it. We would like to continue doing this until we are able to move to Brighton full time once our kids graduate. We cannot afford both homes. If we are not able to rent our Brighton home out, we will either be forced to stop using it or we will lose it. This is our dream home and that would be devastating to our family. Making this change would be unfair to those, like us, who bought our homes under a previous pretense.
- A second reason to consider is the question of whether Brighton should be in the business of policing our neighbors. There are certainly areas where the town should be involved. This doesn't seem like one of them. The best way for me to make sure our renters are well-behaved is to be there, on premise. Removing the ability to live in the homes while they're rented makes it more likely that people will buy the homes with the intent to turn them into more permanent STRs. It seems like we would want to encourage owners who rent supplementally v. owners who rent full-time.
- Finally I would ask the question why. Why would we be making this decision? What problem are we trying to solve. And do we really think we will actually solve it? If the problem we're trying to solve is water, it feels to me that we should let the water companies work that out v. having the

town handle it. If the intent is to limit STRs, this feels like it will likely increase them. I would just ask ourselves the hard question of why we're considering doing it and if we think it will actually work.

The hardship this change would create is material for many of your neighbors, and specifically for our family. I'm asking you to please not make the change.

#### **WORKSHOP DISCUSSION:**

- a. OAM2024-001259 - Consideration of an Ordinance amending 19.42.030 Accessory Dwelling Units, Internal to clarify that Short Term Rental Use is not permitted on properties with Accessory Dwelling Units, that the Accessory Dwelling Unit is the unit not being lived in by the owner, and to clarify the definitions of 19.04.020 (19) dwelling units, (54) Owner Occupancy, (59) Primary Dwelling, and (66) Second kitchen. Planner: Jim Nakamura. For Discussion.**

Don Despain summarized that the state legislature allows IADUs, but municipalities can adopt further requirements if they wish to regulate certain things. In the canyon we must consider limited water resources. All our water is supplied through contracts with Salt Lake City Public Utilities. From a water company perspective, IADUs present a challenge to the definition of water usage. There are more people doing STRs in mixed ways whether they're renting out the entire home, or a portion while also housing a caretaker. IADUs can provide housing opportunities for moderate incomes.

Polly McLean, town attorney, provided an overview that our code says if there is an IADU in the home, the entire home needs to be rented out as one unit. We are learning there are many homes that had preexisting IADUs, before we became a town, and they would have gone through the county building process. The council directed the planning commission (PC) to further discuss if STRs should be allowed in homes with IADUs. At that meeting, the PC decided to meet today with the STR subcommittee and watermasters since the decision making includes those aspects. Since there are multiple entities to hear from, we didn't include time for public input. Typically, when you have two dwellings, you need to meet certain building codes such as fire safety ratings. To create more long-term rentals, the state doesn't require the separation for fire code in IADUs like they do for a duplex. State code also states that to have an IADU rented out long term, the other portion of the home must be occupied full time by the owner. Polly looked at other towns in the state that have secondary homeowners. Moab allows both units to be rented out long term without an owner living there, but they must meet the stricter building code. In Sandy, STRs are allowed, but it must be the owner's primary residence, 183 days a year. To summarize what is allowed in state code for homes with IADUs: full time resident owner, and long-term rental; or, full time resident owner, and vacant. A municipality would have to require the home to meet the building code required for two dwellings, but it can be decided at a local level to allow: a full-time resident owner, and an STR; or a long-term rental, and a second long term rental.

Ben Maclis provided context for what was talked about at the last PC meeting. They were presented with a proposed ordinance amendment to deal with the discrepancy of the IADU affidavit and how we've been processing STR licenses for homes with IADUs. The IADU affidavit states that the STR is owner occupied, but homes with IADUs are only permitted to be STRs if the entire home is rented out as a single STR. This led to policy questions about what is right for the town in consideration of affordable

housing, preserving the nature of the communities, and environmental impacts. These broader questions led to including other entities in deciding how to handle IADUs as they relate to STRs.

Some of the challenges noted are to comply with approval from the water company servicing the property, stating that sufficient water is available for the IADU. This is because every water company has different contracts and varying water availability. Also challenging are that some of our IADUs are connected by a breezeway, which doesn't meet the definition. It was estimated that there may be 8 STRs with IADUs, but we are hearing of more IADUs in the canyon that aren't compliant. The question is how to handle preexisting IADUs vs. new construction.

It was noted that an owner living in their home full time should be allowed to have an IADU because of the oversight they would have over the visitors. It could be difficult to ensure they are living in the home, but we could allow it if the taxable address is in Brighton. It was considered that a designated caretaker could serve the same purpose as the owner.

With consideration of two dwellings at one residence, it was discussed how this impacts the water companies. Steve McIntosh estimated an increase in usage by 30% for STRs over primary residences. For the water source to stay compliant with EPA requirements, they must be able to provide 400 gallons per day per connection. Currently, none of the water systems can do that. Water companies must look at second uses as second connections. To describe the allotment, a company with 70 water shares means each shareholder is allowed 1/70<sup>th</sup> of the available water. If they have two uses, it is like using 2 shares out of 70. This could be a problem when the 70<sup>th</sup> person wants to build a home, but there isn't enough water to serve the home. Steve estimated we could have 30% growth in the next 20-50 years, but we don't have enough water to meet requirements now. There are many homes in the canyon that are second properties and are not being rented out. Essentially, the water for those homes is being used by others with more demand. Future capacity must plan for the sale of properties or the change in use and occupancy. Ideal planning could involve counting every fixture and every bed in every house to calculate an impact amount. It was noted that state code restricts municipalities from regulating the number of bedrooms and bathrooms or from requiring efficiency features, but water companies can regulate this. We can't go backward on the 10,000 square foot homes that have 3 or 4 times the impact to the system as regular houses, but we can start thinking forward.

Overall, most of the water companies have water system capacity studies. Most companies have meters on their sources, so it's known what goes down their pipes and we can calculate an average use. Individual water metering is the first thing we need to be doing. Building permits could be tied to the unique water supply. Then, the number of gallons per share could be stated on the building permit so that people are only able to use their share. A tiered system was considered where higher use pays a higher fee. That way STRs aren't singled out as businesses and required to pay more. Some people can afford to pay more for going beyond their allotment, but it's not sustainable for what's available within the system. It's unfair to allow someone to pay extra to use someone else's share. More storage could be built, but then there are hurdles to comply with treating stored water. Conservation is the best way to handle drought years. From a water company perspective, Steve doesn't care about the size of the house or if there is an IADU. What matters is occupancy and actual usage. Peak day demand, such as the day after Christmas when the ski resorts and cabins are full, our water storage drops significantly, and that is what must be planned for. It is likely that a home with an IADU that is rented in entirety as a short-term rental may have a bigger impact than an IADU that is owner occupied with the remaining occupancy rented short-term. This is based on travel trends when people tend to be more indulgent than someone who lives in the community and is aware of the situation. Regarding the ordinance being

considered, it was anticipated that owner occupied STRs could be allowed if the overall home occupancy doesn't exceed the maximum STR occupancy of 15 people.

Looking at homes with IADUs is to consider two dwellings, somewhat like a duplex. Trent Sorensen, MSD Director of Planning and Development, explained that to qualify as a duplex, the building must meet a one-hour fire rating for safety to ensure tenants are protected from one another. Additionally, furnace ducts cannot connect the two units. This is based on the international building code. To promote IADUs as a means of creating affordable housing, the state relaxed some of the building code. But to ensure safety, the owner must live primarily in one part of the IADU because it's expected an owner would have oversight by being in the home opposed to two sets of tenants. Having a caretaker doesn't exempt the home, it would need to be upgraded to meet the building code. An IADU can have a door separating the two units and can have the minimum level of sheetrock. It must share a meter, electricity, and heating whereas a duplex the utilities are separate like in a townhome. The challenge is enforcing the owner lives there. Tax documents may show full time residency, but then they might still rent it out full time. The PC was in favor of allowing homes with IADUs to be occupied, so this part of the code would need to be changed. Polly and Trent will confirm that the Town of Brighton could decide to allow a caretaker in lieu of the owner, but the building code as it relates to fire safety, would also need to be changed if someone besides the owner is living there. It was agreed that the owner must designate which unit is the STR, and which unit is the full-time resident. It was agreed to not allow two STRs, because these are still single-family homes, not commercial. Entire home capacity should not exceed 15 since that is the maximum allowed for an STR.

Moving forward, staff will draft an ordinance to present to the Planning Commission after further research. Tom Ward's letter and ideas for the future of water in the canyon could be revisited at another meeting. The town can pursue incentivizing water meters, and any other things to support the water companies with conservation while allowing them to operate independently.

#### **ADJOURN**

Jeff Bossard moved to adjourn the meeting at 7:50pm.

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Submitted by Kara John, Town Clerk

**ORDINANCE 2024-\_\_\_\_\_**

File No.\_OAM2024-001256

Date: \_\_\_\_\_

**AN ORDINANCE OF THE TOWN OF BRIGHTON AMENDING TERMS OF SERVICE FOR PLANNING COMMISSION MEMBERS**

**RECITALS**

**WHEREAS**, the Town of Brighton adopted a zoning ordinance pursuant to Utah Code Ann. Subsection 10-9a-102(2) and has authority to amend said zoning ordinance when it determines it is necessary; and

**WHEREAS**, the Town of Brighton is a municipality and has authority to regulate land use and development standards in general pursuant to Utah Code Ann. Subsection 10-9a-104 (1); and

**WHEREAS**, on May 5, 2021, the Brighton Town Council adopted a zoning code (which was repealed and replaced in 2024 but with the same provisions for Planning Commission), which includes four-year terms of services for planning commission members and staggered years of expiration; and

**WHEREAS**, the planning commission consists of five (5) members, and establishing five-year staggered terms enables the town to replace one member per year, thus keeping the planning commission membership more consistent over time.

**BE IT ORDAINED BY THE BRIGHTON TOWN COUNCIL** as follows:

1. Subsection 19.12.030.A is amended and read as attached hereto as **Exhibit A**. The amendments made Therein are designated by underlining the new words, with words being deleted designated by brackets with a line drawn through said words.
2. Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which shall continue in full force and effect.
3. Effective Date. This Ordinance will take effect immediately upon posting and publication as required by law.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

BRIGHTON TOWN COUNCIL

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By: Dan Knopp, Mayor

ATTEST

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Kara John, Clerk

Voting:

Council Member Bossard	voting <input type="text"/>
Council Member Brunhart	voting <input type="text"/>
Council Member Keighley	voting <input type="text"/>
Council Member Knopp	voting <input type="text"/>
Council Member Zuspan	voting <input type="text"/>

## EXHIBIT A

### **19.12.030 PLANNING COMMISSION**

#### **A. Term Appointed**

1. The Town of Brighton planning commission shall consist of five members and up to two alternate members.
2. Commissioners shall serve [~~four~~five]-year terms (except for the initial terms as provided below) or longer until successors are appointed.
3. The initial members of the Commission shall be staggered and appointed as follows:
  - a. One appointee shall serve an initial term which shall expire on May 14, 2023,
  - b. one appointee shall serve an initial term which shall expire on May 14, 2024,
  - c. [~~two~~-one appointee~~s~~] shall serve an initial term which shall expire on May 14, 2025, [and]
  - d. ~~-~~one appointee shall serve an initial term which shall expire May 14, 2026, and,
  - e. one appointee shall serve an initial term which shall expire May 14, 2027.
4. Terms shall commence on May 15 of each year.
5. In the event a term of a member shall expire before a successor is appointed, the member shall continue to serve until a successor is appointed.
6. The members and alternate members of the planning commission are not required to reside within the Town of Brighton.
7. Upon expiration of a Commissioner's term, the seat shall be appointed by the mayor with the advice and consent of the Town council.
8. Members of the Commission may serve successive terms.

#### **B. Vacancy—Removal**

1. Any vacancy occurring on the Planning Commission by reason of death, resignation, removal or disqualification shall be filled by the mayor with the advice and consent of the council for the unexpired term of such member.
2. The mayor, with the advice and consent of the council, may remove a member of the Planning Commission for cause after filing written charges against the member. The member will be provided with a hearing on the charges if requested by the member being removed.

#### **C. Organization—Procedures**

1. The Planning Commission shall elect a chairperson from its members who shall serve a one-year term. The chairperson is a voting member.
2. The Planning Commission shall elect a vice chairperson from its members who shall serve a one-year term. The vice chairperson is the designated chair pro-tempore and a voting member.
3. The Planning Commission may create and fill any other necessary offices it deems necessary and may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purpose the Planning Commission considers necessary for its proper function.
4. A minimum of three (3) full and/or alternate members in attendance at the meeting is required to constitute a quorum.
5. The minimum number of "yes" votes necessary to carry an action of the commission shall be a majority of the members of the quorum in attendance but shall never be less than three (3).
6. Alternate members shall be designated to sit as voting members of the commission at any time one or more regular members are absent from the meeting. The designation of the alternate member to voting status shall be made by the chairman at the commencement of the meeting in accordance with the seniority of the alternate members in attendance at the time, and any alternate so designated shall serve as a voting member until the conclusion of the meeting.

D. Powers and duties. The Planning Commission shall:

1. Prepare and recommend a general plan and amendments to the general plan to the council;
2. Prepare and recommend zoning ordinances and maps and amendments to zoning ordinances and maps to the council;
3. Prepare and recommend subdivision ordinances and amendments to those ordinances to the council;
4. Review subdivision plats as set forth in Title 18 Subdivisions;
5. Approve or deny conditional use permits;
6. Advise the council on matters that the council directs;
7. To make, at the request of the Director, an interpretation of the zone map regarding the location of zone boundary lines;
8. To decide, at the request of the Director, the meaning of disputed terms or phrases within the text of the zoning regulations;

9. To make a determination whether a change of a non-conforming use is more intensive pursuant to 19.06.050.;
10. To hear appeals of administrative determinations by the Director as to the classification of uses not specifically listed in this Ordinance;
11. Determine building height for conditional uses pursuant to 19.24.050.;
12. Review waivers for slope requirements pursuant to 19.24.140 , 19.38.060 (D)and 19.38.080 (C);
13. Review modifications of setbacks pursuant to 19.38.130 (G);
14. Determinations for Mandatory Design Standards pursuant to 19.38.170;
15. Make determinations as required in the Commercial (CV) zone pursuant Chapter 19.32;
16. Make determinations as required in Chapter 19.58 Geologic Hazards; and
17. Provide other functions as specified in this chapter or as directed by the council.

**SUMMARY OF**  
**BRIGHTON**  
**ORDINANCE NO. 2024-**

On \_\_\_\_\_, 2024, the Brighton Town Council enacted Ordinance No. 2024-\_\_\_\_\_, amending Subsection 19.12.030.A of the Brighton zoning ordinance to change the terms of service for planning commission members from four years to five years and adjust the initial staggered expiration dates accordingly.

**BRIGHTON TOWN COUNCIL**

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By: Dan Knopp, Mayor

ATTEST

APPROVED AS TO FORM:

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Kara John, Clerk

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METRO TOWNSHIP ATTORNEY

Voting:

Council Member Bossard	voting ____
Council Member Brunhart	voting ____
Council Member Keighley	voting ____
Council Member Knopp	voting ____
Council Member Zuspan	voting ____

A complete copy of Ordinance No. 2024-\_\_\_\_\_ is available in the office of the Greater Salt Lake Municipal Services District, 2001 South State Street, N3-600, Salt Lake City, Utah.



