TOWN OF DUTCH JOHN

DAGGETT COUNTY, UTAH

DUTCH JOHN PLANNING AND ZONING REGULATION

Approved: _____, 2016

Effective Date

This ordinance shall take effect after its passage and upon posting as required by law.

Passed and adopted by the Town of Dutch John Council this ___ Day of ___, 2016.

Amended as follows:

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CHAPTER 1

TITLE, PURPOSE, DECLARATION OF INTENT AND EFFECTIVE DATE

Section 101 - Short Title:

This Ordinance shall be known and may be referred to as the Dutch John Planning and Zoning Ordinance, after adoption by the Town of Dutch John Council. This Ordinance may, in subsequent sections, be referred to as "Ordinance," "the Ordinance," or "this Ordinance."

Section 102 - Effective Date and Zoning Map:

This Ordinance codified herein, including the attached Zoning Map shall take effect on the _____ day of _____, 201X.

Section 103 - Authority:

The Town Council of the Town of Dutch John - located in Daggett County, Utah, adopts this Ordinance pursuant to Title 10-9a, of the Utah Code and all other authorities and provisions of Utah statutory and common law that are applicable.

Section 104 - Purpose:

The purpose of this Ordinance is to provide land use and development requirements and guidelines which will provide for the orderly development of the lands situated within the Incorporated Boundaries of the Town of Dutch John. Further, this ordinance is intended to be used to implement the goals and policies of the Dutch John Master Plan.

This Ordinance contains or refers to standards, provisions and requirements intended to protect the health, safety and welfare of the residents and property owners of Dutch John by ensuring that neighbors and adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources.

It is the intent of this Ordinance to provide a means of ensuring predictability and consistency in the use of land and individual properties, and through adherence to the Dutch John Master Plan guide and direct the development of land within the Town of Dutch John.

A critical issue in the development of the Town of Dutch John is to ensure that the form and character of the community is in step with the Dutch John Master Plan and the sequencing of development projects allow for full development of town utilities and infrastructure both in the short term and long term.

These purposes are met by:

1) Providing the means of implementing the various policies and other provisions of the Dutch John Master Plan;

2) Guiding development in an orderly manner consistent with the Dutch John Master Plan;

3) Ensuring that proposed developments do not add a support and/or maintenance burden to the existing town or create a financial or otherwise burden on the residents of the town.

4) Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;

5) Preventing damage and injury from disasters such as fire, flood, geologic and seismic hazards and other dangers;

6) Avoiding excessive concentration of people and overcrowding;

7) Assuring adequate transportation facilities, public utilities, schools, parks, open space and other public facilities and improvements;

8) Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity;

9) Protecting landowners from potential adverse impacts from adjoining uses; and

10) Securing economy and efficiency in the allocation and expenditure of public funds.

Section 105 - Applicability:

(1) Applications accepted by the Dutch John Planning and Zoning Commission as complete for any approval, permit or license issued under the provisions of this Ordinance shall be processed, reviewed and approved or denied, subject to the provisions of this Ordinance and all other applicable provisions in effect at the time the application is accepted as complete.

(2) No building may be constructed/erected and no existing building shall be moved, altered or enlarged nor shall any land, building or premises be used, designed or intended to be used for any purpose or in any manner other than as allowed by this Ordinance, or amendments thereto.

(3) The provisions of this Ordinance shall apply to all lands within the incorporated boundaries of the Town of Dutch John, as indicated on the Town of Dutch John map, accompanying and incorporated herein Appendix "A" – "MAPS" by reference. Except as expressly provided, no development or use of land shall be undertaken without approval pursuant to the provisions of this Ordinance. The provisions of this Ordinance are not intended to interfere with, abrogate or require the enforcement by the Town of Dutch John of any legally enforceable easements, covenants or other agreements between private parties that may restrict the use of land or dimensions more than the requirements and provisions of this Ordinance. When the regulations of this Ordinance impose greater restrictions than are imposed by such easements, covenants or other agreements between parties, or are required by law or other applicable ordinances, the provisions of this Ordinance shall control. Where this Ordinance requires a greater restriction upon the use of buildings or land, or upon the height, bulk, or intensity of buildings, or requires greater open space areas, landscape areas, buffer areas or other site requirements than are imposed by easements, covenants or agreements, the provisions of this Ordinance shall apply.

