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This Ordinance shall be known and may be cited as the Big Water Town Subdivision Ordinance and may be identified within this document as "the Ordinance," "this Ordinance" or "Subdivision Ordinance."

14.02.020 Purpose

The Big Water Subdivision Ordinance is established to promote the health, safety, and welfare of residents of the Town of Big Water, to provide for the orderly division of lands, and to secure the provision of necessary infrastructure and services in an efficient and economical manner for existing and future residents.

14.02.030 Authority

This Ordinance is enacted and authorized under the provisions of Title 10, Chapter 9, et. seq. Utah Code Annotated, 1953, as amended.

Any references to “Utah Code,” “Utah State Code,” or “Utah State Code, as amended” shall constitute a reference to Utah State Code, 1953, as amended.

14.02.040 Jurisdiction, Definition, And Applicability

Upon its adoption by the Town Council, this Ordinance shall govern and apply to the subdivision and platting of all lands lying within the corporate limits of Big Water Town, Utah.

14.02.050 Subdivision Defined, Subdivision Approval Required For All Development Approvals And Building Permits

For the purposes of this Ordinance, and in accordance with the provisions of the laws of the State of Utah, a subdivision shall be, and shall mean;

Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

No person shall subdivide any land, nor shall any building permit be issued by Big Water Town for any lot or parcel of land, which is located wholly or in part within the corporate limits of Big Water Town, except in compliance with this Ordinance, and all applicable Local, State and Federal laws.

Any subdivision filed or recorded, without the approvals required by this Ordinance is void, for the purposes of development approval or the issuance of a building permit, as required by § 10-9-811 et. seq. Utah Code Annotated, 1953, as amended.

Any owner, or agent of the owner, of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before such subdivision has been approved and recorded, consistent with the requirements of this Ordinance, is guilty of a violation of this Ordinance, and State law, for each lot or parcel transferred or sold.

The description by metes and bounds, or other instrument used in the process of selling or transferring of any lot or parcel of land, does not exempt the transaction from a violation of this Ordinance and the laws of the State of Utah, or from the penalties as provided by this Ordinance and the laws of the State of Utah.

14.02.060 Subdivision Not To Include

As provided by Section § 10-9a-103(1)(s)(iii), Utah Code Annotated, 1953, as amended, and for the purposes of this Ordinance, "subdivision" does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel, nor the parcel remaining from the division or partition violates an applicable zoning ordinance.
2. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - a. the property/properties is not located within a recorded, existing subdivided plat;
 - b. no new lot is created; and
 - c. no remnant of land is created or remains; and
 - d. the adjustment does not result in a violation of any applicable zoning requirements.
3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property, through a parcel joinder request, into one legal description encompassing all such parcels of property; or
4. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided so as to subject the unsubdivided parcel to the subdivision ordinance of Big Water Town.

14.04 Pre-Application Process~~14.04 Concept Plans~~

14.04.010 Concept Plan Required

14.04.020 Concept Plan Requirements

14.04.030 Consideration And Effect Of Concept Plan

14.04.040 Concept Plan – Not An Application For Subdivision Approval

14.04.050 Subdivision Recommendation Prohibited At The Meeting When Concept Plan Discussed

All proposed subdivisions shall meet the application requirements outlined in Utah State Code 10-9a-601, et seq. as amended, this title, and the requirements for the respective zone in which the subdivision is proposed.

An applicant for a subdivision may request a pre-application meeting with a Town representative. Should a pre-application meeting be requested, the following shall apply:

1. The applicant shall submit a concept plan for review.

2. ~~Within fifteen (15) business days after the request, the municipality shall schedule the meeting to review the concept plan and give initial feedback.~~
3. ~~At the pre-application meeting, the Town shall provide or have made available on the municipal website the following:~~
 - a. ~~Copies of the applicable land use regulations.~~
 - b. ~~A completed list of standards required for the project.~~
 - c. ~~Preliminary and Final Plat checklists.~~
4. ~~A pre-application review of a concept plan does not create any vested rights, and feedback on the concept plan does not grant or infer any official standing.~~

14.04.010 Concept Plan Required

~~To promote efficiency in the subdivision process and to create an opportunity for an understanding of the Town's applicable subdivision requirements, all applicants for subdivision approval for lands located within Big Water Town, shall present a concept plan of the proposed subdivision to the Planning Commission for initial review:~~

14.04.020 Concept Plan Requirements

- 2.5. ~~The concept plan is an informal discussion document only, designed to allow the identification of application procedures, requirements and standards, and other items that may be considered in the subdivision approval process once a complete subdivision application is received by the Town. To achieve these objectives no specific concept plan submission requirements are identified. However, the applicant should provide, and the ~~Planning Commission~~ ~~Town staff~~ may request, information necessary to identify all issues affecting the proposed subdivision.~~

14.04.030 Consideration And Effect Of Concept Plan

~~The Planning Commission shall discuss the concept plan with the applicant at a Planning Commission meeting. The Planning Commission and the applicant may review the procedure anticipated for subdivision approval, application requirements and standards, other applicable Town, County, State and Federal requirements, and any other matters deemed appropriate:~~

14.04.040 Concept Plan – Not An Application For Subdivision Approval

~~A concept plan shall not constitute an application for subdivision approval and is in no way binding on the Town or the applicant. *Any discussion before the Planning Commission, at the meeting when the concept plan is discussed, shall not be considered as any indication of subdivision approval or disapproval, either actual or implied by Big Water Town.*~~

An application for subdivision approval shall only be considered filed with Big Water Town upon the submission of ALL information and materials as required for a preliminary subdivision plat application or final subdivision plat application, as contained herein.

14.04.050 Subdivision Recommendation Prohibited At The Meeting When Concept Plan Discussed

The Big Water Town Planning Commission is hereby expressly prohibited from rendering any recommendation, or taking any other action, for any proposed subdivision at the same meeting when the Concept Plan for such proposed subdivision is discussed by the Planning Commission. No recommendation, or other action, shall be taken by the Planning Commission until a Preliminary Subdivision application is presented to the Town Clerk, and the application has been determined as complete by the Zoning Administrator, as provided by Chapter 14.06 herein.

14.06 Preliminary Subdivision Application And Approval

14.06.010 Intent

14.06.020 Requirements For Preliminary Subdivision Applications

14.06.010 Preliminary Plat Review Process

14.06.020 Preliminary Plat Approval Process

14.06.030 Preliminary Plat Submittal Requirements

14.06.040 Preliminary Subdivision Application - Engineering Review Fees

14.06.040 Zoning Administrator To Determine A Complete Application

14.06.050 Lack Of Preliminary Subdivision Application Information – Determination Of Incomplete Application

14.06.060 Preliminary Subdivision Application Approval Procedures

14.06.070 Effect Of Town Council Preliminary Subdivision Application Approval And Effective Period

14.06.080 Site Preparation Work Prohibited

14.06.010 Intent

It is the intent of this Ordinance that preliminary subdivision application approval is a discretionary action of the Town Council, accompanied with findings of fact, following the receipt of a Planning Commission recommendation.

It is the intent of this Ordinance that all items applicable to a preliminary subdivision application be fully addressed by the applicant, the Town, and all other applicable reviewing agencies prior to any action by the Planning Commission, or Town Council.

~~For the purposes of this Ordinance, the procedures and requirements for the consideration of preliminary subdivision applications are provided to allow for the consideration of all items in relation to the subdivision of land. The Planning Commission shall identify and address all items applicable to a preliminary subdivision application prior to providing a recommendation to the Town Council.~~

~~The Town Council shall identify and address all items applicable to a preliminary subdivision application prior to approving, approving with conditions, or denying a preliminary subdivision application.~~

~~14.06.020 Requirements For Preliminary Subdivision Applications~~
~~14.06.010 Preliminary Plat Review Process~~

~~Unless otherwise exempted in this Title, any division of land requires completion of a Preliminary Plat and Final Plat. The following outlines the review process for a Preliminary Plat, as intended by Utah State Code 10-9a-604, as amended. If there is any conflict in content or interpretation, Utah State Code shall prevail.~~

- ~~1. If the application requires legislative approvals, such as a zone change, annexation, general plan amendment, right of way or easement vacation, planned development approval, or any other legislative action, the legislative approval shall be completed prior to the submittal of the Preliminary Plat application.~~
- ~~2. The applicant may request a pre-application meeting with a Town representative to discuss the proposal and submittal requirements. If requested, the Town and applicant shall follow the process outlined in 14.04.~~
- ~~3. The Town shall provide, or have available on the Town website, each of the following:~~
 - ~~a. The Preliminary Plat application.~~
 - ~~b. The owner's affidavit.~~
 - ~~c. A breakdown of the application fees.~~
 - ~~d. A complete list of standards required for the project.~~
 - ~~e. The Preliminary Plat checklist.~~
- ~~4. The applicant shall submit an application that includes the Preliminary Plat, Subdivision Improvement Plans, and all required documentation and information.~~
- ~~5. The Town checks the submittal for completeness.~~
 - ~~a. If the submittal includes all materials, the Town receives the submittal and starts the review cycle.~~
 - ~~b. If the submittal is deemed incomplete, the submittal is returned to the applicant. No review shall commence until the Town determines the application is complete.~~