GREATER SALT LAKE  
**Municipal Services**  
**District**

## **EXECUTIVE SUMMARY**

**Meeting Body:** Town of Brighton Planning Commission

**Meeting Date:** October 16, 2024

**File Number:** OAM2024-001271

**Subject:** Proposed amendment to the Town of Brighton Subdivision Ordinance, Title 18 of the Town of Brighton Municipal Code, to comply with review timeframes, review cycle limits, land use authority designations and other amendments mandated by HB 476. P (Public Hearing)

**Planner:** Brian Tucker, Planning Manager

**Project Type:**

Subdivision Ordinance Text  
Amendment

**Areas Affected:** The entire Town of Brighton

**Recommendation:** Motion to recommend approval of the proposed amendments to Title 18 Subdivisions to comply with enrolled House Bill 476 of the 2024 General Session of the Utah State Legislature.

In October 2023, the Municipal Service District Planning Staff brought forward a draft rewrite for Title 18 of the Town of Brighton Municipal Code to the Town of Brighton's Planning Commission during a public workshop. This rewrite was prompted largely by the adopted 2023 Utah Senate Bill 174 (SB 174), that amends the review process and approval process for subdivisions. The Planning Commission reviewed the proposed ordinance and did not pose any concerns. Staff, however, opted to hold the proposed ordinance for recommendation to Council until Title 19 of the Town of Brighton Municipal Code was complete.

The 2024 Utah State Legislature adopted House Bill 476 (HB 476), which again amended various land use and development requirements for municipalities and counties, including subdivision review procedures. The "effective date" of the amended subdivision review procedures is November 1, 2024 and, for towns, it requires the changes to be made no later than December 31, 2024. This new legislative act has prompted Staff to bring back Title 18 for review and recommendation to Council.

Title 18 is largely administrative in nature and there are a limited number of policy decisions the Town needs to make. Much of the ordinance deals with development service's planning process, the application process, bonding processes, and subdivision amendments; all of which are largely mandated by recent State Legislation. The entire Title has also been reorganized and expanded upon to provide staff and applicants easier use and understanding. Planning Commission remains as the land use authority for all subdivisions. Additionally, changes have been proposed to better align the subdivision code with the character of the Town of Brighton (such as removal of the requirement to install curb, gutter, and sidewalk on canyon roads). Please see Attachment 1 for more information on changes to the code.

Within this document, there are comments as well as color coded sections that denote what significant amendments have been made to the existing Title 18. The sections in red are **State mandate amendments** and the sections in purple are **suggested Staff amendments**.

## **ATTACHMENTS**

1. Proposed Title 18 Subdivision Ordinance
2. Utah Legue of Cities and Towns' the 2023 Audit Checklist of SB174 Compliance Subdivision Ordinance Update

## **STAFF ANALYSIS**

### **Issue before the Commission:**

HB 476 and SB 174 includes both practical and definitional changes that previously were not imposed. Many of our existing policies, procedures, and provisions are already compliant, but the Town of Brighton has been advised by legal consultant, Jay Springer, attorney with Smith Hartvigsen, PLLC, that to ensure clarity, consistency, and compliance with State Code, several text amendments to Title 18 are warranted. Planning Staff have also reorganized Title 18 for ease of use that had been reviewed by Planning Commission in October 2024.

### **Legislative Mandate:**

The primary relevant effects of House Bill 476 and Senate Bill 174 are:

- Establishes that a subdivision improvement plan may be submitted with either a preliminary or final subdivision application but may not be required for both;
- Clarifies that a municipality may not require more than four review cycles for a subdivision improvement plan review, and this applies to either the preliminary or final stage of the process depending on when the municipality requires a subdivision improvement plan be submitted;
- Updates certain provisions relating to phasing and development agreements; and
- Establishes that a municipality may not engage in a substantive review outside the review cycle.

To ensure compliance with these mandates, Staff, along with attorneys with Smith Hartvigsen, PLLC, reviewed the Town of Brighton's Subdivision Ordinance as well as administrative procedures (see Attachment 2). Much of the ordinance has already met these requirements.

### **Notice:**

Notice of the public hearing before the Planning Commission has been given in accordance with Utah Code 10-9a-205. Notice was mailed to each affected entity. Physical notice was posted at the meeting location 10 days prior to the public hearing. Notice was posted on the Utah Public Notice Website, and Town of Brighton's official website, <https://www.brighton.utah.gov/>.

### **Review Procedure and Criteria:**

Brighton's Town Council is the legislative authority for subdivision ordinance text amendments. The Council cannot amend the subdivision ordinance without first submitting the amendment to the Town of Brighton Planning Commission for the Planning Commission's recommendation. The Planning Commission must hold a public hearing and review and recommend an action to the Council. The Council must then hold a public meeting after which they may adopt, adopt with revisions, or reject the proposed text amendments recommended by the Planning Commission.

### **STAFF RECOMMENDATION**

MSD Planning Staff finds that:

1. In accordance with House Bill 476, the proposed ordinance establishes that a municipality may now require a subdivision improvement plan to be submitted with a subdivision application but cannot require that the improvement plan be submitted with both the preliminary AND the final plan;
2. In accordance with House Bill 476, the proposed ordinance establishes the review cycle requirements apply to whichever subdivision plan (either preliminary or final) that the subdivision improvement plan is submitted with;
3. In accordance with House Bill 476, the proposed ordinance does not provide for substantive review to occur outside the review cycle;
4. The proposed ordinance provides for timeframes in line with those required by House Bill 476;
5. In accordance with House Bill 476, the proposed ordinance does not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area;
6. The proposed amendment does not alter the subdivision process to any greater extent than mandated by HB 476; and
7. The proposed amendment does not affect any specific land use or property within the Town, applying only to future applications to subdivide land within the Town of Brighton.

Given the above findings, staff recommends the following action:

*Motion to recommend approval of the proposed amendments to Title 18 Subdivisions to comply with enrolled House Bill 476 of the 2024 General Session of the Utah State Legislature and improve overall clarity of Title 18.*

### **POTENTIAL PLANNING COMMISSION ACTIONS**

The Planning Commission's role in the text amendment process is to provide a recommendation to the Town Council. After taking public comment, the Planning Commission could take any of the following actions, among others:

- Option 1. Recommended approval of the attached ordinance to the Council subject to staff and legal counsel's non-substantive and technical changes.
- Option 2. Recommended approval of the attached ordinance to the Council with changes subject to staff and legal counsel's non-substantive and technical changes.
- Option 3. Recommend that the Council deny the proposed ordinance.

## TITLE 18 - SUBDIVISIONS

### Chapter 18.02 Title, Purpose and Applicability

Commented [MJ1]: @Polly: New section, not in existing Title 18

#### 18.02.010 - Title.

This Title shall be known as "The Subdivision Ordinance of Brighton" and may be so cited and pleaded. This title shall also be known as Title 18, Brighton's Subdivision Ordinance.

#### 18.02.020 - Purpose.

This ordinance is intended to promote the health, safety, morals, order, prosperity and welfare of the inhabitants of the Town of Brighton (or "Brighton") which includes:

- A. To facilitate the orderly development of Brighton in accordance with the General Plan;
- B. To implement the Town of Brighton's transportation plan;
- C. To facilitate the development of a safe and efficient street system;
- D. To ensure adequate water, sewer, drainage, utilities, and other services in the Town of Brighton;
- E. To establish the rights, duties, and responsibilities of subdividers with respect to the development of subdivisions within the Town of Brighton;
- F. To enforce standards designed to reduce risks associated with natural and man-made hazards; and,
- G. To minimize disturbance to existing trees and vegetation, conserve wildlife habitat, protect aquifer recharge areas, and otherwise preserve environmentally sensitive natural areas.

#### 18.02.040 - Severability

If any provision of this Title is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate or nullify the remaining provisions of this Title. The effect of the judgment is confined to the provision immediately involved in the controversy in which the judgment or decree was rendered.

### Chapter 18.04 Subdivision Plats Required

#### 18.04.010 - Subdivision Plats Required.

No person may divide, any tract of land within the jurisdictional limits of the Town of Brighton; nor shall any person sell, exchange, purchase or otherwise convey a parcel of land which is part of a larger tract, if such sale or agreement would have the effect of creating a "subdivision" as defined by Title 19 of the Brighton Code, unless and until a final plat, prepared in accordance with the provisions of this title, shall have been reviewed and approved by the appropriate decision making body consistent with this title and recorded in the office of the county recorder.

### Chapter 18.06 - General Regulations

#### 18.06.010 Time Limits.

Subdivision applications are subject to expiration according to the following schedule unless, for good cause shown, the applicant is granted an extension of time by the Director:

- A. A subdivision application expires if the applicant has not filed all of the required documents for preliminary plat approval within one (1) year of the submission of a complete application.

Commented [CW2]: This Section has been slightly altered from 18.08.015 of current code to allow a longer time frame between complete application and preliminary plat approval to account for the limited number of months where on-site inspections may be conducted in Brighton.

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- B. A preliminary plat approval expires if a complete final plat application is not submitted to Planning and Development Services within six (6) months of the preliminary plat approval.
- C. A subdivision application expires if the final plat has not been recorded within six (6) months of the date of the mayor's signature on the plat.
- D. Notwithstanding the above, failure to pursue an application, as evidenced by failure to file a complete application, the lack of timely resubmittals to Development Review Committee comments and corrections, or failure to communicate delays in a timely manner, results in the expiration of the application after six (6) months of inactivity.

### **18.06.020 Appeals.**

The applicant or any person adversely affected by a final decision on a subdivision shall have the right to appeal the decision to the land use hearing officer by filing a letter to the land use hearing officer stating the reasons for appeal within ten (10) days after the decision. The land use hearing officer shall review the record and the decision to determine whether the decision was arbitrary, capricious, or illegal. After hearing the appeal, the land use hearing officer may affirm, reverse, alter or remand the decision for further consideration. Notwithstanding the foregoing, any appeal from the Subdivision Improvement Plans shall comply with Utah Code Sections 10-9a-604.2(8) and 10-9a-508(5)(d).

**Commented [CW3]:** The appeals section will be finalized by attorneys to keep in line with state statute.

### **18.06.030 – Definitions.**

All terms pertaining to the development or division of land as defined in Title 19 Zoning of the municipal zoning ordinance shall also be applicable to this Title. For purposes of this Title only, the following defined terms shall apply.

- A. "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure improvements and municipally controlled utilities required for a subdivision.
- B. "Town administrator" means the Brighton Town Administrator.

## **Chapter 18.08 – Procedure for Approval of a Subdivision**

### **18.08.010 Approval Authority.**

- A. The planning commission is the administrative land use authority for preliminary subdivision application approval.
- B. The Brighton Town Administrator is the administrative land use authority for final subdivision application approval.

**Commented [CW4]:** This is in harmony with state code 10-9a-604.1, which uses the term "administrative land use authority" for preliminary and final approval of subdivisions.

### **18.08.020 Review Procedures – Director to Administer.**

In order to ensure that each subdivision fully complies with the provisions of this Title, the Director or Designee shall administer formal application and review procedures for subdivisions. An application may not be deemed complete until the full application, fees and all required materials have been submitted. The payment of a partial fee and submission of conceptual plans for a pre-submittal review does not constitute a complete application.

### **18.08.030 – Development Review Committee.**

The development review committee (DRC) is the Planning and Development Services Staff, in consultation with agencies with statutory review and approval authority for engineering, health, fire, and surveying reviews and services. Comments from other affected entities, service providers or other reviewing

## **TITLE 18 - SUBDIVISIONS**

agencies may also be solicited as needed. The development review committee is an extension of the Director and serves as the Director's Designee with the following responsibilities:

- A. Establish subdivision application forms, checklists and standard operating procedures;
- B. Review development applications including concept plans, subdivisions, and project plans;
- C. Provide recommendations to the planning commission regarding development applications that require their approval;
- D. Review subdivision final plats and construction drawings, and to make a recommendation to the Town Administrator to approve, approve with conditions or deny final plats and construction drawings; and
- E. Hold preconstruction meetings for approved subdivision plats and other applicable development projects.

### **18.08.040 Procedure Generally.**

The applicant shall prepare and submit a land use application, including fees, in accordance with this Title and Planning and Development Services Division policy. The applicant may submit a concept plan. While the concept plan is optional, a preliminary and a final plat are required.

### **18.08.050 - Concept Plan.**

- A. A Concept Plan review is not a mandatory step. Any person seeking to subdivide land within the municipal boundaries may request a pre-application meeting or concept plan review. The Town of Brighton highly recommends a pre-application concept plan review meeting prior to submitting a Preliminary Subdivision Plat Application. A preapplication Concept Plan meeting is optional, is not a land use application for the purposes of vesting, and does not count toward the maximum number of review cycles for subdivision land use applications. Within fifteen (15) business days after the request, the city Planning and Development Services Staff planning staff shall schedule the meeting to review the Concept Plan and give initial feedback.
- B. The purpose of a Concept Plan review is to provide a developer with an economical way to work with the planning staff in reaching a general agreement as to the nature of a proposed land subdivision project, its impact on the community, and its conformance with the codes, ordinances, plans and policies. For the Concept Plan review, the developer will not need detailed architectural and engineering drawings.
- C. An applicant may submit a concept plan if the applicant desires to obtain input from Planning and Development Services Staff or the Planning Commission prior to undertaking the preparation and submission of a complete preliminary plat.
- D. Prior to a Concept Plan review, the applicant shall submit to the Director or Designee a complete Concept Plan application, including documents, fees, any items specified under Section 18.10.020, and any other matter appropriately required by the Development Review Committee. At the scheduled pre-application meeting, the Director or Designee shall provide the applicant with, or make available on its official website, the following:
  1. Copies of applicable land use regulations, including this Chapter;
  2. A complete list of standards required for the proposed project;

## TITLE 18 - SUBDIVISIONS

3. Preliminary and final application checklists; and
4. Feedback on the concept plan.

E. When the Concept Plan application is complete, it will be accepted by the Director or Designee the date of acceptance will be noted. For every submittal, Development Review Committee shall have at least 15 business days for review and comments.

F. Where the applicant owns or controls more territory than they propose to submit for preliminary or final approval, or under circumstances where the proposed subdivision is part of a larger project or territory which the applicant owns or controls and which includes property in more than one zone, the Director may require that a concept plan covering the larger area be submitted. The concept plan for the larger area shall show how the immediate development relates: a) to possible development of the remaining territory; b) to the Town of Brighton's adopted transportation or street plan; and c) to the provision of other public services, utilities and facilities.

G. If the Director concludes that, because of the scope or complexity of a proposed project, the proposal should be reviewed by the planning commission at the concept plan stage, they may direct that the plan be forwarded for review by the planning commission prior to the preparation of the preliminary plat.

H. Any review of a concept plan by the planning commission shall be considered as advisory only and may not constitute a commitment of approval of a subsequent preliminary plat or final plat.