(4) The provisions of this Ordinance shall be held to be the minimum requirements necessary to protect the public health, safety and welfare of the residents and property owners of the Town of Dutch John. Additional requirements may be imposed by the Town of Dutch John Council to more fully meet the purposes of this Ordinance.

Section 106 - Permits and Licenses to Conform to this Ordinance:

All departments, officials, employees, agencies, and bodies of the Town of Dutch John with the duty or authority to issue permits or licenses required by this Ordinance shall conform to the provisions of this Ordinance and shall not issue any permits or licenses for uses, buildings or any purpose in conflict with the provisions of this Ordinance.

Section 107 - Building Permits Required:

(1) **ANY** structure greater than 200 square foot in area or that will have utilities installed are required to have a valid building permit.

(2) No construction shall occur except pursuant to a validly issued, unexpired and unrevoked building permit. Applicants for a building permit shall submit an approved final site plan, or an approved final site plan for a "Planned Unit Development" (PUD), or final subdivision plat, and, if applicable, a Conditional Use permit prior to obtaining issuance of a building permit. The permittee shall proceed only in accordance with the approved building permit, development permit and any approved conditions.

(3) Prior to the issuance of a building permit, verification by both the property owner and the Planning and Zoning Official (assigned by the Commission to review the permit at hand) is required to ensure no structure shall hamper or interfere with any

existing public utility or maintenance easements. Verification shall be through research of the County Recorder's records on property lines, roadway access and utilities, of all easements affecting the property.

(4) Prior to the issuance of a building permit, any reasonably necessary access and maintenance easement which does not currently exist will be added to the plat for the property on which a building permit or Planned Unit Development permit is requested.

(5) For any construction exempt from the requirement for a building permit, as allowed by State law, the Town shall require the submission of a site plan and such other documents and materials as may be necessary to ensure compliance with the provisions of State law and this Ordinance including verification that no accessory structure would hamper or interfere with any existing maintenance easement.

Section 108 - Building Codes and Permits:

The adoption and enforcement of building codes serves the public interest by providing for the inspection of structures for structural stability, fire resistance, adequate ventilation and other safety and sanitary features.

(1) Building Permit Required. Construction or removal of any building or structure or any part thereof, shall not be commenced or proceeded with until a building permit is obtained from the Town's Building Official, unless exempt by the provisions of the Town's Building Code or state law, including agricultural buildings to the extent exempted by the provisions of §10-9A-305 (U.C.A.).

(2) Term: The building permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced and in no case be valid for more than one calendar year from date of issuance.

(3) Code Compliance. All structures requiring a building permit shall comply with the requirements of the Town's Building Codes, as adopted by the Town.

(4) Issuance of Building Permits Prior to Completion and Acceptance of Required Improvements. Building permits may be issued for construction in subdivisions and other projects prior to the completion and acceptance by the Town of the required public improvements provided, however, that no building permit may be issued until adequate financial assurance has been provided for completion of such improvements as approved by the Town Attorney and Town Engineer.

(5) Prior to issuance of a building permit, the applicant may be required to post a bond or provide other financial security, in such form and sum as required by the Town Attorney and Town Engineer, with sufficient surety running to the Town to offset

any costs or expenses associated with the abatement of debris and material and or completion of required work associated with construction activities on and off the site.

Section 109 - Building Permits Required/Expiration:

No construction requiring a building permit shall be commenced or continued after the expiration of that building permit.