6. If the location of the proposed subdivision is within one hundred feet (100') of a Water Conveyance Facility, within twenty (20) calendar days after receipt of the complete application, the Town shall notify in writing the Water Conveyance Facility Owner(s) of the application and request comments related to the following aspects of the Water Conveyance Facility: access, maintenance, protection, safety, and any other related issues.
 - a. Any Water Conveyance Facility shall have at least twenty (20) days to respond. While the Town may provide comments to the applicant before this twenty (20) day window is complete, the Administrative Land Use Authority shall not grant approval until at least (20) days after the day on which the Town mailed notice to the Water Conveyance Facility.
 - b. Water Conveyance Facility: Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or stormwater drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. See State Code 73-1-15.5-1b.
7. Within forty (40) days, the Town shall complete a review of the Preliminary Plat and Subdivision Improvement Plan, except as follows:
 - a. The review cycle dates restrictions and requirements do not apply to the review of subdivision applications affecting property within identified geological hazard areas.
 - b. The review cycle number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed-use.
8. After review, the Town will determine if the completed application meets all requirements or requires corrective actions and shall notify the applicant in a written response:
 - a. If the Town determines that the application requires corrections, the Town must be specific and cite the ordinance, statute, or specification that requires the modification. Comments shall be logged in an index of requested modifications or additions. The required corrections are sent to the applicant to prepare a resubmittal.
 - b. The Town may require additional information relating to the applicant's plans to ensure compliance with the Town's ordinances and approved standards and specifications for the construction of public improvements.
 - c. If the application is found to meet all codes, standards, and specifications, it is forwarded to the Administrative Land Use Authority for review and approval.

9. After receiving the list of required modifications or additions, the applicant's resubmittal shall include a written explanation in response to each of the municipality's review comments, identifying and explaining the applicant's revisions or reasons for declining to make the revisions.
10. The Town shall review the resubmittal to ensure that the applicant has responded to each item logged in the index of requested modifications or additions. If the response does not address each item, the Town shall return the submittal to the applicant.
- a. If the resubmittal is complete, the Town shall accept the application for a second review cycle. The time frame to complete the review depends on how quickly the applicant responded to the corrections in full and whether the applicant made any material changes.
 - i. If the applicant responds within forty (40) business days, the Town has forty (40) business days to complete the second review cycle.
 - ii. If the applicant responds after forty (40) business days, the Town has sixty (60) business days to complete the second review cycle.
 - iii. If the applicant made a material change that merits a new review, then the review shall restart at the first review cycle as it relates to the new material.
 - b. The review cycle number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed-use.
11. If the Town neglects to include a required change or correction in the initial review process, the modification or correction can only be imposed on subsequent reviews if necessary to protect public health and safety or to enforce state or federal law.
12. If the Town determines that the resubmittal is complete and meets all codes, standards, and specifications, it shall be forwarded to the Administrative Land Use Authority for review and approval.
- a. If the Town finds the resubmittal does not comply with all applicable codes, standards, and specifications, another review letter and index of requested modifications or additions shall be created and sent to the applicant. This shall be provided to the applicant up until the fourth review cycle, at which point the application shall be forwarded to the Administrative Land Use Authority for review with a recommendation that the application does not meet all codes, standards, and specifications. The applicant may appeal this determination as outlined in Utah Code 10-9a-604.2(11), as amended.

13. If, on the fourth and final review, a municipality fails to respond within forty (40) business days, the municipality shall, upon request of the property owner, and within ten (10) business days after the day on which the request is received:
- a. For a dispute arising from the subdivision improvement plans, assemble an appeals panel in accordance with 10-9a-508(5)(d) to review and approve or deny the final revised set of plans or
 - b. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the application's deficiency and of the right to appeal the determination to a designated appeal authority.
 - i. The appeal authority for the Preliminary Plat shall be the Town Council.

Commented [RS1]: Should the Town desire to designate a different appeal authority, this can be changed.

14.06.020 Preliminary Plat Approval Process

After review, the application shall be submitted to the Administrative Land Use Authority for approval.

1. For the Preliminary Plat and Subdivision Improvement Plans, the Administrative Land Use Authority shall be the Planning Commission.
 - a. Legislative approvals, such as zone changes, overlay zones, general plan amendments, annexations, right-of-way vacations, etc., must be approved by the Town Council prior to the submission of a Preliminary Plat application.
2. The Administrative Land Use Authority shall hold a public hearing and send a public notice to all owners of property within three hundred feet (300') of the subdivision.
3. If the Administrative Land Use Authority finds that the application complies with the applicable municipal ordinances and the requirements of Utah State Code, it shall approve the Preliminary Plat application.
 - a. The Administrative Land Use Authority shall remand the application back to the applicant for corrections if it finds:
 - i. The applicant has not completed all requirements as outlined in the review index or
 - ii. The application does not address all requirements as outlined in state code, and although the item was not addressed in the first review, the requirement relates directly to public health and safety.
 - b. The Administrative Land Use Authority shall deny the application if the applicant is unwilling to make the required corrections or provide the required information.
4. The application approval shall lapse in instances where a developer abandons or otherwise fails to take timely action to address corrections or complete a project.

Commented [RS2]: Per Utah State Code 10-9a-604.1 "an administrative land use authority means an individual, board, or commission, appointed or employed by a municipality, including municipal staff or a municipal planning commission."
"Administrative land use authority does not include a municipal legislative body or a member of a municipal legislative body."

Commented [RS3R2]: Planning commission

Commented [RS4]: This is to be determined by the Town. According to State Code, the Administrative Land Use Authority *may* hold no more than one public hearing.

Commented [RS5R4]: PH

- a. ~~A Preliminary Plat application expires if it is not approved by the Town within one (1) year from the time the application is submitted and accepted.~~
- b. ~~Approval of the Preliminary Plat by the Town shall be valid for a period of one (1) year after approval.~~

14.06.030 Preliminary Plat Submittal Requirements

All preliminary ~~plat subdivision applications filed with Big Water Town~~~~subdivision applications, filed with Big Water Town,~~ are required to provide the following application information.

1. **Application.** A Preliminary ~~Plat~~ Subdivision Application, provided by the Town, completed and signed by the owner(s) as identified on the property assessment rolls of Kane County, or authorized agent of the owner(s), of the lands proposed to be subdivided. The preliminary subdivision application shall be accompanied by the preliminary subdivision application fee, as established by Resolution of the Town Council.
2. **Preliminary Subdivision Plat to be Provided.** A preliminary plat, prepared by a licensed land surveyor, shall be provided. The preliminary subdivision plat shall be ~~prepared in pen in an appropriate electronic format~~ and all sheets shall be numbered. ~~The preliminary plat shall be drawn on reproducible Mylar. At a minimum of one PDF copy twelve (12) paper copies~~ shall be presented to the Town Clerk, as part of the preliminary subdivision application.

The preliminary subdivision plat shall show the following:

- a. A layout plan of the proposed subdivision, at a scale of no more than 1" = 100', or as recommended by the Zoning Administrator and/or Town Engineer.
- b. Located at the top and center of the preliminary plat, the proposed name of the subdivision and the section, township, range, principal median, and County of its location.
- c. A title block, placed on the lower ~~right hand~~~~right-hand~~ corner of the plat showing:
 - i. Name and address of owner of record and the name and address of the licensed surveyor responsible for preparing the preliminary plat.
 - ~~ii.~~ Date of preparation of the preliminary subdivision plat, and all revision dates.

Commented [RS6]: The time periods included here are placeholders and can be altered to meet the needs of the Town.

Commented [RS7R6]: Keep

Commented [RS8]: Does the Town still want 12 paper copies of the preliminary plat if an electronic one is being provided?

Commented [RS9R8]: No paper

~~iii-ii. Signature blocks for the dated signatures of the Mayor, Planning Commission Chair, Town Engineer, and Town Attorney:~~

- d. North arrow, graphic and written scale, and basis of bearings used.
 - e. All proposed lots, rights-of-way, and easements created by the proposed subdivision and their bearings, lengths, widths, name, number, or purpose shall be given. The area of all lots created, with their addresses shall be shown.
 - f. A vicinity map of the site at a minimum scale of 1" = 1000'.
 - g. Surveyed boundary of the proposed subdivision; accurate in scale, dimension and bearing, and giving the location of and ties to the nearest survey monument. The location of the property with respect to surrounding property and roads, and the names of all adjoining property owners of record shall be shown.
 - h. The legal description of the entire subdivision site boundary.
 - i. The location of any common space or open space areas including the location of all property proposed to be set aside for public or private reservation, with the designation of the purpose of those set asides, and conditions, if any, of the dedication or reservation.
3. **Required Subdivision Site Information.** On separate sheets, at the same scale as the preliminary subdivision plat information, the following subdivision site information is required:
- a. The identification of known natural features including, but not limited to, jurisdictional wetlands as identified by the U.S. Army Corps of Engineers, areas of slope exceeding 30% grade, flood channels as identified by a Federal or State Agency, all water bodies and drainage ways, and any other natural features as required by the Planning Commission, ~~or Town Council,~~ for the entire subdivision site, including the total acres in each.
 - b. Existing site contours, at intervals of no greater than two (2) feet, unless otherwise approved by the Planning Commission, overlaid with the proposed subdivision layout.
 - c. The location of any known man-made features on, or contiguous to the subdivision site, including existing platted lots, all utility easements, railroads, power lines and power poles, bridges, culverts, drainage channels,

road rights-of-way and easements, field drains, and well or spring protection areas.