### **18.08.060 – Preliminary Plat Application.**

A. Application. The applicant shall submit a preliminary plat application to the Planning and Development Services Division, which shall include:

1. Submission of an approved application form that clearly indicates the type of application, property address, applicant information, and other pertinent information;
2. Submission of a Preliminary Plat and other drawings and documentation conforming to the requirements of Section 18.10.030 Preliminary Plat Required Information, and Section 18.10.040 Technical Reports Required.
3. Subdivision Improvement Plans.
4. Title Report and Authorization for application submittal from the Property Owner or Authorized Agent.

B. Completeness Review.

1. The Preliminary Plat application shall be carefully checked by the Planning and Development Services Division to determine whether or not it is complete.
2. If it is concluded that the Preliminary Plat application is not complete, the Director or Designee shall notify the applicant in writing within 30 days of receipt:
  - a. That the application is incomplete; and
  - b. The specific components of the application deemed insufficient.

**Commented [CW5]:** This section was also expanded on from 18.12.030 of existing code. It better clarifies the submittal requirements for a complete application in harmony with state statute requirements.

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3. Upon notice being given, an application deemed incomplete shall be terminated after one-hundred twenty (120) days if the necessary components to complete the application have not been submitted.
4. At any time during the Completeness Review process outlined in this subsection, a pre-application meeting may be requested by the applicant to discuss the application, plans, and anticipated review process. In order to facilitate efficiency of review process, the Director or Designee may invite representatives from other reviewing agencies as well as the applicant's design professionals to the meeting.

**C. Complete Application.**

1. When the Preliminary Plat application is determined to include all the required documentation, plans, plats, reports and other required submittals, the Director will enter the required fees into the payment portal for payment by the applicant.
2. When the applicant has paid the required fees, the application is complete, and the application will be deemed accepted by the Director or Designee. The date of acceptance will be noted for the record.

**18.08.070 – Preliminary Plat Development Review Committee Review.**

- A. The purpose of a Preliminary Plat is to provide a review of a proposed subdivision prior to approval by the land use authority for . It is intended that this review will help assure that the plans which are being prepared are in accordance with all applicable development codes and ordinances.
- B. The Director shall review or cause to be reviewed, the complete Preliminary Plat application as follows:
  1. For every submittal, the Development Review Committee shall complete initial review of the Preliminary Plat, and preparation of review comments within forty (40) business days.
  2. The Director or Designee shall review the application materials, plans, plats and technical documents, including Subdivision Improvement Plans, for compliance with municipal land use ordinances, codes and adopted plans and specifications and other technical requirements. As part of this review, the Director or Designee may conduct one or more on-site reviews, as provided by Utah Code Section 10-9a-303.
  3. The Director or Designee shall refer the application materials, plans, plats and technical documents to the Development Review Committee and any other government agency and/or affected entity which the Director deems necessary to protect the health, safety, and welfare of the public and to ensure the project's compliance with all applicable ordinances, codes and adopted plans and specifications and other technical requirements.
  4. Multiple reviews and submittals may be required based on the accuracy of the drawings, consistency with the applicable municipal land use ordinances and codes, state and federal law, and adherence to the requirements of the adopted plans and specifications and other technical requirements.

## **TITLE 18 - SUBDIVISIONS**

5. Upon Preliminary Approval by the Development Review Committee, the Director shall schedule the application for review by the Planning Commission.
6. The Development Review Committee, Director, or Designee, may not engage in substantive review of subdivision improvement plans during the preliminary plan approval stage or at any other time prior to the beginning of the review cycles for subdivision improvement plans during final plat approval.

### **18.08.080 – Preliminary Plat Approval or Disapproval.**

- A. Following a review of the preliminary plat, the land use authority, as designated in Section 18.08.010, shall act on the preliminary plat as submitted or modified.
- B. A proposed subdivision shall comply with the following applicable requirements, as determined by the land use authority:
  1. The plans, documents and other submission materials (including technical reports where required) are sufficiently detailed for proper consideration of the project.
  2. The submitted plans, documents and submission materials conform to applicable town standards.
  3. The proposed development conforms to municipal zoning ordinances and subdivision design standards.
  4. The combination of natural or manmade conditions, encumbrances, easements, setbacks, geometry, or the dimensions of the lot leaves an adequate buildable area as determined by Brighton ordinances for a reasonably sized main structure?
  5. No natural or manmade conditions exist on or in the vicinity of the site defined in the preliminary plat that, without remediation, would render part or all of the property unsuitable for development.
  6. The preliminary plat provides for safe and convenient traffic circulation and road access to adjacent properties under all weather conditions.
  7. The preliminary plat does not impose an undue financial burden upon the Town of Brighton.
  8. The location and arrangement of the lots, roads, easements and other elements of the subdivision contemplated by the preliminary plat are consistent with Brighton's general street system, transportation master plan and/or applicable elements of the general plan.
  9. The preliminary plat recognizes and accommodates the existing natural conditions.
  10. The public facilities, including public utility systems serving the area defined in the preliminary plat are adequate to serve the proposed development.
  11. The project contemplated in the preliminary plat conforms to the intent of this title as stated in chapter 18.02.
  12. The plat has been approved by the culinary water authority and the sanitary sewer authority, or the local health department where culinary water or sanitary sewer services is not available.

## **TITLE 18 - SUBDIVISIONS**

- C. The Planning Commission shall hold one public hearing on the application and accept public comment.
- C. The Planning Commission may:
  - 1. Approve the preliminary plat,
  - 2. Approve the preliminary plat with reasonable conditions intended to ensure compliance with the standards and objectives of the applicable zone and this Title,
  - 3. Continue review of the preliminary plat, directing that changes be made to the preliminary plat so that it conforms with the standards and objectives of the applicable zone and this Title, or
  - 4. Deny the preliminary plat because it does not meet the standards and objectives of the applicable zone and this Title.
- D. If the preliminary plat is not approved, the Director or Designee shall notify the developer in writing and give reasons for the denial.
- E. If the preliminary plat is approved, the Director or Designee shall issue a preliminary plat approval letter with the conditions of approval and a copy of the approved preliminary plat. The receipt of said letter shall be authorization for the subdivider to proceed with the preparation of specifications for the minimum improvements required in Chapter 18.14 of this Title and with the preparation of the final plat.

### **18.08.090 – Submittal of the Final Plat, Engineering Drawings and Documents to the Development Review Committee for Final Plat Approval.**

- A. Purpose. The purpose of the Final Plat of a subdivision is to present an accurate depiction of the layout of the Subdivision so that it can be properly recorded and then used as a permanent reference for the sale of the property included within the Subdivision. The purpose of the Final Plat Review is to ensure that the plat and the construction plans for the required improvements, including those comprising the Subdivision Improvement Plans as defined in Utah Code Section 10-9a-604.2, meet the applicable standards and specifications.
- B. Application.
  - 1. The applicant shall submit a Final Plat application to the Planning and Development Services Division, which shall include:
    - a. Submission of an application form, as designed by the Director to clearly indicate the type of application, property address, applicant information, and other pertinent information;
    - b. Submission of technical reports in accordance with Section 18.10.040, a Final Plat and other drawings and documentation conforming to the requirements of Section 18.10.050, engineered construction plans for the improvements required in Chapter 18.14, and supplementary materials as may be required by this Title; and
    - c. Authorization for application submittal from the Property Owner or Authorized Agent.

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### 2. Completeness Review.

- a. The Final Plat application shall be carefully checked by the Planning and Development Services Division to determine whether or not it is complete.
- b. If it is concluded that the Final Plat application is not complete, the Director or Designee shall notify the applicant in writing within forty (40) business days:
  - i. That the application is incomplete, and
  - ii. The specific components of the application deemed insufficient.
- c. Upon notice being given, an application deemed incomplete shall be terminated after sixty (60) days if the necessary components to complete the application have not been submitted.
- d. At any time during the Completeness Review process outlined in this subsection, a pre-application meeting may be requested by the applicant to discuss the application, plans, and anticipated review process. In order to facilitate efficiency of review process, the Director or Designee may invite representatives from other reviewing agencies as well as the applicant's design professionals to the meeting.

**Commented [CW6]:** More detailed "completeness review" process per state statute requirements.

### 3. Complete Application.

- a. When the Final Plat application is determined to include all the required documentation, plans, plats, reports and other required submittals, the Director will release the fees for the applicant to pay.
- b. When the applicant has paid the required fees, the application is complete, and the application will be deemed accepted by the Director or Designee. The date of acceptance will be noted for the record.

C. Technical Review of the Final Plat and Construction Documents. The Director shall review or cause to be reviewed, the complete Final Plat application and Construction Documents as follows:

1. No later than twenty (20) business days after the day on which an applicant submits a final subdivision application,
  - A. the Development Review Committee shall review the plat and/or construction plans, and prepare review comments.
  - B. No later than twenty (20) business days after the submittal of a complete final subdivision plat application, or revised plats, plans or reports addressing previous Development Review Committee comments, the Director or Designee shall provide all written comments to the applicant.
2. The Director or Designee shall review the application materials, plans, plats and technical documents for compliance with municipal land use ordinances, codes and adopted plans and specifications and other technical requirements. As part of this review, the Director or Designee may conduct one or more on-site reviews, as provided by Utah Code Section 10-9a-303.

## TITLE 18 - SUBDIVISIONS

3. The Director or Designee shall refer the application materials, plans, plats and technical documents to the Development Review Committee and any other government agency and/or affected entity which the Director deems necessary to protect the health, safety, and welfare of the public and to ensure the project's compliance with all applicable design standards and specifications, ordinances, codes and adopted plans and specifications and other technical requirements.
4. Multiple reviews and submittals may be required based on the accuracy of the plat, drawings and plans, consistency with the applicable municipal land use ordinances and codes, state and federal law, and adherence to the requirements of the adopted plans and specifications and other technical requirements.
5. Upon a determination that the application is consistent with applicable standards and conditions, the Brighton Town Administrator shall provide a written letter of approval to the applicant.
6. If an applicant is proposing substantial changes to the preliminary plat, the applicant shall be referred to the land use authority that approved the preliminary plat for final approval. Substantial changes shall include an increase in the number of proposed lots, changes to the location and/or configuration of streets including stub streets, and/or other changes deemed substantial by the Development Review Committee. The land use authority may require the submittal of a new application if they find that the proposed subdivision is substantially affected by a material change in the subdivision improvement plan.
7. If an applicant contests any requirements imposed by the Development Review Committee as part of the final plat approval, the applicant may request that the application be referred to the Council for a final decision.
8. The following actions must be taken within six (6) months of final plat approval, or the applicant must reapply for preliminary plat approval:
  - a. The subdivision plat shall be recorded in the office of the Salt Lake County Recorder; or
  - b. If applicable, a Site Restoration/Durability Bond shall be posted with Planning and Development Services and a preconstruction meeting has been held with the Development Review Committee prior to recording the final plat.
9. The Director may grant a one (1) year extension provided the final plans have been updated to address any changes to the applicable ordinances and standards that may have been updated or changed since the time of the Final Plat Approval.

### **18.08.100 - Combined Applications.**

An applicant may submit application for approval of a preliminary plat and a final plat simultaneously if the subdivision does not include multiple phases. Such application shall be on a form provided by the planning and development services division. The combination application must contain both a preliminary plat and a final plat that meet all requirements of this code prior to approval by the planning commission. All other agency reviews must also be conducted and approved in accordance with this title.

### **18.08.110 – Recording the Final Plat.**

- A. Prior to recording the Final Plat, the applicant shall:

**Commented [CW7]:** Attorneys will provide analysis/suggestions as to the appropriate appeal process in harmony with state statute.

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1. Pay any remaining fees; and
2. Provide the Planning and Development Services division with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid; and
3. Complete all required improvements and post a durability bond in accordance with Chapter 18.16. The required improvements must all be inspected, approved and accepted by the Engineering division staff; or
4. Post a performance guarantee and a durability bond in accordance with Chapter 18.16 and in an amount determined by the Engineering division.

B. The final plat must include the necessary approval signatures (planning commission representative, Director, health department, district attorney, county mayor or their designees).

C. Record the final plat at the Salt Lake County Recorder's Office.

### **18.08.120 - As Built Drawings.**

Prior to the final acceptance of the required improvements the developer shall provide the Municipal Engineering Division a complete and accurate set of as-built drawings in an electronic format acceptable to the Municipal Engineering Division.

## **Chapter 18.10 – Documentation Requirements**

### **18.10.010 – Document Submittal Requirements.**

All subdivision applications shall include, at a minimum, the documents identified in the subdivision application information provided by Planning and Development Services.

### **18.10.020 - Concept Plan Specifications.**

As a minimum, the following information and materials should be provided as a part of the Concept Plan application package:

- A. An accurate and up-to-date survey of the property proposed for subdivision;
- B. A vicinity map at a scale of 1:600 showing the property in relation to the general area of the jurisdictional limits in which it is located;
- C. A schematic plat drawn clearly and accurately by a design professional at a scale appropriate for the nature of the project, to include:
  1. Scale, North Arrow, and Date of Preparation;
  2. Approximate Topography;
  3. All primary and secondary conservation areas;
  4. Significant Existing Man-Made Features on the Property;
  5. Proposed streets, lots, public areas, open spaces, greenbelts, buffers, amenity areas, and other significant proposed improvements;
  6. Zoning setbacks, and the approximate area of each lot;

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7. Any other features that will be important in the design and development of the project; and
8. Any off-site improvements that may be needed to properly develop the property.

D. A Grading and Drainage Plan which includes a conceptual plan for how excess storm water will be managed per Chapter 17.20 requirements.

E. Typical floor plans and elevations of the houses that are planned for the proposed subdivision; and

F. A Concept Plan review fee.

### **18.10.030 Preliminary Plat Required Information.**

The preliminary plat shall contain the information specified in this section and comply with the following requirements:

A. Description and Delineation. In a Title block located in the lower right-hand corner the following shall appear:

1. The proposed name of the subdivision, which name must be approved by Planning and Development Services;
2. The location of the subdivision, including:
  - a. Address;
  - b. Section, township and range;
3. The names and addresses of the owner, the subdivider, if different than the owner, and of the designer of the subdivision; and
4. The date of preparation, scale (no less than one inch to equal one hundred feet) and the north point.

B. Existing Conditions. The plat shall show:

1. The location of and dimensions to the nearest benchmark or monument;
2. The boundary lines of the proposed subdivision indicated by a solid heavy line and the total approximate acreage encompassed thereby;
3. All property under the control of the subdivider, even though only a portion is being subdivided. Where the plat submitted covers only a part of the subdivider's tract, a sketch of the prospective street system of the unplatte parts of the subdivider's land shall be submitted, and the street system of the part submitted shall be considered in the light of existing street system, general street plans, other planning commission studies and adopted transportation plans;
4. The location, width and names of all existing streets within two hundred feet of the subdivision and of all prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or existing easements and section and municipal and service district boundaries, within and adjacent to the tract;

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5. The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract and to a distance of at least one hundred feet beyond the tract boundaries;
6. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location;
7. Existing ditches, canals, natural drainage channels, and open waterways and proposed realignments;
8. Boundary lines of adjacent tracts of subdivided and unsubdivided land, showing ownership where possible;
9. Contour at vertical intervals of not more than two feet. Highwater levels of all watercourses, if any, shall be indicated in the same datum for contour elevations;
10. Nearest installed fire hydrants on or within five hundred feet of the proposed subdivision; and
11. Accurate locations of all natural features such as lakes, ponds, streams, creeks, State Waters, Wetlands, floodplain boundaries, riparian buffers, Wildlife and Priority Habitats (as identified by Department of Natural Resources), and other significant features, and notations designating any federal, state, or local regulatory agency permits or approvals that are or may be required relative to development of or around such features.