(1) If prior to the expiration of the building permit, application is made to renew the building permit, the Commission, upon determining that the applicant is otherwise in compliance with this title, may recommend to extend the building permit for a period of up to 180 days upon payment of a renewal fee of $250.00 or 50% of the original permit fee whichever is less or such other amount as may be established by resolution of the Town of Dutch John Council. Extension of building permits shall be reviewed and/or approved by the Town of Dutch John Council.

(2) A building permit which has expired must be re-issued by the Planning and Zoning Commission at a cost which is equivalent to the original permit fee or such other amount as may be established by resolution of the Town of Dutch John Council.

Section 110 - Certificate of Occupancy Required:

A certificate of occupancy shall be required before any structure or premises, or part thereof, hereafter erected, changed, converted, moved, altered or enlarged wholly or in part, may be used or occupied.

(1) It shall be a violation of this title if a certificate of occupancy has not been obtained by the holder of a building permit prior to the expiration of the building permit or any renewal thereof.

(2) No owner of land shall allow any structure or building thereon which requires a certificate of occupancy to be occupied by humans prior to obtaining a certificate of occupancy as required herein.

(3) Allowing or permitting the occupancy of a building or structure, by humans, which is required pursuant to this title to have a certificate of occupancy, shall be a Class B Misdemeanor. Each day that the violation continues shall be a separate and additional misdemeanor offense.

(4) Upon the expiration of any building permit if the building official determines that a certificate of occupancy has not been issued, the building official shall cause to be recorded in the records of the County Recorder a notice of delinquency describing the real property for which the building permit was issued. The notice shall be in substantially the following form:

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General Text
Draft Copy

Notice is hereby given by the building official of The Town of Dutch John, a political subdivision of the State of Utah, that pursuant to Town Ordinance, a certificate of occupancy is required for use or occupancy by humans of homes, buildings, or other structures. A building permit was issued on_____ (date) for construction or remodel or alteration of a structure on the following described property. The structure described as _____ has not as of the date of this notice been issued a certificate of occupancy and any occupancy of the described structure by humans is prohibited until a duly authorized certificate of occupancy is issued.

For information concerning correction of this deficiency, contact the Dutch John Clerk: _____.

Dated this ____ day of _____, 201__.

_____
Signature

STATE OF UTAH)
) ss.
COUNTY OF DAGGETT)

On this ____ day of _____, 201__, before me, _____, a notary public, personally appeared _____, personally known to me or proved to me to be the person whose name is subscribed to on this instrument, and acknowledged that he/she executed the same

_____
Notary Public

(5) The notice referred to above shall not be recorded if the building official has been notified that the building project for which the building permit was issued has been cancelled or terminated and that construction of the project, structure, building, or home shall not be undertaken.

(6) The notice shall be released upon compliance with this title; an issuance of a permanent certificate of occupancy; and payment of a fee of $450.00. Upon compliance with the foregoing, the building official shall deliver to the owner of the real property a release in substantially the following form:

Notice is hereby given that the delinquency notice recorded on _____ (date) in Book ___, Page ___, of the official records of Daggett County, is withdrawn and released. On or about_____ (date) a certificate of occupancy authorizing use and occupancy of the structure described in the notice of delinquency was issued by the Dutch John building Official. The real property effected by this notice is described as follows, to wit:

Dated this ____ day of _____, 201__.

_____

Signature

STATE OF UTAH)
) ss.
COUNTY OF DAGGETT)

On this ____ day of _____, 201__, before me, _____, a notary public, personally appeared _____, personally known to me or proved to me to be the person whose name is subscribed to on this instrument, and acknowledged that he/she executed the same.

_____
Notary Public

*****

(7) The original of said release of delinquency notice shall be delivered upon completion to the record owner of the real property or the owner's agent for recording in the records of Daggett County.

Section 111 - Violation of Ordinance:

Any violation of this title shall be a Class B Misdemeanor. Each day that the violation continues shall be a separate and additional offense.

Section 112 - Conflicts:

This Ordinance shall not nullify any law, ordinance, agreements or covenants which are more restrictive, but shall prevail notwithstanding such provisions which are less restrictive.