- d. The location and dimensions of all existing buildings, fence lines and property lines, overlaid with the proposed subdivision layout.
 - e. The layout of proposed power lines including the source and connection to the existing power supply.
 - f. All existing and proposed roadway locations and dimensions, with cross sections of all new roads, proposed to be dedicated to the Town, showing the grades of all proposed streets and roads and all proposed cuts and fills exceeding three (3) feet. The proposed radius of all centerline curves shall be shown.
 - g. The location and size of existing and proposed culinary water and sewer lines and/or, the location of all wells and springs, and the location of all proposed absorption and drain fields, as required by the South West Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, overlaid with the proposed subdivision layout plan.
 - h. Proposed storm drainage system.
 - i. The location of all existing and proposed fire hydrants, including the sizes of all existing and proposed water lines serving fire hydrants.
4. **Title Report.** A Title Report for the property proposed to be subdivided, provided by a Title Company within 30 days of the date of the preliminary subdivision application.
 5. **Tax Clearance.** A tax clearance from the Kane County Treasurer indicating that all taxes, interest, and penalties owing for the property have been paid.
 6. **Property Owner Addresses.** Addresses of all owners of record of real property located within 300 feet of the property boundary of the property proposed to be subdivided.
 7. **Evidence of Availability of Necessary Services.** The following information is required to be presented as part of the preliminary subdivision application, necessary to establish the availability of basic services to the proposed subdivision.
 - a. Culinary Water Requirements. The ~~South West~~Southwest Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, shall evaluate the proposed culinary water system. It shall be the

responsibility of the applicant to provide information and materials as required by South West Utah Public Health Department, or the Utah Department of Environmental Quality, necessary to evaluate the proposed culinary water system.

- b. Wastewater Requirements. The South West Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, shall evaluate the proposed sanitary sewer system. It shall be the responsibility of the applicant to provide information and materials as required by the South West Utah Public Health Department, or the Utah Department of Environmental Quality, necessary to evaluate the proposed sanitary sewer system.
- c. Subdivision Roads and Streets. The preliminary subdivision plat, and other application materials, shall identify the proposed road and street layout. Proposed subdivision streets shall make provision for the continuation of existing streets, as required by the Town ~~Council~~.

All subdivision streets shall be designed as required by the Town. The Town Engineer shall review the proposed street and road design for compliance with the requirements of the Town. The proposed street and road layout shall provide adequate and safe access to all proposed lots and proposed and existing roads and streets. If the subdivision will be accessed from a State Highway, an appropriate access permit, as required by the State of Utah Department of Transportation, shall be provided with the application materials. If the subdivision will be accessed from a County Road, authorization from Kane County to allow subdivision access from a County Road shall be provided with the application materials.

- d. Special Service District or Special Service Area. If the proposed subdivision is located within the boundaries of a Special Service District or a Special Service Area, a letter shall be provided, with the preliminary subdivision application materials, from the governing board acknowledging the proposed subdivision, which letter may identify any potential impacts resulting from the proposed subdivision.
- e. Additional Information and Materials when Necessary. When the Planning Commission, ~~or Town Council~~ deem necessary, the applicant may be required to provide other information or letters of feasibility, conduct studies, and provide evidence indicating the suitability of the area for the proposed

subdivision, including, but not limited to, adequacy of public safety and fire protection, ground water protection, plant cover maintenance, geologic or flood hazard, erosion control wildlife habitat, and any other physical or environmental matters.

8. **Subdivision Improvement Plans.** Subdivision Improvement Plans shall be submitted with the Preliminary Plat application and shall include the following information:

- a. North arrow.
- b. Elevations referenced to USGS datum.
- c. Chapter block located on the right side of the sheet to include:
 - i. Project chapter.
 - ii. Specific type and location of work.
 - iii. Name of engineer or firm preparing the Subdivision Improvement Plans with his or her signature(s). Utah engineer's stamp shall be required on all pages of the Subdivision Improvement Plans.
- d. Scale shall be acceptable to the Town Engineer.
- e. Plan views and profiles of the relationship of the street to curb and gutter is required for all public and private roads. Top-of-curb elevations with curve data must be shown for all curb returns. There must be enough information to establish roads on the ground with top-of-curb elevation at all curb returns.
- f. Utility plans showing the size, type, and location of the following:
 - i. Culinary water laterals, mains, meters, valves, and fire hydrants.
 - ii. Secondary and irrigation laterals, mains, meters, valves, etc.
 - iii. Sanitary sewer, storm drains and subdrains and their manholes, inlet boxes, catch basins and clean outs.
 - iv. Power, natural gas, and cable television.
 - v. Streetlights.
 - vi. Any other utilities the town may require.
 - vii. All walls and fences to be constructed.

Commented [RS10]: I could not find any existing requirements for Subdivision Improvement Plans (Construction Drawings). Should the Town have an alternate list of requirements, this section can be replaced with those requirements.

Commented [RS11R10]: Get the requirements from the town

Commented [RS12R10]: I spoke with the Zoning Admin after the meeting. She wasn't aware of where these requirements might be.

viii. All easements and rights-of-way.

g. Grading plan showing existing and proposed topography.

8-9. Separate Sheets with Details: As needed, each set of plans shall be accompanied by a separate sheet of details for structures that are to be constructed. All structures shall be designed in accordance with minimum requirements established by town standards.

14.06.0430 Preliminary Subdivision Application - Engineering Review Fees

Big Water Town does not employ a full-time professional engineer. The applicant for preliminary subdivision approval shall pay all costs that may be incurred by the Town for the provision of engineering services, provided by a licensed engineer, and necessary to review the preliminary subdivision application materials, for conformity to the requirements of this Ordinance, other applicable Town Ordinances, other applicable Local, State, and Federal requirements, and accepted civil engineering practice.

14.06.040 Zoning Administrator To Determine A Complete Application

Prior to considering a preliminary subdivision application, the Zoning Administrator shall determine and find that the preliminary subdivision application is complete and contains all the preliminary subdivision application materials as required by Section 14.06.020 and Section 14.06.030.

14.06.050 Lack Of Preliminary Subdivision Application Information - Determination Of Incomplete Application

The lack of any information required for a preliminary subdivision plat application, as required by Section 14.06.020, shall be cause for the Zoning Administrator to find the preliminary subdivision plat application incomplete.

A Zoning Administrator determination of an incomplete preliminary subdivision application shall prohibit the Planning Commission from considering any material, items or other information related to the proposed subdivision. The Zoning Administrator shall notify the applicant, in writing, of the required information lacking from the preliminary subdivision application. The Zoning Administrator shall allow a minimum of twenty (20) calendar days and a maximum of thirty (30) calendar days, from the date of notification of an incomplete preliminary subdivision application, for the applicant to provide the required information to the Town. If the preliminary subdivision application remains incomplete after thirty (30) calendar days from date of notification, as required herein, the Zoning Administrator shall return the entire incomplete application to the applicant, accompanied by any preliminary subdivision application fees paid.

Any person(s) aggrieved by a decision of the Zoning Administrator of a Determination of Application Completeness may appeal the Zoning Administrator's decision to the Planning Commission:

14.06.060 Preliminary Subdivision Application Approval Procedures

The review and approval procedures of Big Water Town for the consideration of a preliminary subdivision application are identified in Figure 1. The procedures to determine a complete application, as provided by Section 14.06.040 and Section 14.06.050 herein, are identified by Figure 2:

- 1.—**Planning Commission Recommendation.** Following a determination of a complete preliminary subdivision application by the Zoning Administrator, the preliminary subdivision application shall be scheduled for consideration by the Planning Commission. The Planning Commission shall consider the preliminary subdivision application at a regular Planning Commission meeting, with notice of the meeting being provided;
- 1.—By U.S. mail to all owners of record of real property within 300 feet of the property boundary of the property proposed to be subdivided, at least seven (7) days prior to the meeting;
- 2.—Posted in at least three (3) public places within the boundaries of Big Water Town, at least seven (7) days prior to the meeting;
- 3.—Being provided to the Board of County Commissioners of Kane County, at least seven (7) days prior to the meeting;

A professional engineer representing the Town, the South West Utah Public Health Department or the Utah Department of Environmental Quality, as applicable, the County Engineer, the Town Fire Marshal, any affected Special Service District, Special Service Area, or any other affected public agency, may present information and materials to the Planning Commission for review in considering the Preliminary Subdivision Application:

Following consideration of the preliminary subdivision application, and all information and materials presented, the Planning Commission may recommend approval of the preliminary subdivision application as presented, recommend approval of the preliminary subdivision application with conditions, or recommend denial of the preliminary subdivision application. The Planning Commission may recommend onsite and offsite improvements, facilities and amenities, provided one hundred percent (100%) by the applicant for preliminary subdivision approval and determined necessary by the Planning Commission to protect the health, safety, and welfare of anticipated residents of the

subdivision, or the existing residents or businesses of the Town, including but not limited to:

- 1.—Road and street improvements, including layout, design, grading and surfacing.
- 2.—Flood control facilities.
- 3.—Culinary Water facilities.
- 4.—Sanitary Sewer facilities.
- 5.—Storm Drainage facilities.
- 6.—Park and open space areas and facilities.
- 7.—Fire protection facilities, including fire hydrants and water storage facilities.
- 8.—Electrical power and telephone facilities, and
- 9.—Fencing and buffering treatments.