C. Compatibility with Chapter 19.38 Foothills and Canyons Overlay Zone requirements. In addition to the preceding, the preliminary plat for subdivision shall show:

1. A graphic depiction of existing slope characteristics of the property, illustrating the following:
  - a. Areas with slopes less than thirty percent;
  - b. Areas with slopes thirty to forty percent;
  - c. Areas with slopes forty to fifty percent; and
  - d. Areas with slopes greater than fifty percent;
2. Identified natural hazards, including but not limited to, areas potentially subject to avalanche, liquefaction, and/or surface fault rupture; and
3. Water courses, natural drainage channels, storm water runoff channels, gullies, stream beds, wetlands, etc., must be identified by a qualified engineer.

D. Proposed Subdivision and Subdivision Improvement Plan. The subdivision plan shall show:

1. The layout of streets, showing location, widths and other dimensions of (designated by actual or proposed names and numbers) proposed streets, crosswalks, alleys and easements;
2. The layout, numbers and typical dimensions of lots, and in areas subject to foothills and canyons overlay zone provisions, designation of buildable areas on individual lots.

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3. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
4. Building setback lines, including showing dimensions where required by the planning commission;
5. Easements for water, sewers, drainage, utility lines and other purposes, if required by the planning commission;
6. Typical street cross sections. Grade sheets may be required by the planning commission or other reviewing agency; and
7. The plan or method by which the subdivider proposes to handle stormwater drainage for the subdivision.

8. The civil engineering plans associated with required infrastructure improvements

E. Phasing.

1. Where a subdivider proposes to submit a final plat containing less territory than shown on the preliminary plat, indicating a phased development plan, the preliminary plat shall identify each of the proposed phases. Any such final plat phasing scheme shall occur at logical "break points" in the project and provide access and utility services which will be adequate in the event that subsequent phases do not occur. The phasing scheme shall also incorporate the provisions of Chapter 18.12 of this title.
2. A phase shall not include two or more non-contiguous areas on the same plat.
3. No phasing scheme shall have the effect of leaving a residual lot, non-conforming parcel or previously divided land for which the required subdivision improvements have not been previously constructed. For purposes of this code a "residual lot" shall be defined as a zoning lot, created by the proposed subdivision, but which is not shown as a lot on the final plat of the subdivision project or as future development. A future development parcel must be developable into multiple lots meeting the area standards for the applicable zone.
4. Phasing should be delineated so as to not include dead-ending streets or cul-de-sacs longer than 150 feet in length, unless temporary turn-arounds are utilized which meet engineering and fire-authority requirements.
5. If any requirement of this Title and the applicable standards is proposed to be satisfied by relation to or incorporation of components of another phase or related development, the applicant shall enter into a development agreement with the Town of Brighton governing the applicable phases or related developments or modify the application to satisfy all requirements independently.

F. Where required, evidence of any agreements with adjacent property owners relative to the subdivision development shall be presented to the planning and development services division in writing prior to its approval of the plat. These agreements shall include those relative to drainage, snow storage, easements, protection strips and improvement bonds.

**18.10.040 – Technical Reports Required.**

A. The following technical reports are required for all subdivisions at the time of the preliminary plat:

1. Soils Report. The report shall include, but is not necessarily limited to, information with respect to slope analysis, general soils classification, suitability for development, erosion potential, any

**Commented [PM8]:** Is an avalanche report needed for certain areas?

## **TITLE 18 - SUBDIVISIONS**

recommendations for proposed methods of mitigating any constraints determined to be present as part of the development plan, and any adverse impact on the natural environment.

2. **Stormwater, Grading And Drainage Plan:** The plan shall include, but is not necessarily limited to, information on groundwater levels, identification and mapping of drainage channels and systems, floodplains, existing details and contours where modification of terrain is proposed, the direction of proposed drainage flow, proposed plans and the location of all surface and subsurface drainage devices to be constructed as part of the proposed development, erosion control measures during the course of construction, identification of any grading and drainage problems such as the alteration of natural drainage patterns and any other problems of the proposed development, and a plan to mitigate or eliminate such problems and any adverse impact on the natural environment.

- B. The following technical reports are required for subdivision applications in areas designated as Special Flood Hazard Areas on a FEMA Flood Insurance Rate Map (FIRM) and subject to Chapter 19.56 Floodplain Hazard Regulations and geological hazards areas subject to Chapter 19.58 Geological Hazards Ordinance.:
    1. **Geotechnical And Geology Report (Global And Site Specific):** The report shall include, but is not necessarily limited to, identification and mapping of the location of major geographic and geologic features such as fault traces, surface ruptures, zones of deformation, potential slide and other high hazard areas such as mine shafts and avalanche paths, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, recommendations covering the adequacy of sites proposed for development, and any potential adverse impact on the natural environment in accordance with Chapter 19.58 Geological Hazards Ordinance. This report shall be completed by a geotechnical engineer or an engineering geologist. The geotechnical report shall contain a certification in accordance with section [18.30.090](#) of this code. The geotechnical investigation shall include soil borings extended to a depth sufficient to define the soil stratigraphy, water table and other features within the zone of significant stress of the proposed structural footings of the proposed development. If the development needs evaluation of slope stability then the soil borings will extend deep enough to define all soil layers in the zone of possible slippage.

If published geologic maps show possible faults in the area or a surface geologic examination reveals signs of faulting then the geotechnical investigation will be supplemented by trenching in addition to the soil borings. The trenches will be so located as to intercept the apparent fault at a perpendicular angle to the trend of the fault. The trenching will extend a minimum of twenty feet (20') each side of the located fault. Developments of two (2) acres or more will require at least two (2) trenches to define the fault. One trench will be approximately where the fault enters the property and the other where it leaves the property. The trenches will be excavated to a depth that will define the fault and allow physical observation and measurement to be taken.

2. **Natural Conditions And Vegetation Analysis And Preservation Plan:** This report and plan shall include a survey of existing trees, large shrubs and ground covers, a plan for the proposed revegetation of the site, detailing existing vegetation to be preserved, new vegetation to be planted and any modifications to existing vegetation, and the identification of any vegetation problems and recommendations as how to mitigate or eliminate such problems and avoid

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potential adverse impact on the natural environment in accordance with Chapter 19.38 Foothills and Canyons Overlay Zone.

3. Fire Protection Report: The report shall include, but not be limited to, identification of potential fire hazards, mitigation measures, access for fire protection equipment and proposed fire flow capability.
- C. The scope and content of these required technical reports and plans shall be in accordance with adopted standards. The Engineering division may waive the necessity for submitting one or more of the technical reports or any elements of a report during the time of the preliminary plat but not at the time of the final plat where, in its opinion, conditions associated with the proposed development do not require consideration of the subject matter covered. Also, where the lot is contained within an approved subdivision and the technical reports previously submitted as part of the subdivision approval process are sufficient in scope and detail to adequately address the issues required under this chapter, this requirement may be waived.

### **18.10.050 Final Plat Required information.**

The final plat, which must be prepared by a Professional Land Surveyor licensed in Utah on a sheet of approved reproducible Mylar and made with approved waterproof black ink. The plat shall be oriented so that the top of the sheet is either north or east, whichever accommodates the drawing best. All text shall be a minimum of one-tenth inch in size. The plat must contain all information required on the preliminary plat with the exception of contours and construction information, utilities (except existing and proposed fire hydrants), structures and fences (unless called monuments).

- A. Description and Delineation. The final plat shall show:
  1. The approved name of the subdivision;
  2. North arrow and graphic scale. The minimum scale is 1"=100';
  3. A Legend defining all lines and symbols used on the plat;
  4. Lot addresses, and approved street names and numbers;
  5. The plat drawing must agree with the boundary description.
  6. Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features. Boundaries, lots and streets shall be shown as solid lines, with outside subdivision boundary lines indicated as a heavier, more substantial line than lot, street and easement lines. Easements shall be shown as dashed lines.
  7. The lengths of lot lines and boundary lines shall be shown as decimals of a foot with a precision of 0.00'; Bearings and angles will be shown as Deg/Min/Sec with a precision of 0°00'00". Additional precision may be necessary to meet closure requirements.
  8. Bearings and distance to provide a mathematical closure of 0.02' or less, on all lots and centerline of streets.
  9. Basis of bearing between two, or more, public land survey monuments; or between identified monuments in a recorded subdivision or street dedication plat

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10. Survey ties to public land survey monuments showing measured and record - if different).
11. The accurate location of all monuments and fire hydrants to be installed shown by the appropriate symbol. All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position;
12. The clearly labeled point of beginning.
13. The sum of the lot distances must equal the boundary distance.
14. Existing and proposed streets within 200 feet. Dimension street width and identify street ownership.
15. Recording information of adjoining subdivisions. Ownership with parcel identification numbers of adjoining lots and parcels.
16. The dimensioned relationship between existing and proposed utility easements with proposed lot lines. Include recording reference(s) of existing easements and provide a utility approval line for proposed easements.
17. All curve data, including radii, internal angles, points and curvatures, tangent bearings and length of all arcs, identified at correct location or in a curve table.
18. Centerline control on existing streets, matching the county's record data. New street monuments will be installed per the Salt Lake County Surveyor's monument permitting process.
19. The dedication to the Town of Brighton of all streets, highways, and/or trails which are intended for use by the public included in proposed subdivision. Where it is proposed that streets be constructed on property controlled by a public agent or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on the final plat in a form approved by the attorney.
20. Subdivision monuments shall be installed prior to the improvement bond release by the subdivider's engineer or land surveyor at such points designated on the final plat as approved by the planning and development services division. Standard precast monuments, rings and lids shall be furnished by the county surveyor and shall be purchased by the subdivider at the prices indicated in the county surveyor's adopted fee schedule;
21. Physical markers shall be placed at each lot corner in accordance with state statutes;
22. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners;

B. Boundary Description. The boundary description shall include:

1. A caption with reference to current vesting deed(s), location by Quarter Section, Township & Range, Base & Meridian, and if applicable -existing subdivision(s)
2. A survey tie to an existing Public Land Survey monument, or a recognized street or subdivision monument. as necessary.

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3. All necessary bearings, distances and curve data to complete the description and provide a mathematical closure of 0.01' (one hundredth) of a foot or less.
4. Narrative (bound) calls to and along adjoining subdivisions, parcels, streets, and rights of way as necessary.
5. Recording reference to any additional easements required for property access where applicable.
6. Total development area in square feet and acres.

C. Standard Forms for the Following. The Town of Brighton may adopt a template establishing the excepted format of the final plat, which shall at a minimum require:

1. A registered land surveyor's certificate of survey;
2. The owner's certificate of dedication;
3. A notary public's acknowledgement;
4. The land use authority's certificate of approval;
5. The health department's certificate of approval;
6. The planning and development services division's certificate of approval;
7. The municipal attorney's certificate of approval;
8. The mayor's certificate of approval;
9. A one and one-half by five-inch space in the lower right-hand corner of the drawing for the county recorder's use.

D. The final plat may require written acknowledgment of any legal documents recorded at the Salt Lake County Recorder's Office completed as part of the approval process for the subdivision. The acknowledgment shall include the recorded number of the document after it has been recorded at the Salt Lake County recorder's office.

**18.10.060 Final approval—GIS Data Required.**

A. Prior to the final approval and the issuance of any permit associated with a subdivision or development plan, or in the case of a single lot development, a single building permit, the owner or developer shall provide to Planning and Development Services a GIS data corresponding to the approved plans for all improvements required by Subsection 18.14.020(B). Any changes during construction will require additional GIS data to be submitted with the final approved as-built drawings. All GIS data shall be submitted in the following format:

1. All GIS data shall be submitted in conformance with Policy 1013, "Standards for Geographic Information System" and the Greater Salt Lake Municipal Services District Engineering GIS standards. The Town of Brighton reserves the right to reject any GIS data that is provided and is not in compliance with the above standards.
2. This shall be done at the developer or owner's expense. If a developer or owner does not provide the required GIS data, the Town of Brighton may complete the work in the developer or owner's

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behalf and the developer or owner shall pay to the Town of Brighton the cost of completing the work at the hourly rate approved by the Council for such work. If developer or owner fails to pay for such work, the Town of Brighton may pursue legal action to recover these costs.

3. Developers with a cost as estimated by the Engineering Division of ten thousand dollars or less may, prior to construction, petition the Division for an exemption from the GIS requirements of this Chapter. The decision of the Director shall be final.

B. GIS data will be required for the following improvements:

1. Roadway system: Regulatory signs, street signs, bus and other transit stops, centerlines, , crosswalks, ADA ramps, striping, road width, and monuments; streetlights and signals (including conduit and electrical boxes for streetlights and signals).
2. Storm drain system: Catch basins, manholes, fire hydrants, cleanout boxes, drainage areas, detention basin inlets and outlets, culverts, detention basin area, stormwater quality BMPs, and pipes.

### Chapter 18.12 - Design Standards

#### 18.12.010 Departmental Standards.

Standards for design, construction specifications and inspection of street improvements, storm drainage and flood control facilities shall be prepared by the Municipal Engineering Division and Flood Control divisions; standards for water distribution and sewage disposal facilities shall be prepared by the health department, and similar standards for fire hydrants shall be prepared by the fire department. All subdivider shall comply with the standards established by such departments and agencies of the Town of Brighton, provided that such standards shall be approved by the legislative body.

**Commented [CW9]:** Many of the design standards have been altered or eliminated from the existing code based on the unique circumstances of Brighton. Some questions remain about a few sections (see comments below) which we will work to resolve.

#### 18.12.020 Conformance with Design Standards.

The design of the preliminary and final plats of the subdivision in relation to streets, blocks, lots, open spaces and other design factors shall conform with the standards contained herein.

#### 18.12.030 Streets and Roads, General Criteria.

- A. Width. The width of the hard surfacing and the location and type of other required street improvements shall be as set forth in section 14.12.100.c of the Brighton code.
- B. Relationship To Adjacent Streets. Where two parallel (or nearly parallel) streets connect to the same perpendicular street, but at separate intersections, the centerlines of such parallel streets shall not be less than 150 feet apart, except as allowed within Subsection 18.12.050(E). Alignment Of Streets Through Intersections: All street sections which approach or connect to an intersection must have a centerline which aligns with the opposite and connecting approach. If both connecting approaches have striped lanes then the centerlines may be misaligned if all through lanes are aligned, but in no case may any centerline or through lane have an offset of more than two feet.
- C. Street Names. New street names may not duplicate those already existing within Salt Lake County. A street obviously a continuation of another already in existence should bear the same name. Before the street is named, the proposed name must be submitted to and approved by Planning and Development Services.