Section 113 - Exemptions:

The following properties, uses and structures shall, to the extent provided by law, be exempt from the provisions of this Code;

Properties owned and operated by the State of Utah or the Federal Government. Where State or Federal law requires that the agency take steps to comply with all applicable local regulations, this exemption shall not be construed to abrogate that requirement.

Section 114 - Effect (Severability):

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The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and to avoid conflict with the laws of the United States of America, the State of Utah or any other limitation imposed by law. If any section, provision, sentence or clause of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this Ordinance which shall remain in full force and effect.

CHAPTER 2

INTERPRETATION OF REQUIREMENTS AND PROVISIONS

Section 201 - Interpretation:

(1) In the interpretation of this Ordinance, all provisions shall be:

a Liberally construed in favor of the governing body; and

b Deemed neither to limit nor repeal any other powers granted under Utah State statues.

(2) The following rules shall be observed in the application and interpretation of the provisions of this Ordinance, except where the context clearly requires otherwise:

a The word "shall" or "must" are mandatory. The words "should" and "may" are permissive.

b Words used or defined in one tense or form shall include other tenses or derivative forms.

c Words used in the singular shall include the plural; words used in the plural shall include the singular.

d Words referencing the masculine gender shall extend and be applied to the female gender and shall be considered to be gender neutral.

e In the event of a conflict between the text of this Ordinance and any illustrations, captions, figures or other material, the text of this Ordinance shall control.

f The word "includes" shall not limit a term to the specified examples but is intended to provide guidance.

Section 202 - Rules for Interpretation of Zoning District Boundaries:

In the event of the need to resolve a dispute pertaining to the boundary or location of a zoning district, the Dutch John Hearing Officer shall have the authority and jurisdiction to render a written determination of the applicable boundary for a zoning district. The Hearing Officer shall take into consideration the following criteria in rendering such determination:

(1) The policies and development standards pertaining to such zoning district.

(2) Where a zoning district boundary is shown following a road, right-of-way line, interstate highway, public utility right-of-way, a stream or watercourse the zoning district boundary shall be deemed to be changed automatically whenever such center line is changed by natural or artificial means.

(3) Where a zoning district boundary is shown as following a property line, a plot line or a projection of any one of the same, such boundary shall be the landmarked or monumented line or projection thereof. If such boundary is shown as separated from but approximately parallel to any landmarked or monumented line or projection thereof, such boundary shall be deemed to be parallel to the landmarked or monumented line or projection thereof.

(4) In areas not subdivided into lots and blocks, wherever a zoning district is indicated as a strip adjacent to and paralleling a road right-of-way, the depth of such strips shall be in accordance with dimensions measured at right angles from the center line of the road, and the length of frontage shall be in accordance with dimensions measured from section, quarter section, division lines, or center lines of roads, unless otherwise indicated.

CHAPTER 3

ADMINISTRATION

Section 301 - Decision Making and Administrative Bodies:

The decision-making bodies and officials identified within this Ordinance have responsibilities for implementing this Ordinance.

Section 302 - The Dutch John Town Council:

The Dutch John Town Council ("Council") shall have the following powers and duties:

(1) To adopt the Dutch John Master Plan and all elements of the Plan, and all amendments thereto;

(2) To render, or to appoint a Hearing officer to render, a determination pursuant to the provisions of this Ordinance, if an applicant asserts a deprivation of, or has been subject to, a taking of property without just compensation or asserts some other invalidity by the passage of this Ordinance

(3) To establish a fee schedule by resolution for applications for development approval, zone district amendments and all other approvals, permits and licenses required by this Ordinance;

(4) To take such other action not expressly delegated to the Dutch John Planning and Zoning Commission or the Hearing Officer that may be desirable and necessary to implement the provisions of the Dutch John Master Plan and this Ordinance.