The Planning Commission shall transmit its recommendation to the Town Council for consideration:

- 2.—**Town Council Approval.** Following receipt of the Planning Commission's recommendation the Town Council shall consider the Planning Commission's recommendation, the preliminary subdivision application materials, and all other information, at a regular Town Council meeting, with notice of the preliminary subdivision application agenda item being provided;
- 1.—By U.S. mail to all owners of record of real property within 300 feet of the property proposed for subdivision approval, at least seven (7) days prior to the meeting.
- 2.—Posted in at least three (3) public places within the boundaries of Big Water Town, at least seven (7) days prior to the meeting.
- 3.—Being provided to the Board of County Commissioners of Kane County, at least seven (7) days prior to the meeting.

A professional engineer representing the Town, the South West Utah Public Health Department or the Utah Department of Environmental Quality, as applicable, the County Engineer, the Town Fire Marshal, any affected Special Service District, Special Service Area, or any other affected public agency, may present information and materials to the Town Council for review in considering the Preliminary Subdivision Application:

Following consideration of the preliminary subdivision application, and all information and materials presented, the Town Council shall approve the preliminary subdivision application as presented, approve the preliminary subdivision application with conditions, or deny the preliminary subdivision application. The Town Council may require onsite and offsite improvements, facilities and amenities, provided one hundred percent (100%) by the applicant for preliminary subdivision approval, and determined necessary by the Town Council to protect the public health, safety and welfare of anticipated residents of the subdivision, or the existing residents or businesses of the Town, including but not limited to:

- 1.—Road and street improvements, including layout, design, grading and surfacing.
- 2.—Flood control facilities.
- 3.—Culinary Water facilities.
- 4.—Sanitary Sewer facilities.
- 5.—Storm Drainage facilities.
- 6.—Park and open space areas and facilities.
- 7.—Fire protection facilities, including fire hydrants and water storage facilities.
- 8.—Electrical power and telephone facilities, and
- 9.—Fencing and buffering treatments.

14.06.070 Effect Of Town Council Preliminary Subdivision Application Approval And Effective Period

- 1.—**For Proposed Preliminary Subdivision Applications Meeting ALL of the Following Standards;**

- 1.—Proposing Not more than **Nine (9) lots**, and
- 2.—Not Being Required to Provide any Public Dedications, New Public Infrastructure or Infrastructure Improvements, and
- 3.—No Area of the Proposed Subdivision is Traversed by the Mapped Lines of a Proposed or Existing Street, and
- 4.—Each Lot in the proposed Subdivision meets, as a minimum, the Lot Frontage, Lot Width and Lot Area requirements for the Zoning District in which the Proposed Subdivision is Located, or has been granted a variance from such requirements, as may be allowed, by

the Board of Adjustment:

The preliminary subdivision approval by the Town Council shall act as the final subdivision approval. Following the approval of the preliminary subdivision application, the preliminary subdivision plat, shall be revised, as required by the Town Council, and presented to the Zoning Administrator for review for compliance to Town Council approval, prior to recordation in the Office of the Kane County Recorder. At a minimum, the preliminary subdivision plat shall be revised, as necessary, so as to be in a form acceptable for recordation, as required by the Kane County Recorder. For such subdivisions, a preliminary subdivision approval by the Town Council shall not authorize the division or development of land, until the subdivision plat has been recorded.

The approval of a preliminary subdivision application, meeting all of the requirements of this Section shall be effective for a period of one (1) year from the date of approval by the Big Water Town Council. If a preliminary subdivision plat is not revised, as required by the Town Council, and is not presented to the Zoning Administrator for review for compliance to Town Council approval, and is not recorded within one (1) year from the date of approval by the Town Council, the preliminary subdivision approval shall be void, and the applicant shall be required to submit a new preliminary subdivision application, subject to the then existing application and approval requirements in effect, and all other applicable Town, State and Federal requirements:

For all Proposed Preliminary Subdivision Applications NOT MEETING ALL of the Standards of Subsection (1) above;

For all proposed subdivisions not complying with all of the standards of Subsection (1) above, the approval of a preliminary subdivision application by the Town Council shall not constitute final approval of the subdivision by the Town, but permits the applicant to proceed with the preparation of the final subdivision application and all required documents. For such subdivisions, a preliminary subdivision application approval shall not authorize the division or development of land, but shall allow the presentation to the Town of a final subdivision application:

The approval of a preliminary subdivision application, proposing more than nine (9) lots, or being required to provide public dedications, new public infrastructure, or infrastructure improvements shall be effective for a period of one (1) year from the date of approval by the Big Water Town Council, at the end of which time the applicant shall have submitted a final subdivision application for approval. If a final subdivision application is not received by the

Town Clerk within the one (1) year period, the preliminary subdivision approval shall be void, and the applicant shall be required to submit a new preliminary subdivision application, subject to the then-existing application and approval requirements in effect, and all other applicable Town, State and Federal requirements.

14.06.0580 Site Preparation Work Prohibited

No excavation, grading or regrading shall take place on any subdivision site, and no building permits shall be issued by the Town, until a final subdivision plat has been recorded in the Office of the Kane County Recorder.

14.08 Final Subdivision Application And Approval

14.08.010 Final Plat Review Process~~Intent~~

14.08.020 Final Plat Approval Process

14.08.030 Final Plat Submittal Requirements

14.08.020 Requirements For Final Subdivision Applications

14.08.0430 Final Plat Engineering Review Fees

14.08.040 Zoning Administrator To Determine A Complete Final Subdivision Application

14.08.050 Lack Of Final Subdivision Application Information - A Determination Of An Incomplete Application

14.08.060 Final Subdivision Approval Procedures

14.08.0570 Nature And Effective Period Of Final Subdivision Approval

14.08.0680 Site Preparation Work Prohibited

14.08.010 Final Plat Review Process~~14.08.010 Intent~~

~~It is the intent of this Ordinance that the approval of a final subdivision application be an administrative or ministerial action by the Big Water Town Council, accompanied with findings of fact, and assuring compliance with all applicable requirements of this Ordinance and any conditions imposed by the Town Council for preliminary subdivision approval.~~

Within one (1) year of approval of a Preliminary Plat, a Final Plat prepared by a licensed surveyor not employed by the Town shall be submitted in conformance with this Title. If a complete application is not submitted within one (1) year of Preliminary Plat approval, the approval is deemed to have expired.

Review: The following outlines the review process, as intended by Utah State Code 10-9a-604, as amended. If there is any conflict in content or interpretation, Utah State Code shall prevail.

1. The town shall maintain and publish a list of items comprising a complete Final Plat application, including:
 - a. The application.
 - b. The owner's affidavit.
 - c. An electronic copy of all plans in PDF format.
 - d. The breakdown of fees due upon approval of the application.
2. The applicant shall submit a complete application, including the Final Plat and all required documentation and information.
3. The Town shall check the submittal for completeness.
 - a. If the submittal includes all required materials, the Town shall receive the submittal and start a review.
 - b. If the submittal is incomplete, it shall be returned to the applicant. No review of the application shall commence until the Town has determined that the applicant has submitted a complete application.
4. After a determination that the application submittal is complete, the Town shall begin its review. The Town has a thirty (30) business day review window to conduct its review and provide comments on the application.
 - a. The thirty (30) business day review period applies to single-family, two-family, and townhome developments.
5. If the location is within one hundred feet (100') of a Water Conveyance Facility, within (20) calendar days after receipt of the completed application, the Town shall notify in writing the Water Conveyance Facility Owner(s) of the application and request comments related to the following aspects of the Water Conveyance Facility: access, maintenance, protection, safety, and any other issues related.
 - a. Any Water Conveyance Facility shall have at least twenty (20) days to respond. While the Town may provide comments to the applicant before this twenty (20) day window is complete, the Town shall not grant approval until at least twenty (20) days after the day on which the Town mailed notice to the Water Conveyance Facility.
 - b. Water Conveyance Facility: Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or stormwater drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. See State Code 73-1-15.5-1b.