**Commented [CW10]:** Amended to recognize the "canyon roads" standards in current code, while keeping the basic safety standards in place for alignment, dead-ends/cul-de-sacs, etc.

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- D. **Access To Adjacent Properties.** In order to facilitate the development of an adequate and convenient circulation system within Brighton and to provide access for the logical development of adjacent vacant properties, The Town of Brighton may, as a condition of approval, require the subdivision plan to include one or more temporary dead end streets (stub streets) which extend to the boundary of the subdivision. All such stub streets shall be fully developed to the boundary of the subdivision. Any plan for the subsequent development of the adjacent property shall provide for the continuation of any such stub street.
- E. **Temporary Dead End (Stub Streets).** Where a final plat includes a dead end stub street which is intended to be continued into adjacent property in the future and which serves as the primary access for one or more adjacent lots, said final plat shall make provision for temporarily accommodating vehicular movement and the extension of utility services by designating temporary cul-de-sacs, turnaround areas, travel easements connecting the end of the stub street with other streets in the vicinity or such other temporary measure as may be approved by the planning commission. Such temporary facilities required pursuant to this provision shall remain until such time as the street has been extended into the adjacent property and the improvements accepted by The Town of Brighton.
- F. **Cul-De-Sacs.** Cul-de-sacs shall be discouraged.
  - 1. Cul-de-sacs may be appropriate in cases where the possibility of future adjacent development does not exist due to topography or existing development, where an additional through street would be unnecessary, or other special circumstances as determined appropriate by the land use authority. When permitted, permanent cul-de-sacs shall be designed in accordance with adopted standard drawings, each cul-de-sac stem shall meet the standard street requirement including right of way and pavement width within residential subdivisions. The maximum length of a cul-de-sac street shall be four hundred feet (400') from the center of the cul-de-sac to the centerline of the intersecting street. The planning commission may allow a five hundred foot (500') maximum cul-de-sac length if the applicant of such can demonstrate one or both of the following requirements:
    - a. That a road cannot be extended through the property to connect to another street elsewhere.
    - b. That development has occurred on at least three (3) sides of the surrounding property.
  - 2. The land use authority may require a sidewalk connection through a cul-de-sac to allow for pedestrian connectivity to existing or future adjacent development and/or public streets.
- G. **Vehicle Access.** Subdivision projects of twenty (20) lots or more shall provide at least two (2) points of vehicular access.

### 18.12.040 **Blocks.**

- A. **Length.** Blocks shall not exceed one thousand six hundred (1,600') feet in length.
- B. **Width.** Blocks shall be wide enough to adequately accommodate two tiers of lots except as provided for herein.
- C. **Walkways.** Dedicated walkways through the block may be required where access is necessary to a point designated by the planning commission. Such walkways shall be a minimum of six feet in width, but may be required to be wider where determined necessary by the planning commission. The

**Commented [CW11]:** It remains to be seen whether subdivisions large enough to have "blocks" will ever be proposed in Brighton, but we have left this section in. Much of Silver Fork is laid out in "blocks." of various sizes and shapes.

## TITLE 18 - SUBDIVISIONS

subdivider shall surface the full width of the walkway with an all-weather surface, and provide, in accordance with the standards, rules and regulations, barriers at each walkway entrance to prevent the use of the walkway, by any motor vehicle or by any other nonmotorized vehicle wider than four feet.

D. Commercial Block Design. Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

### 18.12.050 Lots.

A. Design. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for buildings and be properly designed according to topography, the character of surrounding development, and to existing requirements. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage which would be unusable for normal purposes.

B. Zoning Conformity. All lots shown on the preliminary and final plats must conform to the minimum requirements of the zone in which the subdivision is located, and to the minimum requirements of the health department for water supply and sewage disposal. Lots created as part of an approved planned unit development, or subject to a development agreement are subject to the standards set forth in that approval or document.

### C. Frontage.

1. Each lot in a subdivision shall abut upon and have access to a street which is:
  - a. Dedicated to The Town of Brighton by the subdivision plat; or
  - b. An existing publicly dedicated street; or
  - c. An existing public street which has become public by right of use; or
  - d. An existing private street that has been approved by The Town of Brighton; or
  - e. Have an approved access via private right of way to a public street shown on the plan and approved under the criteria outlined in subsection 2 of this section.
2. The municipality may approve a request for a private street that complies with the following criteria:
  - a. Private streets will be allowed for streets that have no public interest for traffic circulation and connectivity.
  - b. Unless otherwise authorized by the Council, private streets shall conform to 14.12.100.c, and shall in no case less than twenty feet (20') in width.
  - d. The maximum length of a dead-end private street shall not exceed five hundred feet (500').
  - e. A note on the plat shall be included indicating that municipality has no responsibility to improve or maintain the private streets contained within, or private streets providing access to, the property described in the plat, nor does the Town of Brighton have responsibility for any of the infrastructure associated with the roadway such as drainage facilities.

**Commented [CW12]:** We understand the preference of Brighton may be for private road development rather than public street development, and the Council may choose to alter this section to emphasize that policy decision.

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- f. The applicant shall provide a maintenance plan outlining how the private streets will be maintained. The maintenance plan shall be recorded with the final subdivision plat in the Office of the Salt Lake County Recorder.
- D. Angle of Lot Lines. Side lot lines or lots shall be approximately at right angles, or radial to the street line, except where topographic or other conditions make it advisable to have side lot lines at sharper angles.
- E. Multiple Ownership of Lots. Where the land covered by a subdivision includes two (2) or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the subdivision shall be considered as a joint project and the final plat shall be signed by all affected property owners.

### **18.12.060 Remnant Parcels and Nuisance Strips.**

- A. No subdivision or platting of a lot shall create a nuisance strip, residual lot, or remnant parcel of property less than the minimum lot area or width for the zone in which it is located.
- B. If a remnant parcel is proposed, a phasing plan must be submitted demonstrating how the remnant parcel can be developed in the future.
- C. Remnant land not included in the proposed subdivision or platting of a lot must be deeded to adjacent property, with the deed or other appropriate instrument being recorded at the same time as the subdivision or recording of a plat. The resulting deeds shall not result in additional parcels being created that are not within the subdivision boundary.
- D. No lot may contain an elongated protuberance, or any other feature intended to deny frontage to another parcel.

### **18.12.080 Other Development Standards.**

- A. Design Shall Further Purposes and Goals of Chapter 19.38 Foothills and Canyons Overlay Zone. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision shall be designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of the foothills and canyons overlay zone.
- B. Consider/Apply Zoning Development Standards. Applicants shall consider and apply the development standards set forth in Chapter 19.38 in (1) the layout of the subdivision and (2) the designation of buildable areas on individual lots (see subsection C of this section) in order to avoid creating lots or patterns of lots that will make compliance with such development standards difficult or infeasible.
- C. Designations of Buildable Areas. All preliminary and final subdivision plats shall outline buildable areas on each lot intended to accommodate planned principal and accessory structures. A building envelope shall be identified for each lot. Future construction on the lot is encouraged, but not required to be located within the identified building envelop for each lot; however, construction outside of the designated building envelop shall comply with the setback requirements for a conventional development.

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D. **Clustering of Lots.** Clustering of lots within a subdivision is strongly encouraged and may be required by the planning commission to meet the requirements of this provision and the overlay zone.

### Chapter 18.14 - Required Improvements

#### 18.14.010 Certification of Improvements.

No final plat of a subdivision of land shall be recorded without receiving a statement signed by the Planning and Development Services division certifying that the improvements described in the subdivider's plans and specifications have been completed, or that an adequate performance bond has been submitted for the required improvements as allowed under Chapter 18.16. The certification document is to certify that the required improvements meet the minimum requirements of all ordinances of the municipality, that they comply with the standards and requirements of the health department, the Planning and Development Services division, the planning commission and the fire authority serving the area.

#### 18.14.020 Storm Sewers.

Storm sewers shall be constructed throughout the entire subdivision to carry off water from all inlets and catch basins and shall be connected to an adequate outfall. A stormwater drainage system subject to the approval of Planning and Development Services shall be provided and shall be separate and independent of the sanitary sewer system. The final plans for the drainage system shall be prepared by a licensed engineer not in the employ of the county, the MSD or the Town of Brighton and shall meet the requirements in Title 17.

**Commented [CW13]:** While this section seems out of place in Brighton, storm drainage management guidelines in current engineering codes require that drainage be considered and planned for during the subdivision review process.

#### 18.14.030 Public Sanitary Sewer.

- A. Where public sewer service is available to or within three hundred feet (300') of the subdivision, a public sanitary sewer system, including main lines and laterals from the main to each lot property line, shall be constructed throughout the entire subdivision in accordance with plans and technical standards required by the entity providing public sewer service to the subdivision and shall be connected to the public sewer system.
- B. In cases where public sewer service is not presently available to the subdivision, alternate waste disposal systems may only be permitted and used provided that the subdivider or developer installs and constructs concurrently therewith sanitary sewer laterals and mains within the subdivision streets to a point on the subdivision boundary where future connection with the public sewer system shall be made. Sewer laterals shall be laid from each lot to the main line in each street, and a connection shall be available on each lot to connect from the alternate waste disposal systems to the sewer system when public sewer becomes available and operational. Such sanitary sewer system shall be capped until ready for use and shall be constructed throughout the entire subdivision in accordance with plans and technical standards required by the entity that will provide public sewer service to the subdivision in the future.
- C. The Council may exempt the subdivider from the requirements of this section upon a finding that public sewer service is unlikely to be provided to the subdivision in the future due to physical inaccessibility of the terrain. Prior to making a decision concerning a requested exemption, the Council shall request a written recommendation from the planning commission, the Municipal Engineering Division, and from the entity most likely to provide sewer service to the area in which the subdivision is located.

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D. Subsection C notwithstanding, it is expressly provided that it shall be unlawful for the owner or other person having charge of or occupying any property upon which a building shall have been or is being constructed for residential, commercial or industrial use, any part of which building is within three hundred feet (300') of any street, alley, or way in which a public sewer is then in existence and used in the town, to construct or permit to be constructed or to use or permit to be used any privy vault, septic tank or cesspool connected with such building. Each such owner or other person shall within ninety (90) days after having been given notice by The Town of Brighton that an accepted public sewer is ready to receive connections, therewith cause such building to be connected with the sewer (except that if such building shall not, at the time such notice is given, have therein any toilet or toilets, the owner or person having charge thereof or occupying any such building shall have a period of 2 years in which to connect it with such public sewer) and it shall thereafter be unlawful for such owner or other person to have the plumbing in such building remain unconnected to the public sewer or to maintain or use or cause or permit to exist any privy vault, septic tank or cesspool to which the building is connected or which is used by the occupant thereof. Whenever an accepted public sewer is available to receive connections therewith, the manager of the system shall cause appropriate notice to be served upon the owner, agent or other persons having charge of or occupying all property coming within the scope of this section, that the public sewer is ready to receive connections therewith and that all plumbing must be connected with such sewer

### **18.14.040 Storm Drainage in Irrigation Ditches and Canals.**

No irrigation ditch or canal shall be used for storm drainage conveyance or storage. No ditch or canal shall be permitted within property dedicated or to be dedicated for public use. The subdivider shall remove such waterways from property to be so dedicated prior to the construction of required off-site improvements. The subdivider shall receive written permission of the appropriate ditch or canal company or of the water users for all changes to ditches or canals, and this permission shall be provided with the final plat application.

**Commented [CW14]:** If there are no irrigation ditches or canals in Brighton, this section may be removed.

### **18.14.050 Street Improvements.**

A. The subdivider shall submit a complete set of construction plans and profiles of all streets, existing and proposed, within the subdivision to the planning and development services division. Plans and profiles are to be prepared by a professional engineer licensed to practice in the state of Utah and shall be accompanied by the final plat. The subdivider must also provide all GIS data corresponding to the submitted plans as required by Section 18.14.020. The planning and development services division shall, within a reasonable time not to exceed twenty days from the receipt of the plans and profiles, notify the subdivider of approval, and in case of disapproval the reasons therefor. Such plans and profiles shall include:

1. The designation of limits of work to be done;
2. The location of the bench mark and its true elevation according to Policy 1013, "Standards for Geographic Information System" and the Municipal Engineering Division GIS standards, all profiles to be referred to in those standards;
3. Profiles which indicate the finished and existing grades for the centerline of the street.
4. Profile of all public storm drain system and any private system that connects to public system;

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5. Construction plans which include the details of street cross-sections, location and elevation of manholes, catchbasins and storm sewers, elevations and location of fire hydrants and any other detail necessary to simplify construction;
6. Complete date for field layout and office checking;
7. The street address of the project as approved by Planning and Development Services and subdivision name if applicable.

B. At least ten days prior to the commencement of construction, the subdivider shall furnish to the Municipal Engineering Division two bound 24"x36" hard copies of the complete set of approved construction plans and profiles of all streets, existing and proposed, as well as all corresponding GIS data in a format compatible with this Chapter. The approved hard copy sets of the construction plans and profiles shall include all information required in section A.

### **18.14.060 Arrangement of Streets.**

The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas and shall provide access to unsubdivided adjoining areas insofar as such continuation or access shall be deemed necessary by the planning commission. New streets must connect with existing public streets.

### **18.14.070 Utility and Facility Systems to Be Underground.**

All utility and facility systems including, but not limited to, all poles, towers, wires, lines, cables, conduits, and pipes providing service such as electricity, telephone, telegraph, cable television, gas, water, sewer, steam or petroleum including service drops, distribution systems, and transmission systems shall be placed underground in accordance with municipal ordinances and policies. (Refer to Chapter 19.46 of this code, General Site Development Standards.)

### **18.14.080 Street Lighting.**

Streetlights are prohibited unless recommended by the Municipal Engineering Division or required by the Utah Department of Transportation (UDOT). When deemed necessary, streetlights shall utilize lamp types that are fully-shielded light fixtures that minimize sky glow, light trespass, and other unintended impacts of artificial lighting. All street lights shall utilize the lowest light levels accepted by the Municipal Engineering Division and/or UDOT.

### **18.14.090 Pavement Requirements.**

Pavements shall be constructed in accordance with the requirements of the standards, rules and regulations in Section 14.12.100 and adopted by the Council.

### **18.14.110 Street Name Signs.**

Street name signs, conforming to the design and specifications and in the number provided by the standards, rules and regulations of The Town of Brighton, shall be provided by the developer at all street intersections. Installation shall be made by The Town of Brighton to insure uniformity.

### **18.14.120 Trails.**

The subdivider shall dedicate trails necessary to provide public access to public lands and other trails shown on the general plans or required by the planning commission. Trails shall be located so that the route is feasible for both construction and long-term maintenance; sideslopes shall not exceed seventy

## **TITLE 18 - SUBDIVISIONS**

percent and rock cliffs and other insurmountable physical obstructions shall be avoided. The specific location of the trail right-of-way shall be verified on the ground before approval of the subdivision. The amount of land required for trail dedication without compensation shall not exceed five percent of the land within the subdivision excluding trails located within a standard street right-of-way.

### **18.14.130 Fire Hydrants.**

Fire hydrants shall be installed in all subdivisions in accordance with the regulations of the Fire Authority.