Section 303 - Planning and Zoning Commission:

The Dutch John Planning and Zoning Commission ("Planning and Zoning Commission ", "Commission") shall have the following powers and duties:

(1) To prepare or cause to be prepared the Dutch John Master Plan or any element thereof and to submit the proposed Plan or element thereof to the Council;

(2) To prepare or cause to be prepared amendments to the Dutch John Master Plan or elements thereof from time to time and to submit the proposed amendments to the Council;

(3) To initiate, hear, review and make recommendations to the Council on applications for amendments to the text or other materials of this Ordinance;

(4) To hear, review, recommend approval or disapproval, or approve or disapprove applications for development approval, as authorized by this Ordinance.

Section 304 - Hearing Officer:

(1) Creation:

The position of Appeals and Variances Hearing Officer (Hearing Officer) is created pursuant to the enabling authority granted by the municipal land use, development and management act, section 10-9a-701 of the Utah Code Annotated.

(2) Jurisdiction and Authority

The Hearing Officer shall have the following powers and duties in connection with the implementation of this title:

a. Hear and decide appeals from any administrative decision made by the Planning and Zoning Commission pursuant to the procedures and standards set forth in this code;

b. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in section 16-02-06-003, "Variances", of this code;

c. Hear and decide appeals from final determinations of fees paid by the applicant for any land use application.

(3) Qualifications

The Hearing Officer shall be appointed by the Mayor with the advice of the Town Council. The Hearing Officer shall be appointed for a term of two (2) years and thereafter may be appointed for succeeding two-year terms. The Hearing Officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative Hearing processes.

(4) Conflict of Interest

The Hearing Officer shall not participate in any appeal in which the Hearing Officer has a conflict of interest. If an appellant alleges that the Hearing Officer has a conflict of interest, and the Hearing Officer does not recuse himself/herself, the matter shall be brought before the Town Council which will make the final decision concerning the existence of a conflict and what remedies are necessary to mitigate the conflict.

(5) Removal of the Hearing Officer

The Hearing Officer may be removed by the Mayor for violation of this title or any policies and procedures adopted by the Planning and Zoning Commission Chairman following receipt by the Mayor of a written complaint filed against the Hearing Officer. If requested by the Hearing Officer, the Mayor shall provide the Hearing Officer with a public meeting conducted by a different Hearing Officer appointed by the Mayor.

(6) Employment Agreement

The Hearing Officer shall be an independent contractor; and will enter into a contract for service at the beginning of each appointed term. Terms for compensation and reimbursement will be determined and agreed upon in the contract. The terms and conditions of the contract shall be approved by the Town Council.

Section 305 - Zoning Administrator:

The Council may act as the Zoning Administrator or designate a staff person to carry out the responsibilities of the Zoning Administrator. The staff person designated is referred to in this Ordinance as the “Zoning Administrator.” It is the responsibility of the Zoning Administrator to ensure all processes, procedures and other provisions of this Ordinance are consistently and equitably applied and to effect the general administration and enforcement of this Ordinance.

Section 306 - Meetings and Public Hearings:

All meetings and Hearings of the Council, Planning and Zoning Commission and Hearing Officer shall comply with the provisions of this Ordinance and the Utah Code. At least

fourteen (14) days of notice shall be provided for all public Hearings required by this Ordinance. The applicant shall be required to pay the cost for the Town of Dutch John to provide the required notice to all property owners and public entities.

CHAPTER 4

AMENDMENTS TO THE DUTCH JOHN MASTER PLAN, OR THIS ORDINANCE

Section 401 - General Procedures:

(1) A proposed amendment to the Dutch John Master Plan or this Ordinance may be initiated by any property owner, any person residing in the Town of Dutch John, any business owner within the Town of Dutch John, the Council, Planning and Zoning Commission, Hearing Officer or the Town Staff by filing an application for a Plan amendment.

(2) Submission. An application for an amendment to the Dutch John Master Plan or this Ordinance may be filed with the Town Planning and Zoning Commission on the applicable application form. Except on a motion duly passed by the Town Council identifying a public purpose and reason to act immediately, an application for a Dutch John Master Plan amendment or an amendment to this Ordinance shall be submitted to the Planning and Zoning Commission at least 30 days prior to the First meeting in April or October of each year.