6. During the review window, the Town Attorney shall review the Final Plat and shall recommend approval if the attorney finds that:
 - a. There is a current title opinion from a licensed title company showing that the person dedicating the property described on the Final Plat is the title owner, as shown on the records of the Kane County Recorder's Office.
 - b. The performance bond, escrow deposit, letter of credit, or trust deed with the Town is in appropriate form and signed by the necessary parties.
 - c. That the subdivision does not, in the attorney's opinion, violate any ordinance of the Town, laws of the State of Utah, or rules and regulations promulgated pursuant thereto.
7. Within the review window in subsection 4, the Town shall complete a review of the Final Plat and submittal contents and provide a response to the applicant. The Town shall determine whether the application meets all requirements or requires corrective actions and shall notify the applicant in a written response:
 - a. If the application is found to require corrections, the Town shall be specific and cite the ordinance, statute, or specification that requires the modification. Comments shall be logged in an index of requested modifications or additions. The required corrections are sent to the applicant to prepare a resubmittal.
 - b. The Town may require additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards.
 - c. If the applicant is found to meet all codes, standards, and specifications, the application is forwarded to the *[staff member, individual, or board appointed by the Town]* for review and approval.
8. If corrections are required, the applicant shall provide a resubmittal. The resubmittal shall include a written explanation in response to each of the municipality's review comments, identifying and explaining the applicant's revisions or reasons for declining to make a requested revision.
9. The Town shall check the resubmittal to ensure that the applicant has responded to each item logged in the index of requested modifications or additions. If the response does not address each item, the Town shall return the submittal to the applicant.
 - a. If the resubmittal is complete, the Town shall review the application and provide written comment within the review window as outlined in subsection 4.
 - b. The review window number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as

commercial, industrial, or mixed-use, nor does it apply to any legislative approval.

10. If the Town determines that the resubmittal is complete and meets all codes, standards, and specifications, it shall be forwarded to the [staff member, individual, or board appointed by the Town] for review and approval.

a. If the Town finds the resubmittal does not comply with all applicable codes, standards, and specifications, another review letter and index of requested modifications or additions shall be created and sent to the applicant. This shall be provided to the applicant up until the fourth review cycle, at which point the application shall be forwarded on to the [staff member, individual, or board appointed by the Town] for review with a recommendation that the application does not meet all codes, standards, and specifications. The applicant may appeal this determination as outlined in Utah Code 10-9a-604.2(8), as amended.

11. If on the fourth and final review, the Town fails to respond within forty (40) business days, the Town shall, upon request of the property owner, and within (10) business days after the day on which the request is received:

a. The Town shall advise the applicant, in writing, of the application's deficiency and the right to appeal the determination to a designated appeal authority.
i. The appeal authority shall be the Town Council.

14.08.020 Final Plat Approval Process

After the review cycle process has been completed, the application shall be submitted to the land use authority by the Town for approval.

1. The Town shall appoint a staff member, individual, or board to be the land use authority for Final Plat approval. Final Plat approval may not require Town Council or Planning Commission approval. (See Utah State Code 10-9a-604.1)

a. No public hearing for the Final Plat approval may be held.

2. The land use authority shall approve the Final Plat if it finds:

a. The proposed plat complies with the requirements of the Town Code, Utah State Code, and all other applicable policies and regulations.

i. The plat has been approved by the culinary water authority.

ii. The plat has been approved by the sanitary sewer authority, and

iii. If applicable, the health department has approved the plat.

b. The land use authority may deny or remand the proposed Final Plat if:

i. The land use authority finds the applicant has not provided a complete, accurate, and satisfactory response to all comments

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during review and any other point of non-compliance with applicable regulations.

ii. The applicant is unwilling to make the required corrections or provide the required information.

iii. Any appeal shall be consistent with the provisions of Utah Code 10-9a-604.2.

14.08.030 Final Plat Submittal Requirements ~~14.08.020 Requirements For Final Subdivision Applications~~

All final ~~plat~~subdivision applications shall provide the following information;

1. **Application.** A Final ~~Subdivision Plat~~ Application, provided by the Town, completed and signed by the owner(s) as identified on the property assessment rolls of Kane County, or authorized agent of the owner(s), of the lands proposed to be subdivided. The final subdivision application shall be accompanied by the final subdivision application fee.
2. **Final Subdivision Plat.** A final subdivision plat, prepared by a licensed land surveyor, conforming to current surveying practice and in a form acceptable to the Kane County Recorder for recordation. The final subdivision plat shall be prepared in ~~an electronic format~~pen and all sheets shall be numbered. All required certificates shall appear on a single sheet (along with the index and vicinity maps). The final subdivision plat shall be ~~provided in an electronic format, drawn on reproducible Mylar.~~ A minimum of eight (8) paper copies shall be presented to the Town Clerk, as part of the final subdivision plat application.

The final subdivision plat presented to the Town Clerk shall contain the same information as required by Section 14.06.0~~320~~ herein, and shall include any revisions or additions, as required by the ~~[staff member, individual, or board appointed by the Town]~~Town Council, as part of preliminary subdivision approval. The final subdivision plat shall show the following:

- a. Notation of any self-imposed restrictions, including proposed final restrictive covenants, signed by all owners of interest and bearing the acknowledgment of a public notary, and all other restrictions as required by the Town Council in accordance with this Ordinance.
- b. Endorsement on the final plat by every person having a security interest in the subdivision property subordinating their liens to all covenants, servitudes, and easements imposed on the property.

- c. The location of all monuments erected, comers, and other points established in the field. The material of which the monuments, comers, or other points are made shall be noted. Bearings shall be shown to the nearest second; lengths to the nearest hundredth foot; areas to the nearest hundredth acre.
 - d. The owner's certificate of dedication(s) including a legal description of the subdivision's boundaries and the dedication of any public ways or spaces. This certificate shall be signed, dated, and notarized. The owner's certificate shall include a reference to any covenants that may be declared and blanks where the County Recorder may enter the book and page number of their recording.
 - e. Signature blocks prepared for the dated signatures of the Mayor, Planning Commission Chair, Town Engineer, and Town Attorney.
3. **Title Report.** If the final subdivision application is filed with the Town after 180 days from the date the preliminary subdivision application is approved by the Town Council, a Title Report, no older than 30 days, shall be provided as part of the final subdivision application.
4. **Other Final Subdivision Application Information and Materials.** The following information is required to be presented as part of the final subdivision application:
- a. all existing and proposed streets, and designed as required Establishment of any bonds and agreements and the payment of any engineering inspection fees.

~~1. Final design and construction drawings for all proposed or required public improvements, prepared as required by the Town Engineer, including the profiles and cross sections of by the Town, all storm drainage and flood control facilities, the elevations and location of fire hydrants, required culinary water facilities, sanitary sewer facilities, and all other provided and required public facilities and improvements.~~

14.08.0430 Final Plat Engineering Review Fees

Big Water Town does not employ a full-time professional engineer. The applicant for final subdivision approval shall pay all costs that may be incurred by the Town for the provision of engineering services, provided by a licensed engineer, and necessary to review the final subdivision application materials, for conformity to the requirements of this Ordinance, other applicable Town Ordinances, other applicable Local, State, and Federal requirements, and accepted civil engineering practice.

14.08.040 Zoning Administrator To Determine A Complete Final Subdivision Application

Prior to the consideration of the final subdivision application by the Town Council, the Zoning Administrator shall determine and find that the final subdivision application is complete and contains all application materials as required herein:

14.08.050 Lack Of Final Subdivision Application Information - A Determination Of An Incomplete Application

The lack of any information required for a final subdivision application, as required by this Ordinance, shall be cause for the Zoning Administrator to find the final subdivision application incomplete:

A Zoning Administrator determination of an incomplete final subdivision application shall prohibit the Town Council from considering any material, items or other information related to the proposed subdivision. The Zoning Administrator shall notify the applicant, in writing, of the required information lacking from the final subdivision application. The Zoning Administrator shall allow a minimum of twenty (20) calendar days and a maximum of thirty (30) calendar days, from the date of notification of an incomplete final subdivision application, for the applicant to provide the required information to the Town. If the final subdivision application remains incomplete after a maximum of thirty (30) days from date of notification, the Zoning Administrator shall return the entire incomplete final subdivision application to the applicant, accompanied by any final subdivision application fees paid:

Any person(s) aggrieved by a decision of the Zoning Administrator of a Determination of Application Completeness may appeal the Zoning Administrator's decision to the Planning Commission:

14.08.060 Final Subdivision Approval Procedures

The review and approval procedures of Big Water Town for the consideration of a final subdivision application are identified in Figure 3. The procedures to determine a complete application, as provided by Section 14.08.040 and Section 14.08.050 herein, are identified by Figure 2:

The Town Council is identified and authorized as the approval authority for final subdivision applications, assuring compliance with all applicable requirements of this Ordinance. The Town Council may approve the final subdivision application, approve the final subdivision application with conditions, or deny the final subdivision application, accompanied by findings of fact:

14.08.0570 Nature And Effective Period Of Final Subdivision Approval

After a final subdivision application has been approved by the [staff member, individual, or board appointed by the Town]~~Town Council~~, the final subdivision plat shall be revised as required by the ~~Town Council~~[staff member, individual, or board appointed by the Town] and presented to the Zoning Administrator for review for compliance to the final plat ~~Town Council~~ approval, prior to recordation in the Office of the Kane County Recorder. After the final subdivision plat has been recorded, the applicant may apply for building permits consistent with the approved and recorded final subdivision plat and the Town's requirements for a building permit.