### **18.14.140 Stormwater Inlets and Catch Basins.**

Stormwater inlets and catch basins shall be provided by the applicant within the roadway improvements at points (required to capture and convey stormwater per current standards and engineering standards of practice or as otherwise) specified by the Municipal Engineering Division.

### **18.14.150 Construction of Improvements.**

- A. Twenty-four (24) hours prior to construction of any required improvements, the Municipal Engineering Division shall be notified so that proper inspection may be provided and so that it may be determined whether or not proper authorization and/or required permits for construction have been obtained.
- B. As-built plans, profile drawings, and corresponding GIS data shall be furnished to the Municipal Engineering Division of all street improvements, storm drain, sanitary sewer, and water systems upon completion. Planning and Development Services shall retain the improvement bond until such plans have been submitted.
- C. Extreme care should be exercised on the part of the subdivider, the contractor and all other associated agencies for the protection and maintenance of all existing or newly placed improvements or facilities within the roadway sections during development.

### **18.14.160 Responsibility for Damages.**

All damages to any bonded improvements or facilities incurred during the period of development shall be the sole responsibility of the subdivider and must be replaced to the satisfaction of the Municipal Engineering Division before final acceptance of any improvements caused by the subdivider or any agents of the subdivider shall be repaired by the subdivider to the satisfaction of the Municipal Engineering Division prior to final acceptance and bond release.

## **Chapter 18.16 – Performance Guarantees**

### **18.16.010 Performance Guarantee Required.**

Wherever a performance guarantee is required under the terms of this title, the performance guarantee shall be submitted:

- A. In conformance with this chapter; and
- B. Prior to the commencement of any improvements.

### **18.16.020 Performance Bonds.**

- A. Prior to the recording of a plat or conducting any development activity, in lieu of actual completion of the improvements listed in this Title, subdividers may file with the Planning and Development Services

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Division a performance bond to assure actual construction of such improvements within a one-year period.

- B. If the applicant elects to post a performance bond in lieu of completing the improvements prior to the recording of the final plat, the applicant shall provide a performance bond for:
  - 1. The completion of 100% of the required improvements; or
  - 2. If the Engineering division has inspected and accepted a portion of the required improvements, 100% of the incomplete or unaccepted improvements.
- C. The amount of the performance bond for public improvements shall be established by the Engineering division's estimated cost of completion.
- D. The performance bond shall be in the form of a cash bond, an escrow agreement, or an irrevocable letter of credit.
- E. A performance bond agreement shall be entered into by the Planning and Development Services division and the subdivider:
  - 1. The performance bond agreement shall include a provision that the performance bond shall expire within thirteen (13) months from the date issued.
  - 2. If the project has not been completed by that date, then the performance bond shall be considered foreclosed upon.
  - 3. All remaining funds shall be thereafter remitted to the Planning and Development Services division as set forth in the performance bond agreement.
  - 4. A performance bond may be extended only if special circumstances warrant an extension, as determined by the Municipal Engineering Division.
- F. A performance bond may be partially released if the performance to which it relates has been satisfactorily completed, except that not less than ten percent (10%) of the performance bond shall be retained to ensure completion of the entire performance.
- G. The Director or Designee may establish objective procedures consistent with this section relating to the administration of performance bonds, including fund management, default and collection.

### **18.16.030. Final Disposition and Release.**

- A. Upon completion of the work for which a performance bond has been posted, the developer shall submit to the Director or Designee, one copy of a written request for release.
- B. After receipt of the notice and request under subsection A of this section, within five (5) days the Municipal Engineering Division shall make a preliminary inspection of the improvements and shall submit a report to the Director or Designee setting forth the condition of the facilities.
- C. The Director or Designee shall receive the report and, within seven (7) days of the inspection, authorize release of a portion of the performance bond corresponding to the work completed and

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approved if the Municipal Engineering Division finds, based on objective inspection standards, that the condition of the improvements are satisfactory.

- D. The portion of the bond to be held as a durability bond under section 18.16.050 of this chapter may not be released until the durability period has expired and an inspection has been conducted by the Municipal Engineering Division that finds, based on objective inspection standards, that the condition of the improvements is satisfactory.
- E. A bond may not be released if the Municipal Engineering Division:
  - 1. Finds that the condition of material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability; or
  - 2. Finds that any other terms of the bond agreement have not been satisfied; or
  - 3. As built plans, including profile drawings, have not been filed and corresponding GIS data (as required) has not been submitted; or
- G. If the bonds are not released, refusal to release and the reasons therefor shall be given the subdivider in writing within seven days from the time of the inspection.
- H. In the case of a dispute over the release of a performance bond under this section, the Director may refer the matter to the Council for subsequent action to secure performance.

Such bonds shall be processed and released in accordance with the procedures set forth in Chapter 12.3 of this code.

### **18.16.040. Default.**

- A. Upon substantiating a finding under subsection B of this section, the Director with approval of the Council may, with due notice to the developer:
  - 1. Declare the performance bond forfeited; and
  - 2. Install or cause the required improvement to be installed using the proceeds from the performance bond to defray the costs.
- B. A performance bond may be forfeited under subsection A of this section if the Director finds that a developer has failed or neglected to:
  - 1. Satisfactorily install the required improvements;
  - 2. Make required corrections;
  - 3. Make payment to the Planning and Development Services division for administration and inspections; or
  - 4. Otherwise carry out the activity for which the performance bond was required.
- C. The developer is responsible for work beyond the limits of the bond amount.
- D. Any funds remaining after completion of the required improvements will be returned to the developer.

## TITLE 18 - SUBDIVISIONS

### **18.16.050. Reclamation Bond.**

- A. Prior to conducting any development activity, the developer shall submit a shall file with the Planning and Development Services Division a reclamation bond to ensure that the site can be made safe in the event the developer is unable to complete the required improvements.
- B. The amount of the reclamation bond for public improvements shall be not less than ten percent (10%) of the Municipal Engineering Division's estimated cost of completion.
- C. The reclamation bond shall be in the form of a cash bond, an escrow agreement, or an irrevocable letter of credit.
- D. At the end of the construction phase of the project, when the Municipal Engineering Division has approved and accepted the required improvements, the reclamation bond becomes the durability bond, with the final disposition and release subject to the same standards as the durability bond.

### **18.16.060. Durability Bond.**

- A. The Planning and Development Services division shall retain a durability bond in the amount of not less than ten percent (10%) of the initial amount of the performance bond or the applicant's reasonable proven cost of completion. The durability bond shall be in the form of a cash bond, an escrow agreement, or an irrevocable letter of credit. The durability bond shall be for the purpose of warranting the improvements and shall be for a period of:
  - 1. One year after final acceptance of the improvement or warranty work; or
  - 2. Two (2) years after final acceptance of the improvement or warranty work, if the Director:
    - a. Determines for good cause that a lesser period would be inadequate to protect the public health, safety, and welfare; and
    - b. Has substantial evidence of:
      - i. Prior poor performance of the applicant;
      - ii. Unstable soil conditions within the subdivision or development area; or
      - iii. Extreme fluctuations in climatic conditions that would render impracticable the discovery of substandard or defective performance within a one-year period.
- B. A determination under subsection A2 of this section shall be made by the Municipal Engineering Division in consultation with the Director.
- C. If, after the warranty period, the durability of said improvements are found to be satisfactory, the retainage may be released following the procedure outlined under section 18.16.030 of this chapter.
- D. The Director may authorize a release of fifty percent (50%) of the improvement durability bond prior to the warranty period, if determined appropriate based on a finding of:
  - 1. The project has been completed and found acceptable and all monies have been released except for the durability bond;

## TITLE 18 - SUBDIVISIONS

2. An error in the initial amount of the performance bond or the original calculation of the durability bond; or
3. Fact that was previously unknown to the Municipal Engineering Division that is material in a determination that Brighton's public health, safety, and welfare would still be adequately protected.

E. The person giving the durability bond shall correct the improvements if at any time during the warranty period:

1. Any required improvement fails or shows unusual depreciation;
2. Certain work has not been completed or it becomes evident that certain work was not completed; or
3. The materials or workmanship used in constructing the improvements do not otherwise comply with accepted standards of durability.

F. If the corrections are not made within a reasonable time, the Director, with review from the Council, in accordance with section 18.16.040 of this chapter, may declare the person in default and use the retainage to defray the cost of any required work.

### Chapter 18.18 - Subdivision Amendments

Sections:

#### **18.18.010 Purpose.**

This Chapter establishes review and approval procedures for subdivision amendments and boundary line adjustments.

**Commented [CW15]:** This chapter has been amended from existing (18.18) to more closely reflect the requirements of state statute.

#### **18.18.020 Boundary Line Adjustments.**

- A. If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the Salt Lake County Recorder as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.
- B. Requirements. Adjoining property owners executing a boundary line agreement described in Subsection A shall:
  1. Ensure that the agreement includes:
    - a. A legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;
    - b. The name and signature of each grantor that is party to the agreement;
    - c. A sufficient acknowledgment for each grantor's signature;
    - d. The address of each grantee for assessment purposes;

## **TITLE 18 - SUBDIVISIONS**

- e. A legal description of the parcel or lot each grantor owns before the boundary line is changed; and
- f. The date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed;

2. If any of the property subject to the boundary line agreement is part of a subdivision lot, prepare an amended plat, to be approved by the land use authority designated by section 18.08.010, before executing the boundary line agreement; and
3. If none of the property subject to the boundary line agreement is a part of a subdivision lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map.

C. Presumptions. A boundary line agreement described in Subsection A that complies with Subsection B presumptively:

1. Has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and
2. Relocates the parties' common boundary line for an exchange of consideration.

D. Metes and Bounds Parcels. A boundary line agreement that only affects metes and bounds parcels is not subject to:

1. Any public notice, public hearing, or preliminary platting requirement;
2. The review of a land use authority; or
3. An engineering review or approval of the Town of Brighton, except as provided in Subsection E.

E. Boundary Line Agreements when Dwelling Units are present.

1. If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the owners shall submit the boundary line agreement to the Director or Designee for review.
2. The purpose of the review is to ensure that violations of the width, area, frontage, setback and other requirements are not created, and that any existing, legal nonconformities are not increased by any degree.
3. The Director or Designee shall complete the review within 14 days after the day on which the property owner submits the boundary line agreement for review.
4. If the Director or Designee determines that the boundary line agreement is deficient or if additional information is required to approve the boundary line agreement, the division shall, within 14 days, send written notice to the property owner that:
  - a. Describes the specific deficiency or additional information required to approve the boundary line agreement; and

## **TITLE 18 - SUBDIVISIONS**

- b. State that the Town of Brighton shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in the notice;
- 5. If the Director or Designee approves the boundary line agreement, the division shall send written notice of the boundary line agreement's approval to the property owner within 14 days.
- 6. If the Director or Designee fails to send a written notice within 14 days, the property owner may record the boundary line agreement as if no review was required.

### **18.18.030 Subdivision Amendments.**

- A. Application Required. A fee owner of land, as shown on the last county assessment roll, in an approved subdivision that has been recorded with the Office of the Salt Lake County recorder may file an application with the Director or Designee to request a subdivision amendment.
- B. Plat Required. Upon filing an application to request a subdivision amendment, the owner shall prepare a plat in accordance with section 18.10.030 that:
  - 1. Depicts only the portion of the subdivision that is proposed to be amended;
  - 2. Includes a plat name distinguishing the amended plat from the original plat;
  - 3. Describes the differences between the amended plat and the original plat; and
  - 4. Includes references to the original plat.
- C. Notice. The Director or Designee shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.
- D. Public Hearing Required. The planning commission shall hold a public hearing within 45 days after the day on which the petition is filed if:
  - 1. Any owner within the plat notifies the Town of Brighton of the owner's objection in writing within 10 days of mailed notification; or
  - 2. A public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- E. Public Hearing Not Required. The public hearing requirement does not apply, and the planning commission may consider at a public meeting an owner's petition for a subdivision amendment if:
  - 1. The petition seeks to:
    - a. Join two or more of the petitioner fee owner's contiguous lots;
    - b. Subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

## **TITLE 18 - SUBDIVISIONS**

- 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 petitioning fee owner, 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:
  - i. Owned by the petitioner; or
  - ii. Designated as a common area; and

2. Notice has been given to adjoining property owners in accordance with any applicable local ordinance.

E. A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

F. A request to amend a public street or municipal utility easement is also subject to Section 18.18.050.

G. A request to amend an entire plat or a portion of a plat shall include:

1. The name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and
2. The signature of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition who consents to the petition.

H. The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section. An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the Salt Lake County recorder's office.

1. The surveyor preparing the amended plat shall certify that the surveyor:
  - a. Holds a license in accordance with Utah Code; and
  - b. Has completed a survey of the property described on the plat in accordance Utah Code and has verified all measurements; or
  - c. Has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and
  - d. Has placed monuments as represented on the plat.

### **18.18.040 Approval of Vacation or Amendment of Plat**

A. The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

## **TITLE 18 - SUBDIVISIONS**

1. there is good cause for the vacation or amendment; and
2. no public street or municipal utility easement has been vacated or amended.

B. The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the Salt Lake County recorder.

C. If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

D. The Council may vacate a subdivision or a portion of a subdivision by recording in the Salt Lake County recorder's office an ordinance describing the subdivision or the portion being vacated. The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

E. An amended plat may not be submitted to the Salt Lake County recorder for recording unless it is:

1. Signed by the land use authority; and
2. Signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

F. A management committee may sign and dedicate an amended plat as provided in Utah Code, Title 57, Chapter 8, Condominium Ownership Act.

G. A plat may be corrected as provided in Utah Code Section 57-3-106.

### **18.18.050 Petition to Vacate a Public Street.**

A. In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Utah Code, the Council may approve a petition to vacate a public street in accordance with this section.

B. Application. A petition to vacate some or all of a public street or municipal utility easement shall include:

1. The name and address of each owner of record of land that is:
  - a. Adjacent to the public street or municipal utility easement between the two nearest public street intersections; or
  - b. Accessed exclusively by or within 300 feet of the public street or municipal utility easement;
2. Proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and
3. The signature of each owner due notice who consents to the vacation.

C. Notice. If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the Council shall hold a public hearing, giving notice of the date, place, and time of the hearing as follows:

## TITLE 18 - SUBDIVISIONS

1. At least ten (10) days before the public hearing, the legislative body shall ensure that notice is:
  - a. Mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;
  - b. Mailed to each affected entity;
  - c. posted on or near the public street or municipal utility easement in a manner that is calculated to alert the public; and
  - d. Publish notice on the municipal website and the Utah Public Notice Website until the public hearing concludes.
- D. Determination. After having held a public hearing as required herein, the Council shall determine whether:
  1. Good cause exists for the vacation; and
  2. The public interest or any person will be materially injured by the proposed vacation.
- E. Adoption. The Council may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the Council finds that:
  1. Good cause exists for the vacation; and
  2. Neither the public interest nor any person will be materially injured by the vacation.
- F. Recording. If the Council adopts an ordinance vacating some or all of a public street or municipal utility easement, the Council shall ensure that one or both of the following is recorded in the office of the Salt Lake County Recorder:
  1. A plat reflecting the vacation; or
  2. An ordinance described in Subsection D and a legal description of the public street to be vacated.
- G. Limitations. The action of the Council vacating some or all of a public street or municipal utility easement that has been dedicated to public use:
  1. Operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of The Town of Brighton's fee in the vacated public street or municipal utility easement; and
  2. May not be construed to impair:
    - a. Any right-of-way or easement of any parcel or lot owner;
    - b. The rights of any public utility; or
    - c. The rights of a culinary water authority or sanitary sewer authority.
- G. Municipal Petition to Vacate. The Town of Brighton may submit a petition, in accordance with Subsection B, and initiate and complete a process to vacate some or all of a public street.