Section 402 - Procedures for Amending the Dutch John Master Plan or this Ordinance:

(1) Prior to recommending the adoption, rejection or revision of any Master Plan amendment, or amendment to this Ordinance, the Planning and Zoning Commission shall hold a public Hearing in accordance with the procedures of this Ordinance and the Utah Code and providing at least fourteen (14) Days of notice.

(2) After the Planning and Zoning Commission has reviewed the application and made its recommendation to the Council, the Town Staff shall submit, to the Council, a copy of the Master Plan amendment, or Ordinance amendment, as recommended by the Planning and Zoning Commission, and the transcripts and/or minutes of the proceedings before the Planning and Zoning Commission. Following receipt of a copy of the recommendation from the Planning and Zoning Commission and all other materials, the Council shall schedule a public Hearing to consider the Planning and Zoning Commission recommendation for or against the proposed Master Plan or Ordinance amendment. The Council shall consider the proposed Master Plan amendment, or Ordinance amendment and the recommendation of the Planning and Zoning Commission pursuant to the procedures established by this Ordinance and the Utah Code and shall provide at least fourteen (14) days of notice

for any required meeting or public Hearing. The Council may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. The Council shall approve a Master Plan amendment or Ordinance amendment only upon the affirmative vote of a majority of its membership. If the Council approves the proposed amendment as submitted or as revised, the Council shall adopt, after a public hearing, the amendment by ordinance for which the Council will provide Fourteen (14) day notice.

Section 403 - Criteria for Approval of Dutch John Master Plan and Ordinance Amendments:

In considering a proposed amendment to the Dutch John Master Plan, or this Ordinance, the applicant shall identify, and the Planning and Zoning Commission and the Town Council may consider the following factors, among others:

(1) The effect of the proposed amendment on the character of the surrounding area;

(2) Consistency with the goals and policies of the Dutch John Master Plan;

(3) Consistency and compatibility with the uses of nearby and adjoining properties;

(4) The suitability of the properties for the uses requested;

(5) Whether a change in the use proposed for the affected properties will unduly affect the uses or proposed uses for nearby and adjoining properties; and

(6) The overall community benefit of the proposed amendment.

Section 404 - Effect of a Master Plan or Ordinance Amendment:

After the effective date of a Master Plan or Ordinance amendment as approved by the Town of Dutch John Council, no amendment(s) shall be made to this Ordinance, nor shall any development order or development permit be approved or approved with conditions, unless such amendments, approvals and conditions are consistent with the adopted Dutch John Master Plan or element or portion thereof, or Ordinance amendment, as amended. A Master Plan or Ordinance amendment shall not authorize the development of land. After a Master Plan or Ordinance amendment has been approved by the Town of Dutch John Council, no development shall occur until the required development permits and licenses have been issued by the Town.

CHAPTER 5

ESTABLISHMENT OF ZONING DISTRICTS

Section 501 - Zoning by Districts:

Dutch John Planning and Zoning Document
General Text
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In accordance with the requirement of the Utah Code that zoning within municipalities be by districts, the Town of Dutch John, as shown on the Dutch John Planning and Zoning Districts Map, is divided into zoning districts which govern the use, intensity, area and other requirements for the use of land as required by this Ordinance. The map accompanying this Ordinance and incorporated herein by reference, the Dutch John Planning and Zoning Districts Map identifies the location and distribution of each zoning district within Dutch John. All development, use, activity and authorized permits and licenses shall adhere to all the provisions, standards and requirements of the applicable zoning district.