The approval of a final subdivision application shall be effective for a period of one (1) year from the date the final subdivision is approved by the [staff member, individual, or board appointed by the Town]~~Town Council~~, at the end of which time the final subdivision plat shall have been recorded in the Office of the Kane County Recorder. If the approved final subdivision plat is not recorded within the one (1) year period of date of approval the final subdivision approval shall be void, and the applicant shall be required to submit a new preliminary subdivision application, subject to the then existing preliminary subdivision application provisions of this Ordinance and all other applicable Town, State and Federal requirements.

14.08.060 Preparation of Final Plat Mylar: Once all requirements have been met, redline corrections made, and the [staff member, individual, or board appointed by the Town] has approved the final plat, the applicant shall submit twenty-four-inch thirty-six-inch (24"x36") mylar drawing of the corrected final subdivision plat that meets the requirements of the Office of the Kane County Recorder, with the signatures of the owners and other required signatures.

14.08.0780 Site Preparation Work Prohibited

No excavation, grading or regrading shall take place on any subdivision site, and no building permits shall be issued by the Town, until the final subdivision plat has been recorded in the Office of the Kane County Recorder, as provided herein.

14.10 Subdivision Design Standards

14.14 Building Permits

14.14.010 Building Permit Issuance

14.14.020 Building Permit Application

14.14.010 Building Permit Issuance

1. **Legal Lot Required.** The Big Water Town Building Inspector shall not issue any permit for a proposed building or structure, excluding agricultural buildings, on a lot located within the boundaries of the Town unless;
 - a. The lot is within a subdivision and the lot was legally created pursuant to this Ordinance, or prior Subdivision Ordinances.
 - b. The lot is a legal lot of record, such lot being created and recorded in the Office of the Kane County Recorder prior to February 7, 1986.

14.14.020 Building Permit Application

All proposed buildings, structures, facilities and uses located within the boundaries of Big Water Town, excluding agricultural buildings to the extent exempted by the laws of the State of Utah, and requiring the approval and issuance of a building permit, as required by the building codes of Big Water Town, shall present a building permit application for review by the Town's Building Inspector.

14.16 Subdivision Construction

14.16.010 Construction Of Required Subdivision Improvements

14.16.020 Proceeding With Subdivision Construction

14.16.030 Subdivision Construction And Improvement Inspections

14.16.010 Construction Of Required Subdivision Improvements

Construction of any required subdivision improvements, including infrastructure and facilities, necessary to meet the requirements of this Ordinance, and any conditions required by the Town ~~Council~~ for ~~final~~ subdivision approval, shall comply with the public infrastructure construction requirements, as may ~~be~~ established by the Town Council.

14.16.020 Proceeding With Subdivision Construction

Following the recording of the final subdivision plat in the office of the Kane County Recorder, the landowner may proceed with construction of the approved subdivision. However, no improvements shall be installed until their locations have been approved by a professional engineer, representing the Town. Water mains, sewer lines, laterals, drainage facilities, fire hydrants shall be installed and tested prior to any road surfacing and the installation of road base. A preconstruction meeting may be held, as directed by the Town Engineer, prior to the installation of any public improvements.

14.16.030 Subdivision Construction And Improvement Inspections

A professional engineer, representing the Town shall inspect or cause to be inspected all public improvements and facilities, including but not limited to all water supply and sewage disposal systems in the course of construction, all streets and roads, all drainage and flood control facilities, all fire hydrants, and all other subdivision improvements and facilities. Excavations for fire hydrants and water and sewer mains and laterals, drainage and flood control facilities shall not be covered or backfilled until such installations have been approved by the professional engineer, representing the Town. If any such installation is covered before being inspected, it shall be uncovered after notice to uncover has been issued to the responsible person by the professional engineer, representing the Town.

14.18 Planned Development ~~(Cluster Subdivision)~~ Option

14.18.010 Purpose And Intent

14.18.020 Use Regulations And Application

14.18.030 General Requirements

14.18.040 Development Standards

14.18.050 Open Space Provision And Maintenance

14.18.010 Purpose And Intent

The Planned Development ~~or Cluster Subdivision~~ option is provided by Big Water Town to:

1. the protection of sensitive areas and natural features.
2. Encourage desirable subdivision layouts.
3. Provide for flexibility in subdivision layouts.
4. Encourage efficiencies in infrastructure and service provision.

A Planned Development ~~/Cluster Subdivision~~ provides an alternative subdivision layout and configuration option. A Planned development ~~/Cluster Subdivision~~ may be proposed without the need for all lots in the proposed subdivision to meet the minimum lot size requirement of the Zoning District in which the proposed subdivision is located, but meeting the maximum allowed density, as provided by Subsection (1) above.

14.18.020 Use Regulations And Application

A Planned Development ~~/Cluster Subdivision~~ may be allowed ~~or required~~ by the Town Council, following the receipt of a Planning Commission recommendation. All use requirements of the Zoning District in which the Planned Development/Cluster Subdivision is located shall apply.

An application for a Planned Development/~~Cluster Subdivision~~ shall be presented to the Town. ~~Should the application be approved by the Town Council, the applicant shall then follow the process and requirements by following the requirements for a Preliminary Subdivision Plat application and Final Subdivision Plat application, as outlined in 14.06 and 14.08, by following the requirements for a Preliminary Subdivision Plat application and Final Subdivision Plat application, respectively, as applicable. Approval for a Planned Development does not guarantee the approval of the Preliminary Subdivision Plat application or the Final Subdivision Plat application.~~ Full compliance with all the provisions of this Ordinance, other applicable Town Ordinances, and all other applicable Local, State, and Federal requirements is required.

14.18.030 General Requirements

1. The maximum total number of dwelling units allowed in a Planned Development/~~Cluster Subdivision~~ shall be the same as the number allowed by the minimum lot area requirements of the zoning district in which the proposed cluster subdivision is located. Any land(s) used for other uses shall not be included in the area for determining the total number of allowed dwelling units.
2. The land(s) proposed for a Planned Development/~~Cluster Subdivision~~ shall be in a single ownership, or the application for a cluster subdivision shall be filed jointly by the owners.
3. The property adjacent to the proposed Planned Development/~~Cluster Subdivision~~ shall not be adversely affected.

14.18.040 Development Standards

1. **Minimum Lot Area.** The minimum lot area may be reduced below the minimum required by the Zoning District in which the Planned Development/~~Cluster Subdivision~~ is located, as recommended by the Planning Commission, and as approved by the Town Council.
2. **Minimum Lot Width and Minimum Yard Requirements.** The minimum lot width, side yard, front yard, and rear yard requirements of the Zoning District in which the Planned Development/~~Cluster Subdivision~~ is located may be reduced, as recommended by the Planning Commission, and as approved by the Town Council.
3. **Use and Height Requirements.** All uses in a Planned Development/~~Cluster Subdivision~~ shall comply with the use and height requirements of the Zoning District in which the Planned Development/~~Cluster Subdivision~~ is located.

14.18.050 Open Space Provision And Maintenance

All areas to be preserved as open space areas, as a result of a Planned Development/~~Cluster Subdivision~~ approval, shall be preserved and restricted by way of a condition of approval, with a deed restriction, recorded with the Kane County Recorder and assuring the long-term use and maintenance of such areas, as determined necessary and appropriate, and as recommended by the Planning Commission, and approved by the Town Council. A note or restrictive covenant reference shall be placed on the subdivision plat identifying such deed restriction. These areas shall only be used, and shall be maintained, in accordance with a condition of Planned Development/~~Cluster Subdivision~~ approval, as approved by the Town Council.

14.20 Vacating Or Changing A Subdivision Plat

14.20.010 Amendment To Recorded Plats

14.20.020 Parcel Joinder (Lot Consolidation)

14.20.030 Lot Line Adjustments Within An Recorded Plat

14.20.040 Appeal Of Subdivision Amendment Decisions

14.20.010 Amendment To Recorded Plats

The Big Water Town Council may, with or without a petition, and with recommendation from the Big Water Planning and Zoning Commission or Zoning Administrator, consider, any proposed vacation, alteration, or amendment of a recorded subdivision plat, any portion of a recorded subdivision plat or any road or lot, contained in a recorded subdivision plat by following and complying with all the requirements for vacating or changing a subdivision plat, as identified at § 10-9a-608, Utah Code Annotated, 1953, as amended and § 10-9a-609, Utah Code Annotated, 1953, as amended, and consistent with the requirements of § 10-9a-609.5, Utah Code Annotated, 1953, as amended.