## TITLE 18 - SUBDIVISIONS

1. If the Town of Brighton submits a petition and initiates a process under this subsection:
  - a. The Council shall hold a public hearing;
  - b. The petition and process may not apply to or affect a public utility easement, except to the extent:
    - i. The easement is not a protected utility easement as defined in Utah Code;
    - ii. The easement is included within the public street; and
    - iii. The notice to vacate the public street also contains a notice to vacate the easement; and
  - c. A recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.
- H. Water and Sewer Easements. The Council may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

### **18.18.060 Amendments to Create Additional Lots.**

An amendment to a recorded subdivision to create one or more additional lots shall follow the approval procedure outlined in Chapter 18.08. Where the amendment does not include the creation of additional infrastructure beyond service lines, this amendment process may utilize a combined application as set forth in Section 18.08.100.

### **18.18.070 Other Amendments to Subdivisions.**

An amendment to a recorded subdivision that involves the alteration or removal of an easement, private right-of-way, condition, limitation, or special requirement shall follow the approval procedure outlined in Chapter 18.08 with the following variations:

- A. Only those persons or entities who have a direct interest in, or who will be directly affected by the proposed change (including the applicant) must be notified of any pending action; and
- B. No preliminary plat need be approved. The recommendations of the affected entities and the approval of the planning commission may be based on a final plat.

### **18.18.080 Correction of Technical Errors.**

An amendment to correct a technical error, such as misnumbered street addresses or an errant note on the plat may be done through recording an affidavit of correction by the Director.

## **Chapter 18.20 - Filing Professional Surveys**

Sections:

### **18.20.010 Filing Required, Indexing and Fees.**

- A. Any registered professional land surveyor making a survey of private lands within this state who establishes or reestablishes any private property boundary monument shall file a map of the survey that meets the requirements of this Chapter with the county surveyor within ninety days of the establishment or reestablishment of the boundary monument.

**Commented [MJ16]:** @Polly: This chapter is new. I do think it is beneficial

## **TITLE 18 - SUBDIVISIONS**

- B. The county surveyor shall file and index the map of the survey which will thereafter be a public record in the office of the county surveyor and will be available for examination by the public. The county surveyor will provide facilities for copying such maps and associated documents.
- C. Fees will be charged for services in accordance with the adopted fee schedule.
- D. The requirements of this section are in addition to Chapter 14.17, Excavation Permit for Monuments.

### **18.20.020 Contents of Maps.**

- A. The county surveyor will screen maps of survey that are submitted to him to ensure that they conform to the requirements set forth in this Chapter before receiving them. Such maps shall be drawn on a twenty-four-inch by thirty-six-inch linen and shall show:
  - 1. The location of survey by quarter section and township and range;
  - 2. The date of survey;
  - 3. The scale of drawing and north point;
  - 4. The distance and course of all lines traced or established, giving the basis of bearing and the distance and course to a section corner or quarter corner, including township and range, or an identified monument within a recorded subdivision;
  - 5. All measured bearings, angles and distances separately indicated from those of record;
  - 6. A written boundary description of property surveyed;
  - 7. All monuments set and their relation to older monuments found;
  - 8. A detailed description of monuments found and monuments set, indicated separately;
  - 9. The surveyor's seal or stamp;
  - 10. The surveyor's business name and address.

### **18.20.030 Written Narrative.**

- A. The map of survey will include a written narrative either on the map itself or on a separate document. If on a separate document, such narrative will be typed on eight-and-one-half-inch by eleven-inch white paper of a permanent nature on stable base. The narrative will include:
  - 1. An explanation of the purpose of the survey;
  - 2. The basis on which the lines were established; and
  - 3. The found monuments and deed elements that controlled the established or reestablished lines;
  - 4. The location of the survey by quarter section and by township and range;
  - 5. The date of the survey;
  - 6. The surveyor's stamp or seal; and
  - 7. The surveyor's business name and address.

## **TITLE 18 - SUBDIVISIONS**

B. The map and narrative will be referenced to each other if they are separate documents.

### **18.20.040 Marking Monuments.**

- A. Any monument set by a registered professional land surveyor to mark or reference a point on a property of land or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.
- B. If the monument is set by a public officer, it shall be marked with the official Title of the office.

### **18.20.050 Changes of Section or Quarter Section Corners.**

- A. If, in the performance of a survey, the surveyor finds or makes changes in the section corner or quarter-section corner, or their accessories as they are described in an existing corner record or survey map in the office of the county surveyor, the surveyor shall complete and submit to the county surveyor a record of the changes needed to be made to any corner or accessories to the corner.
- B. The record shall be submitted within forty-five days of the corner visits and shall include the surveyor's seal, business name, and address.

### **18.20.060 Compliance by Governmental Agencies.**

Any federal or state agency, board or commission, special district, or municipal corporation that makes a survey of lands within the Town of Brighton shall comply with this Chapter.

### **18.20.070 Amendment by Affidavit.**

- A. Any survey map or narrative filed and recorded under the provisions of this Chapter may be amended by an affidavit of corrections:
  - 1. To show any courses or distances omitted from the map or narrative;
  - 2. To correct an error in the description of the real property shown on the map or narrative; or
  - 3. To correct any other errors or omissions where the error or omission is ascertainable from the data shown on the map or narrative as recorded.
- B. The affidavit of correction shall be prepared by the registered professional land surveyor who filed the map or narrative.
- C. In the event of the death, disability or retirement from practice of the surveyor who filed the map or narrative, the county surveyor may prepare the affidavit of correction.
- D. The affidavit shall set forth in detail the corrections made.
- E. The seal and signature of the registered professional land surveyor filing the affidavit of correction shall be affixed to the affidavit.

### **18.20.080 County Surveyor Certification.**

- A. The county surveyor having jurisdiction of the map or narrative shall certify that the affidavit of correction has been examined and that the changes shown on the map or narrative are changes permitted under this section.
- B. Nothing in this section permits changes in courses or distances for the purpose of redesigning parcel configurations.

## TITLE 18 - SUBDIVISIONS

### **18.20.090 Penalty.**

Failure to file a map of survey as required in this Chapter shall be a Class C misdemeanor and shall be punishable by imprisonment not exceeding ninety days and/or a fine not exceeding five hundred dollars.

### **Chapter 18.22 - Health Department Regulations**

Sections:

#### **18.22.010 Adoption of Health Regulations.**

The provisions of the health department Health Regulation No. 12, entitled "Subdivisions," as currently adopted by the board of health under authority of the Utah State Code are incorporated in their entirety by reference. Three copies of the current regulations shall be filed with and retained by the county clerk and the health department for examination by any person.

**Commented [MJ17]:** @polly: this chapter remains the same. 18.32

#### **18.22.020 Violations.**

Violation of any provision of any health regulation incorporated into this Title shall constitute a Class B misdemeanor as defined by the Utah State Code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punished as such.

### **Chapter 18.24 - Fees, Administration and Enforcement Authority**

Sections:

#### **18.24.010 Building Permit Issuance.**

From the time of the effective date of the ordinance codified in this Title, the building inspector shall not grant a permit, nor shall any municipal officer grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this Title until a subdivision plat therefor has been recorded or approved as required in this Chapter. Any license or permit issued in conflict with such provisions shall be void.

**Commented [MJ18]:** @Polly: This chapter has been expanded upon: 18.36

#### **18.24.020 Filing Fee.**

Any and all persons filing plats with the Salt Lake County recorder shall first have paid all fees required in this Title. In addition, persons filing plats shall pay to the planning and development services division prior to recording, an office checking fee as provided for in Chapter 3.42.

#### **18.24.030 Inspections.**

The Planning and Development Services division shall inspect or cause to be inspected all buildings, street improvements, fire hydrants and water supply and sewage disposal systems in the course of construction, installation or repair. Excavations for the fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by the service provider. 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.

#### **18.24.040 Enforcement Authority.**

The Planning and Development Services division, Engineering division, Fire Authority, and such other divisions as are specified under the provisions of this Title are designated and authorized as the agencies charged with the enforcement of the provisions of this Title and shall enter such actions in court as are

## TITLE 18 - SUBDIVISIONS

necessary. Failure of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions.

### **18.24.050. Forms and Instructions.**

Application forms and instructions for preparing and processing plats and plans in accordance with these Regulations are periodically updated. Current copies of these forms and instructions are available upon request from the Director. Applicants will be required to submit such other information as may be required by the Director or Designee.

## Chapter 18.26 - Violations and Penalties

**Commented [MJ19]:** @Poly: This chapter has been expanded upon: 18.40

Sections:

### **18.26.010 Prohibited Acts.**

- A. If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.
- B. The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of this subsection or from the penalties or remedies provided in this chapter.
- C. Notwithstanding any other provision of this subsection, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:
  1. Does not affect the validity of the instrument or other document; and
  2. Does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

### **18.26.020 Violation—Penalty.**

Whoever shall violate any of the provisions of this Title, including the violation of a condition, limitation or requirement contained on a recorded subdivision plat, shall be guilty of a misdemeanor and, upon conviction of any such violation, shall be punished as provided by the state criminal code for Class B misdemeanors.

### **18.26.030 Violation - Remedies.**

- A. A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.
- B. An action under this Subsection may include an injunction or any other appropriate action or proceeding to prevent or enjoin the violation.
- C. A municipality need only establish the violation to obtain the injunction.

## COMPARISON OF S.B. 174 (2023) AND H.B. 476 (2024)

H.B. 476 (2024) effective in Utah's code November 1, 2024.

Utah Code Ann. Section 10-9a-604.2 (and its sister for counties), enacted by SB 174 (2023) was modified by HB 476 (2024)

	S.B. 174 (2023)	H.B. 476 (2024)
Application Name	Subdivision <u>land use</u> application	Subdivision application – means a land use application for the subdivision of land.
Subdivision ordinance review	Means review by a municipality to verify that a subdivision <u>land use</u> application meets the criteria of the municipality's <u>subdivision</u> ordinances.	Means review by a municipality to verify that a subdivision application meets the criteria of the municipality's ordinances.
Subdivision improvement plan	Initial review of the preliminary application includes subdivision improvement plans. If the municipality has not responded within 20 business days on the fourth or final review, the property owner can request an assembly of an appeal panel for disputes "arising from the subdivision improvement plans."	May be required to be submitted with either a preliminary or final subdivision application but may not be required for both.
Review Cycle Requirements	"A municipality may not require more than four review cycles."	"A municipality may not require more than four review cycles <u>for a subdivision improvement plan review.</u> " Applies to either preliminary or final → whichever stage the municipality/county requires a subdivision improvement plan be submitted.
Limitations on substantive review.	n/a	Outside review cycle.
Timeline for initial application review.	15 days	15 days → population over 5,000 30 days → population 5,000 or less
Timeline for final/complete application review.	20 days	Within 20 days → population over 5,000 Within 40 days → population 5,000 or less  (or municipality has an additional 20 days to respond)
Timeline for applicant's revised subdivision improvement plan.	20 days (or municipality shall have an additional 20 business days to respond)	20 days → population over 5,000 40 days → population 5,000 or less  (or municipality has an additional 20 days to respond)

COMPLIANCE WITH H.B. 476 (SUBDIVISION CODE)			
STEPS	CODE	CHECKBOX	
<b>Pre-application Meeting</b> (at applicant's request). <ul style="list-style-type: none"> <li>Must be scheduled within 15 business days after request.</li> <li>At meeting, Municipal staff must provide/make available: <ul style="list-style-type: none"> <li>(1) Copies of applicable land use regulations</li> <li>(2) A complete list of standards required for the project;</li> <li>(3) Preliminary and final application checklists; and</li> <li>(4) Feedback on concept plan.</li> </ul> </li> </ul>	§ 10-9a-604.1		
<b>Preliminary Subdivision Application</b> <ul style="list-style-type: none"> <li>Review may occur at a public meeting or at the municipal staff level.</li> <li>If to subdivide land, public comment and no more than one public hearing may occur.</li> <li>A municipality may require a <u>subdivision improvement plan</u> to be submitted with either a preliminary or final subdivision plan (if required with preliminary application, “<u>Review Cycle</u>” requirements apply to review of preliminary application).</li> <li>If complies with all applicable municipal ordinances and requirements of [Section 10], then the preliminary subdivision application <u>shall</u> be approved.</li> </ul>	§ 10-9a-604.1 § 10-9a-604.2		
<b>Final Subdivision Application</b> <ul style="list-style-type: none"> <li>May permit concurrent processing of final subdivision plat application with preliminary subdivision plat application; and may not require planning commission or city council approval.</li> <li>If subdivision improvement plan was required in preliminary subdivision application, municipality cannot require subdivision improvement plan with final subdivision application (if required with final application, “<u>Review Cycle</u>” requirements apply to review of final application).</li> <li>If complies with all applicable ordinances and requirements, a municipality <u>shall</u> approve the application.</li> </ul>	§ 10-9a-604.1 § 10-9a-604.2		
<b>Review Cycle</b> <ul style="list-style-type: none"> <li>“A municipality may not require more than four review cycles for a subdivision improvement plan review.”</li> <li>“Review cycle” means the occurrence of: <ul style="list-style-type: none"> <li>(i) the applicant's submittal of a complete subdivision application;</li> <li>(ii) the municipality's review of that subdivision application;</li> <li>(iii) the municipality's response to that subdivision application, in accordance with this section; and</li> </ul> </li> </ul>	§ 10-9a-604.2		