14.20.020 Parcel Joinder (Lot Consolidation)

The Big Water Town Council may, upon recommendation by the Planning and Zoning Commission, consider the joining of two, or more, contiguous parcels (lots), following and complying with all the requirements for parcel joinder as identified in the Big Water Zoning Ordinance (2004-236, adopted 12-21-2004, *Chapter 15.10 Development Applications and Procedures, Section 15.10.150 Standards and Requirements for Parcel Joinder (Lot Consolidation)*, amended _____, 2009) and at § 10-9a-103, Utah Code Annotated, 1953, as amended (2008), § 10-9a-608 et seq., Utah Code (Amended 2006), and consistent with the requirements of § 10-9a-609, Utah Code (Amended 2007).

1. A parcel joinder (lot consolidation) means:

- a. revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - b. joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use/subdivision ordinances.
2. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under Subsection (44) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance. (Utah Code § 10-9a-103 Definitions, Amended by Chapter 19, Chapter 112, Chapter 326 and Chapter 360, 2008)
3. Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition Planning and Zoning to have the plat altered, or amended.
4. The following requirements must be met and accepted by the Zoning Administrator, prior to securing a Parcel Joinder meeting with and recommendation from Planning and Zoning to Town Council.
 - a. Applicant must be the title owner of said property or have written/certified power of attorney to act on behalf of the owner.
 - b. Applicant must submit a completed Big Water Parcel Joinder (Lot Consolidation) Request form to include:
 - i. property owner's name;
 - ii. date;
 - iii. address, phone, cell phone, fax, city, state, Zip code;
 - iv. name, location (lot#, block, section, subdivision platted name) and legal description of subdivision plat;
 - v. reason for parcel joinder request;
 - vi. certification to conform to Big Water ordinances.
 - c. Applicant must submit a revised (final) plat, prepared by a licensed land surveyor. The plat shall be prepared in pen and all sheets shall be numbered. The plat shall be drawn on reproducible Mylar. A minimum of twelve (12) paper (8 ½" x 11") copies shall be presented to the Town Clerk with the formal request form. The revised plat shall contain Signature blocks for the dated signatures of the Mayor, Planning Commission Chair, Town Engineer, and

Town Attorney. (See Section 14.08.020 of the Big Water Subdivision Ordinance)

- d. Applicant must provide the names and addresses of all property owners in said plat/subdivision within 500 feet of joinder properties.
 - e. Applicant must provide paid tax statement for the current year.
 - f. Applicant must pay the applicable parcel joinder fees to the Town Clerk in accordance with the current Big Water Rates and Fees for Municipal Services schedule. Applicant also is responsible for any other applicable fees, e.g., engineering review, title search, recording fee.
 - g. Applicant must provide a title report, by a licensed Title Company, for the properties proposed for parcel joinder with the application .
 - h. Applicant or authorized agent must be present for public meeting at which parcel joinder is an agenda item, or the application will be tabled.
5. An incomplete application will not be scheduled for a Planning & Zoning Commission public meeting agenda.
 6. The Zoning Administrator shall ensure that notice is given to all affected property owners within 500 feet of joinder properties, pursuant to local ordinance.
 7. The Planning and Zoning Commission shall give its recommendation within 30 days after the proposed parcel joinder request is referred, or as that time period is extended by agreement with the applicant. (Utah Code § 10-9a-608 et seq., (2)(a)(ii), Amended 2006)
 8. Town Council will make its decision within 45 days after the petition is filed or, if applicable, within 45 days after receipt of the planning commission's recommendation.
 9. Town Council shall hold a public hearing (§ 10-9a-207, et seq., Utah Code Amended 2006, 10-9a-509, et seq., Utah Code Amended 2008, and § 10-9a-608, et seq., Utah Code Amended 2006) if
 - a. any owner within the plat notifies the municipality of his/her objection in writing within ten (10) days of mailed notification or by published notification deadline; or
 - b. if required, all owners in the subdivision have not signed the revised plat; or
 - c. the parcel joinder amends a public street, alley or right-of-way (§ 10-9a-208, Utah Code Amended 2006, and § 10-9a-609.5 et seq., Utah Code Amended 2007); or

- d. Council finds that a compelling, countervailing public interest would be jeopardized by approving the application (§ 10-9a-509, et seq., Utah Code Amended 2008).
10. The public hearing requirement (§ 10-9a-207, et seq., Utah Code Amended 2006, § 10-9a-509, et seq., Amended 2008, and § 10-9a-608, et seq., Utah Code Amended 2006), does not apply and Town Council may consider at a public meeting an owner's petition to alter or amend a subdivision plat if:
- a. the petition seeks to join two or more of an owner's contiguous, residential lots;
 - b. notice has been given pursuant to local ordinance;
 - c. the parcel joinder does not amend a public street or right-of-way (§ 10-9a-208, Utah Code Amended 2006); and
 - d. Council is satisfied that neither the public interest nor any person will be materially injured by the proposed alteration or amendment, and that there is good cause for the alteration or amendment.
11. Town Council may approve the vacation, alteration, or amendment by signing an amended final plat showing the vacation, alteration, or amendment.
- 12.
- a. After the plat has been acknowledged, approved and certified, the owner of the land shall, within the time period designated by ordinance, record the plat in the Kane County recorder's office.
 - b. An owner's failure to record a plat within the time period designated by ordinance renders the plat void. (§ 10-9a-603, (5) (a)(b), Utah Code Amended 2008)
13. The Town Council shall ensure that the amended plat showing the vacation, alteration, or amendment is recorded in the office of the county recorder in which the land is located (§ 10-9a-609, et seq., Utah Code Amended 2007) within one year of the certified date of the plat.

14.20.030 Lot Line Adjustments Within An Recorded Plat

In accordance with Big Water Zoning Ordinance (2004-235, adopted, December 21, 2004, amended _____ 2009, *Chapter 15.10 Development Applications and Procedures, Section 15.10.160 Procedure for a Lot Line Adjustment*) and § 10-9a-103 (subsections 24, 44) and § 17-27a-103 (subsections 28, 48) Definitions, Utah Code (Amended 2008), petitions to adjust lot lines (mutual boundary) between adjoining

properties may be executed upon the recordation of an appropriate deed with the consent of the owners' of record.

1. The applicants must complete and submit to the Zoning Administrator a Big Water Lot Line Adjustment Request form to include:
 - a. property owners' names;
 - b. date;
 - c. owners' addresses, phone/cell/fax numbers, city, state, Zip code;
 - d. name, location (lot #s, block(s), section(s)) and legal descriptions);
 - e. reason for lot line adjustment request;
 - f. paid tax statement for the current year.
 - g. certification to conform to Big Water ordinances.
 - h. names and addresses of all property owners adjacent to the lots in question.
2. Applicants must prove that:
 - a. no new dwelling lot or housing unit results from the lot line adjustment;
 - b. that all adjoining property owners consent to the lot line adjustment;
 - c. the lot line adjustment does not result in a remnant piece of land that did not exist previously; and
 - d. the lot line adjustment does not result in the violation of any applicable zoning district requirements.
3. Applicants must provide a title report, by a licensed Title Company, for the properties proposed for Lot Line Adjustment with the application.
4. Applicants must submit a revised (final) plat, prepared by a licensed land surveyor. The plat shall be prepared in pen and all sheets shall be numbered. The plat shall be drawn on reproducible Mylar. A minimum of twelve (12) paper (8 ½" x 11") copies shall be presented to the Town Clerk with the formal request form. The revised plat shall contain Signature blocks for the dated signature of the Zoning Administrator, Mayor, Planning Commission Chair, and Town Attorney.
5. Applicant must pay the applicable Lot Line Adjustment fees to the Town Clerk in accordance with the current Big Water Rates and Fees for Municipal Services schedule.

6. The Zoning Administrator shall ensure that notice is given to all adjoining property owners, pursuant to local ordinance.
7. After the Lot Line Assessment request and plat are acknowledged, approved and certified by the Zoning Administrator, the owners shall, within one year, record the appropriate deed in the Kane County recorder's office.
8. The County Recorder shall ensure the requirements of this Section are met. The Kane County Recorder may request a review of the materials presented for a Lot Line Adjustment by the Zoning Administrator prior to recordation.
9. If any owner of an adjoining property notifies the municipality of his/her objection in writing within ten (10) days of mailed notification or by published notification deadline, the Zoning Administrator will set an agenda item for the next Planning and Zoning public meeting. The Applicants, or his/her/their authorized agent(s), must be present. If they are not present, the application will be tabled. (Please see Big Water Zoning Ordinance, Section 15.10.150(7-10), or Big Water Subdivision Ordinance, Section 14.20.020(7-10), for the required additional processes.)

14.20.040 Appeal Of Subdivision Amendment Decisions

An aggrieved party may appeal the decision of the Town Council concerning a subdivision amendment to district court, as provided in § 10-9a-707, et seq., Utah Code Annotated, 1953, (Amended 2005).

1. A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.
2. A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection § 10-9a-801(2)(a) or a final action under Subsection 10-9a-801(4). (§ 10-9a-708, Utah Code, Amended by Chapter 240, 2006)
3. No person may challenge in district court a municipality's land use decision made under this chapter, or under a regulation made under authority of this chapter, until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable as provided in § 10-9a-801, et seq., Utah Code (Amended by Chapters 306 and 363, 2007).
4. Enforcement is as provided in § 10-9a-802, Utah Code (Amended 2005).

14.22 Simple Subdivision

14.22.010 Purpose

14.22.020 Applicability

14.22.030 Simple Subdivision Application

[14.22.040 Required Conditions](#)

[14.22.050 Submittal Contents](#)

[14.22.060 Review and Approval Process](#)

[14.22.070 Filing the Record of Survey](#)

[14.22.080 Expiration of the Final Approval](#)

14.22.010 Purpose

[Utah State Code provides an exemption from many subdivision requirements for subdivisions with four \(4\) or fewer lots. The purpose and intent of this simple subdivision process is to take advantage of the Utah State Code exemption to allow for subdivision with no more than four \(4\) lots to be processed as quickly as possible. This code outlines a separate process for these smaller subdivisions. In this process, an applicant may elect to divide property through a metes and bounds record of survey.](#)

14.22.020 Applicability

[The procedures set forth in this Section shall govern the process and requirements pertaining to simple subdivisions with no more than four \(4\) lots. An applicant may elect to forgo the simple subdivision process and instead proceed with the standard preliminary and final plat subdivision process.](#)

14.22.030 Simple Subdivision Application

[The subdivider of a simple subdivision shall submit an application to the Town along with the application fee set by the Town Council, one \(1\) twenty-four-inch by thirty-six-inch \(24"x36"\) or larger Record of Survey drawing in an acceptable electronic format of the subdivision showing the land to be subdivided, properly and accurately drawn to scale and with sufficient additional information to determine the boundaries of the proposed subdivision. The Record of Survey shall be certified as to the accuracy by a licensed land surveyor.](#)

14.22.040 Required Conditions

[For a proposed subdivision to qualify for a simple subdivision approval, the proposed simple subdivision shall:](#)

- [1. Be for a single-family dwelling or dwellings and any associated accessory dwelling.](#)
- [2. Be located on property zoned for such use.](#)
- [3. Result in no more than four \(4\) lots.](#)
- [4. Show frontage on a dedicated roadway for each resulting lot, as required by the existing zoning.](#)

5. Not contain any legislative approval, such as a zone change or general plan amendment request. Any legislative approval necessary for the simple subdivision to meet all requirements shall be pursued separately and shall be completed before the Planning Commission may review the simple subdivision application.
6. Not to be traversed by the mapped lines of a proposed street as shown in the general plan or master transportation plan.
7. Conform to all applicable land use ordinances. A property that has previously obtained a variance shall be deemed to conform as it relates to the conflict that had necessitated the variance.

14.22.050 Submittal Contents

A simple subdivision application shall include Subdivision Improvement Plans meeting the requirements outlined in 14.06.030(8) and shall at a minimum contain the following:

1. A title report showing ownership by the applicant.
2. Name of the applicant or authorized agent and contact information.
3. Property address, acreage, boundary, and tax identification number.
4. Date, scale, and North arrow.
5. Vicinity map showing location of property relative to municipal boundaries, and roads that serve the property.
6. A current title report and notarized permission form from all lienholders.
7. A statement containing the zone, lot size, and amount of frontage along a public street for each proposed lot.
8. A metes and bounds description of the property proposed to be split.
9. A subdivision name.
10. A record of survey map, showing each new lot, which includes the following details:
 - a. The location of survey by quarter section and township range.
 - b. The date of survey.
 - c. The scale drawing and North point.
 - d. The distance course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivisions.
 - e. All measured bearings, angles, and distances separately indicated from those of record.
 - f. A written boundary description of property surveyed.
 - g. All monuments set and their relation to older monuments found.

- h. A detailed description of monuments found and monuments set, indicated separately.
- i. The surveyor's seal or stamp.
- j. The surveyor's business name and address.
- k. A written narrative that explains and identifies:
 - i. The purpose of the survey.
 - ii. The basis on which the lines were established.
 - iii. The found monuments and deed elements that controlled the established or reestablished lines.
- l. If the narrative is a separate document, it shall contain:
 - i. The location of the survey by quarter section and by township and range.
 - ii. The date of the survey.
 - iii. The surveyor's stamp or seal.
 - iv. The surveyor's business name and address.
- m. The map and narrative shall be referenced to each other if they are separate documents.
- n. The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the County Surveyor.

14.22.060 Site Specific Contents

The following documents shall accompany the Simple Subdivision application when deemed necessary by the Town:

1. Soils Report: The applicant shall provide a detailed soils report addressing the following issues for the subdivision: hillside stabilization, road design, foundation design, groundwater impacts, and general soil stability. The report must be stamped and signed by a civil engineer licensed in the state of Utah.
2. Storm Water Plan: The applicant shall provide a detailed storm water plan for the subdivision. This plan shall include all calculations showing that it meets all applicable code and standards and specifications. Plans and calculations shall be stamped and signed by a civil engineer licensed in the state of Utah.
3. Other Hazard Information: This may include FEMA floodplain information or other information to mitigate natural hazards.

14.22.070 Review and Approval Process

The intent is to provide timely review and approval of all complete applications, as follows:

1. Optional Pre-Application Meeting: An applicant may request to meet with Town staff and/or representatives prior to submittal to review the application and requirements.
2. Preliminary Review: The applicant shall submit the application and all required contents. The Town will check the application for completeness. If all materials have not been submitted, the application shall be returned to the applicant until all required contents are included.
3. Administrative Review: Once the application is deemed to be complete, the Town will review the application to ensure that all information has been included and that the application meets all requirements. If all the requirements are met, the project shall be forwarded to the Planning Commission for review.
4. Planning Commission Review: The planning Commission shall hold a public hearing on the application. If the Planning Commission determines that the application does not meet all requirements, an applicant may request that the motion be tabled until all requirements are met.
 - a. Public notice shall be sent to all properties within one hundred feet (100') of the property, notifying property owners of the time and place of the public hearing and the nature of the request.
 - b. If the applicant meets all applicable requirements, the Planning Commission shall approve the simple subdivision application. If the applicant is unable or unwilling to meet all applicable requirements, the Planning Commission shall deny the simple subdivision application.

14.22.080 Filing the Record of Survey

1. After the Planning Commission has approved the simple subdivision application, the Town shall create a written certificate of approval to accompany the record of survey. At a minimum, the document shall be notarized by the Town Recorder, and the name of the subdivision, the number of lots, and the date of Planning Commission approval shall be specified.
2. The applicant shall provide a check sufficient to cover the recording fees.
3. Within one (1) year of approval, the Record of Survey, with the accompanying written certificate of approval, shall be filed in the Office of the County Recorder.

14.22.090 Expiration of Planning Commission Approval

If a Record of Survey is not filed within one (1) year from the date of approval by the Planning Commission, the approval is considered to have lapsed. The applicant will then need to obtain a new approval and comply with any new regulations that may have been implemented.

14.24 Administration And Enforcement

14.24.010 Enforcement

14.24.020 Licenses And Permits

14.24.030 Fees And Charges

14.24.040 Violation

14.24.050 Penalty

14.24.010 Enforcement

The Town Zoning Administrator, Building Inspector, Engineer, and Attorney are hereby designated and authorized as responsible for the enforcement of this Ordinance. Failure of the Zoning Administrator, Building Inspector, Engineer, or Attorney to enforce any provision or seek remedies to a violation of this Ordinance shall not legalize any such violation.

14.24.020 Licenses And Permits

From the effective date of this Ordinance, no license or permit, including the issuance of a building permit for the construction, alteration, or modification of any building or structure, shall be issued by the Town unless such permit or license complies with the requirements and provisions of this Ordinance, including a determination that the lot or parcel, proposed for the license or permit, is a legal lot created pursuant to the provisions of this Ordinance, or subsequent Subdivision Ordinances, or is a legal lot of record. Any license or permit issued in conflict with the provisions and requirements of this Ordinance shall be void.

14.24.030 Fees And Charges

The Big Water Town Council shall establish all necessary fees and charges payable for subdivision applications, planning, engineering review and inspection services, and other requirements of this Ordinance by Resolution. Such fees and charges may be amended from time to time, as considered necessary, by resolution of the Town Council.

14.24.040 Violation

As provided by § 10-9-811, Utah Code Annotated, 1953, as amended, a plat of a subdivision recorded without the approval of the Big Water Town Council is void.

No person shall subdivide any land located wholly or in part in the Big Water Town except in compliance with the provisions of this Ordinance. No person shall purchase, sell or exchange any proposed subdivision nor offer for recording in the Office of the Kane County Recorder any deed conveying such parcel of land, or any fee interest therein, unless such

subdivision has been created and approved by Big Water Town pursuant to, and in accordance with the provisions of this Ordinance.

14.24.050 Penalty

Any person, organization, corporation, or other entity that violates any provision of this Ordinance shall be guilty of a Class C misdemeanor and is punishable by a fine, imprisonment, or both, as determined by a Court of competent jurisdiction.