<ul style="list-style-type: none"> <li>(iv) the applicant's reply to the municipality's response that addresses each of the municipality's required modifications or requests for additional information.</li> <li>Review cycle requirements apply for either the preliminary or final review depending on when the municipality required a subdivision improvement plan. Review cycle requirements do not allow for a municipality to "engage in a substantive review of required infrastructure improvements or a municipally controlled utility" outside the review cycle.</li> <li>Review cycle requirements do not apply "with the review of subdivision applications affecting property within identified geological hazard areas."</li> <li>During review, the municipality may request additional information or modifications, but such request must be accompanied by relevant citations to ordinances, standards or specifications.</li> </ul>		
<p><b>Initial Review of a Complete Subdivision Application for Ordinance Review for a Residential Subdivision for Single-Family Dwellings, Two-Family Dwellings, or Town Homes</b></p> <ul style="list-style-type: none"> <li>No later than <u>15 business days</u> if municipal population is over 5,000.</li> <li>No later than <u>30 business days</u> if municipal population is 5,000 or less.</li> </ul>	§ 10-9a-604.2	
<p><b>Maintenance and Publication of Items Comprising the Complete Subdivision Application</b></p> <ul style="list-style-type: none"> <li>Includes: <ul style="list-style-type: none"> <li>(i) the application;</li> <li>(ii) the owner's affidavit;</li> <li>(iii) an electronic copy of all plans in PDF format;</li> <li>(iv) the preliminary subdivision plat drawings; and</li> <li>(v) a breakdown of fees due upon approval of the application.</li> </ul> </li> </ul>	§ 10-9a-604.2	
<p><b>Subdivision Plan Review of a Subdivision Improvement Plan Submitted with Complete Subdivision Application for a Residential Subdivision for Single-Family Dwellings, Two-Family Dwellings, or Town Homes</b></p> <ul style="list-style-type: none"> <li>Within 20 business days after complete application is submitted if municipal population is over 5,000</li> <li>Within 40 business days after the complete application is submitted, if municipal population is 5,000 or less.</li> <li>Unless otherwise required, a change or correction not addressed or referenced in a municipality's subdivision improvement plan review is waived.</li> <li>Should the applicant make a material change to subdivision improvement plan, the municipality may restart the review process at the first review for the portion that the material change affects.</li> </ul>	§ 10-9a-604.2	
<p><b>Modification and Corrections</b></p> <ul style="list-style-type: none"> <li>Should the municipality require modifications or corrections the applicant has: <ul style="list-style-type: none"> <li>- 20 business days to submit a revised subdivision improvement plan if municipal population is over 5,000; or</li> </ul> </li> </ul>	§ 10-9a-604.2	

<ul style="list-style-type: none"> <li>- 40 business days to submit a revised subdivision improvement plan if municipal population is 5,000 or less</li> <li>• Should the applicant not submit a revised subdivision improvement plan within this timeframe, the municipality will have an additional 20 days to review the subdivision plan.</li> </ul>		
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Other Updates with H.B. 476:

1. 10-2-403
  - a. (3)(b)(ii)(C) – Annexation of an unincorporated area into a municipality now requires the signature of all the publicly owned real property, or the owners of private real property that “covers 100% of all of the private land area within the area proposed for annexation if the area is within a migratory bird production area created under Title 23A, Chapter 13, Migratory Bird Production Area”
2. 10-9a-509
  - a. A municipality shall accept and process a land use application unless a phasing sequence is required in an executed development agreement.
3. 10-9a-532
  - a. Adds terms for a development agreement including: a master planned development; a planned unit development; an annexation; affordable or moderate income housing with development incentives; a public-private partnership; or a density transfer or bonus within a development project or between development projects.
  - b. Removes disclosure requirement for development agreement restricting applicant’s rights.
  - c. Removes restriction on not allowing a development agreement as a condition.
  - d. Allows a municipality to require a development agreement if the applicant has applied for legislative or discretionary approval for: height of structure, parking/setback exception; density transfer/bonus; development incentive; zone change; amendment to prior development agreement.
  - e. Disallows a municipality from requiring a development agreement when:
    - i. The development otherwise complies with law;
    - ii. Is an allowed or permitted use; or
    - iii. Land use regulations establish applicable standards.
  - f. Municipality may record with recorder’s office:
    1. Fully executed agreements; or
    2. A document related to
      - a. Code enforcement;

- b. A special assessment area;
  - c. A local historic district boundary; or
  - d. Memorialization or enforcement of agreed upon restrictions, incentives, or covenants.
- g. However, a municipality cannot record development requirements, regulations, or controls against private real property subject to the above section.

4. 10-9a-534

- a. Building design requirements can be imposed by a municipality to mitigate the impacts of an accidental explosion (detailing explosion size).

5. 10-9a-536

- a. Municipality may require the seller of a newly constructed residence to inform buyer of requirements for water wise landscaping.

6. 10-9a-538

- a. Allows for certain rear setback features and restricts municipality from limiting this allowance unless property is within a historic district.

7. 10-9a-604.2

- a. Subdivision update → see above.

8. 10-9a-604.5

- a. Definition of public landscaping improvements no longer defined in Section 10-9a-103.
- b. Municipality may not dictate who puts in the landscaping and is responsible for the cost of such landscaping of residential lots.

9. 10-9a-802

- a. Lack of complete landscaping improvements are not grounds for denying building permit or certificate of occupancy.
- b. Lack of complete portion of public sidewalk does not warrant withholding building permit, prohibiting construction of a residence or townhome, withhold recording of a plat, or withholding accepting a public landscaping improvement, if an improvement completion assurance has been posted for the incomplete portion.
- c. Redemption of an improvement completion assurance cannot occur sooner than 18 months after date of improvement is posted for a public sidewalk installation.
- d. Public sidewalk improvement completion assurances can be posted separate from other infrastructure improvements, or public landscaping improvements.
- e. Municipality can withhold certificate of occupancy if public sidewalk immediately adjacent to residence or townhome is not yet completed and accepted.

10. 38-9-102 (effective 05-01-24)

- a. “‘Wrongful lien’ includes a document recorded in violation of Subsection 10-9a-532(2)(d).”

**Subdivision Ordinance Update | SB 174 (2023) | HB 476 (2024)**  
**Questionnaire for Optional Decisions for Municipalities**  
**Smith Hartvigsen, July 2024**

## **Main Policy Decisions for Subdivision Procedures**

### Completion of Subdivision Application

- Do you want to implement a time limit for determining whether a subdivision application is complete?<sup>1</sup>
- Who is responsible for determining whether an application is complete?

### Subdivision Improvement Plans

- Do you want to require the subdivision improvement plan to be submitted with a subdivision application? If yes, is it required with preliminary or final application?
- Do you want to have discretion to restart the application process for the portion substantially affected by a material change in the subdivision improvement plan?<sup>2</sup>

### Preliminary Approvals

- Who is the administrative land use authority (ALUA) for preliminary approvals?
- Do you want to consider the preliminary approval in a public meeting? (optional unless ALUA is PC)
- Do you want to hold (one) public hearing on preliminary approvals or keep preliminary approvals as an administrative function?<sup>3</sup>
- Do you want to permit concurrent review of the preliminary and final applications?<sup>4</sup>

### Final Approvals

- Who is responsible for final approval?<sup>5</sup>

### Applied to Subdivisions Specifically

- What other subdivision types (besides the required single-family, duplex, and townhome subdivisions) do you want this new process to apply to?<sup>6</sup>
- Do you want a different process for minor subdivisions? If so, determine the maximum number of lots (10 or fewer) and if you want a different land use authority.<sup>7</sup>

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<sup>1</sup> We recommend a relatively short time period because the completeness timer starts from the time you receive the application. This timeline can be code, policy, or informal goal. The deadline to complete the initial review may land before the administrative land use authority's next scheduled meeting. The city may still provide comments to the applicant through staff before the administrative land use authority makes a decision on the preliminary application. However, because any change or correction not raised at any review stage is waived, the administrative land use authority would not be able to add its own comments to the review cycle if not already covered by staff comments.

<sup>2</sup> Your time limits to review complete subdivision application shall be for: Initial review: no later than 15 days for pop. over 5,000 and no later than 30 days for pop. 5,000 or less; Final review with subdivision improvement plan: within 20 days for pop. over 5,000 and within 40 days for pop. 5,000 or less; Revised Plan: within 20 days/40 days to complete review. If revisions come in late, City or Town gets additional 20 days. [The timelines are unclear if subdivision improvement plans are submitted at initial review. Presumably it is still 15/30]. See 10-9a-604.2.

<sup>3</sup> Residential subdivision preliminary approvals can be entirely administrative.

<sup>4</sup> Not recommended, especially with 2024 clarifications.

<sup>5</sup> Options: staff, director, administrative land use authority, assuming the ALUA is not the planning commission, etc., but cannot be the city council.

<sup>6</sup> Examples: multifamily or commercial.

<sup>7</sup> The process itself still must comply with SB 174, but the requirements may be different.

## **Additional Considerations<sup>8</sup>**

### Development Agreements

- Do you want to permit a phasing sequence in a development agreement that will effectively allow you to address development issues across multiple phases at once instead of individually by phase?<sup>9</sup>
- Do you want to expand the terms that may be included in a development agreement?<sup>10</sup>
- If applicant applies for legislative or discretionary approval when developing land, do you want to require a development agreement as a condition for developing land?<sup>11</sup>

### Technical Review and Subdivision Improvements

- Do you want to withhold building permits for enforcement purposes?<sup>12</sup>
- Do you want to withhold certificates of occupancy for incomplete public sidewalks?<sup>13</sup>
- Do you plan to, at least sometimes, require additional information beyond the published checklists (preliminary and final) to ensure compliance with your ordinances and standards for public improvements?

### Document Recording Against Property

- Do you want to record any documents against the property so long as the documents do not impose development requirements, regulations, or controls on the property?<sup>14</sup>

### Other

- Do you need an overpressure (accidental explosion protection) zone ordinance?<sup>15</sup>
- Do you want to require a seller of a newly constructed residence to inform the first buyer of the municipal ordinance that requires water wise landscaping?<sup>16</sup>

### Drafting Preference

- Do you want to update your terminology to mirror State definitions or just modify your terminology to comply?<sup>17</sup>

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<sup>8</sup> Many of these topics warrant their own separate discussions, if applicable and desirable.

<sup>9</sup> This is the only viable way to address development issues across multiple phases together. Otherwise, each phase must be considered independently as if it were a complete separate application.

<sup>10</sup> Options include: a master planned development; a planned unit development; an annexation; affordable or moderate-income housing with development incentives; a public-private partnership; or a density transfer or bonus within a development project or between development projects. Utah Code Ann. Subsection 10-9a-532(1).

<sup>11</sup> The approval could relate to structure height, parking or setback exception, density transfer or bonus, development incentive, zone change, or amendment to the prior development agreement. Utah Code Ann. Subsection 10-9a-532(2)(d).

<sup>12</sup> You must meet new specific statutory limitations on private landscaping and public sidewalks.

<sup>13</sup> There are limits on this: only applies to public sidewalk in a portion of a public right-of-way and located immediately adjacent to single-family, two-family, or townhome residential structures.

<sup>14</sup> Consider recordation of: a fully executed development agreement; a document related to code enforcement, special assessment area, a local historic district boundary; or the memorialization or enforcement of an agreed upon restriction, incentive, or covenant.

<sup>15</sup> This is a narrow exception that could apply to your city or town. Utah Code Ann. 10-9a-534(3)(i)

<sup>16</sup> Optional, but it conforms with the legislature's interest in private water usage and municipal general plans.

<sup>17</sup> "Subdivision improvement plans," "subdivision infrastructure," and "subdivision plan review" were defined and used differently in HB 476. See Utah Code Ann. Subsection 10-9a-604.2(1).



## **SB174 Compliance**

### **Subdivision Ordinance Update Audit Checklist**

### **April 2023**

#### ***Do we have to update our Subdivision Ordinance?***

Yes, State Law changes effective May 4, 2023 but, in a sense, not a lot. Subdivisions are administrative in nature (e.g. there is no discretion – if they meet your ordinances, they get approved). Most of the changes simply reinforced the administrative nature of subdivisions. See new LUDMA [Section 604.1](#). This new law only applies to subdivisions for 1 or 2 family dwellings and townhomes, but it could be useful to generalize this for all subdivisions. All these changes need to be accomplished by **February 1, 2024**, for cities over 5,000 in population and smaller communities will have until **December 1, 2024**. Here is a link to the [bill summary](#) and FAQ's.

#### **Step One: Check your current ordinance to see what you may need to modify or update.**

**Look for these items.**

- 1. Review and Update your process. Designate an administrative land use authority.**

Make sure you have designated in your subdivision ordinance an “administrative land use authority” for preliminary plats. This can be staff or planning commission or a subset of the Planning Commission. This is a local policy decision to make.

Some options to consider: a) preliminary plat can be reviewed by staff, b) the planning commission can review in a public meeting, or a public hearing. If you choose to hold a public hearing please consider what the hearing will add to this administrative fact based process.

Reminder: The Final plat **cannot** be reviewed by Council or Planning Commission (for small towns it could be a subset of the PC). Staff, if you have staff, could manage (and be designated in the ordinance) to be the administrative land use authority to take the process of final subdivision review through the recording process. Then the Mayor signs the final plat, which also dedicates any potential streets.

2. **Remove any mandates for a concept plan review.** In the new law concept plan review cannot be mandated. It can be optional, strongly encouraged and agreed to by the applicant. Since these are administrative approvals, they have no regulatory value. It can be incorporated into the preliminary plat as part of that process but call it something else. Again an applicant may request a pre-application meeting but it **cannot** be mandated.
3. **Define a Complete Application.** Make sure you have clearly defined what a “complete” application is with checklists for both planning and engineering. Here is one example from [Lehi, Utah](#).

### **Step Two. Review process timing issues.**

Reminder: Under the new law, Preliminary and final plats review are the only “steps” allowed within the new subdivision process. Here are the steps to make sure your updated ordinance reflect.

1. **Initial review of preliminary plat.** To be completed within **15 business days** of receiving a **Complete Application**. As mentioned above it is important to assure you have everything required for review before it moves forward in the process.
2. **Review of final plat.** To be completed within **20 days** of receiving the complete application,
3. **Capped Review Cycle.** There is now a maximum of 4 review cycles permitted for final review only. So in between the Preliminary approval and final approval only four revisions are permitted.
4. **Agreed upon changes.** The Applicant must respond to required changes. If he/she disagrees with those issues, those must be committed in writing.
5. **Lot line adjustments.** Changes were made in HB406 and SB174. The lot line adjustment changes removed the requirement to record an amendment plat.

### **Step Three. Review engineering standards**

1. **Codified Engineering standards.** As a reminder from prior law, every municipality needs to provide clear engineering standards and these need to be adopted by the City, Town or County with a public hearing at the Planning Commission and final adoption by the legislative body.

2. **Bonding for Private Landscaping.** In another companion bill HB406 [Section 10-9a-604.5](#) new provisions were added in regards to bonding. As of May 2023 Bonding for landscaping on private property is **not** allowed. Update your enforcement processes to include any fines, liens, and when you go to court for any unmet obligations. Update the bonding language. Under assurances can only be accomplished for public infrastructure .
3. **New road standards.** In HB406 [Section 10-9a-508. Exactions](#) new residential roadway standards were adopted. Municipalities that require road widths greater than 32' for residential roads (defined as residential use and 25 mph roads) should review those ordinances for compliance with these new standards. Wider can be allowed under certain conditions.

### **Step Three. Add the new appeal process**

Reminder: SB 174 creates two distinct appeal processes after the four review cycles have been exhausted and 20 days have passed. You will need to add this appeal process to your subdivision ordinance.

1. For disputes relating to public improvement or engineering standards, the municipality shall assemble a three-person panel meeting within 10 days of receiving a request from the applicant.
2. For all other disputes, the municipality shall refer the question to the designated appeal authority at the applicant's request.
  - The panel of experts includes:
    - One licensed engineer designated by the municipality.
    - One licensed engineer designated by the land use applicant.
    - One licensed engineer, agreed upon, and designated by the two designated engineers.

Members appointed to the panel may not have an interest in the application in question. The applicant must pay 50% of the total cost of the panel and the municipality's published appeal fee. The municipality pays the other 50%. The panel's decision is final, unless the municipality or applicant petition for district court review within 30 days after the final written decision is issued.