To meet the purposes of this Ordinance, the Town of Dutch John is divided into the following zoning districts:

(1) Residential Districts

- **a.** Single Family Residential (**R-1**)
- **b.** Multi-Family Residential (**R-2**)
- **c.** Single Family Residential **(R-3)**
- **d.** Rural Residential (**RurR**)
- **e.** Resort Residential (**ResR**)

(2) Commercial District

- **a.** Single Purpose Only **(C)**
- **b.** Planned Development Commercial **(PDC)**

(3) Industrial District

- **a.** Light Industrial (**LI**)
- **b.** Industrial (**I**)

(4) Civic/Municipal (CM)

Section 502 - Zoning Districts Purpose:

Consistent with the goals and policies of the Dutch John Master Plan the zoning districts are formulated to provide and achieve the following purposes:

(1) Residential (R-1) District: is formulated to provide single-family housing choices to meet the needs of residents and to preserve and provide safe and convenient places to live. The R-1 District is intended to recognize the existing development patterns of Dutch John as well as provide for residential uses free from any activity or use that may weaken the residential/single family home integrity of these areas. Typical uses include single-family dwellings, small parks, open spaces and public facilities, necessary to meet the needs of residents. This district is intended to be primarily residential in character and protected from encroachment

by commercial and industrial uses. Connection to Dutch John culinary water and sewer is mandatory.

(2) Residential (R-2) District: is formulated to provide appropriate locations for apartment house neighborhoods. The regulations permit a variety of multiple-family primary dwellings and necessary public services and activities. Connection to Dutch John culinary water and sewer is mandatory.

(3) Residential (R-3) District: is formulated to provide single-family housing choices to meet the needs of residents and to preserve and provide safe and convenient places to live. The R-3 District was developed by the US BOR and includes the area enclosed by 5th avenue, South and North BLVD's and is intended to recognize the existing development patterns of Dutch John as well as provide for residential uses free from any activity or use that may weaken the residential/single family home integrity of these areas. Typical uses include single-family dwellings, small parks, open spaces and public facilities, necessary to meet the needs of residents. This district is intended to be primarily residential in character and protected from encroachment by commercial and industrial uses. Connection to Dutch John culinary water and sewer is mandatory.

(4) Rural Residential (RurR) District: is formulated to promote and preserve in appropriate areas, conditions favorable to Single Family large-lot family life on parcels of ground of at least 1 acre. This district is intended to be primarily residential in character and protected from encroachment by commercial and industrial uses. Connection to Dutch John culinary water and sewer is mandatory.

(5) Resort Residential (ResR) District: is formulated to promote and preserve in appropriate areas, conditions favorable to high density, multiple family, and mostly second home and/or nightly rental development with a mix of small retail for service of the immediate community. Connection to Dutch John culinary water and sewer is mandatory.

(6) Commercial (C) District: is intended to provide controlled and compatible locations for retail, business and other commercial activities, to enhance employment opportunities, and to encourage the efficient use of land. Typical uses allowed in this District may include retail sales, recreational services and facilities, and institutional uses. These projects will be evaluated in two different formats:

a. Single Purpose - Commercial: is defined as a simple commercial enterprise with a single commercial activity, generally fitting on a single, relatively small parcel of land and having connection to both Municipal water and sewer facilities.

b. Planned Unit Development - Commercial: is to be used when it is desired to Develop large parcels of land with multiple structures and use types all falling within a Commercial designation.

(7) **Light Industrial (LI) District**: is to provide locations for industrial uses that produce no appreciable impact on adjacent properties and which provide required services, facilities and employment opportunities for residents.

Section 503 - Zoning District Areas:

(1) **Residential (R-1) District** shall be applied only to those sites and properties, located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as single family residential, as allowed by the Table of Uses, or identified on the zoning map as (R-1).

(2) **Residential (R-2) District** only to those sites and properties located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as multiple family residential use, as allowed by the Table of Uses, or identified on the zoning map as (R-2).

(3) **Residential (R-3) District** shall be applied only to those sites and properties, located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as single family residential, as allowed by the Table of Uses, or identified on the zoning map as (R-3).

(4) **Rural Residential (RurR) District** shall be applied only to those sites and properties located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as estate lot residential use, as allowed by the Table of Uses, or identified on the zoning map as (RurR).

(5) **Resort Residential (ResR) District** shall be applied only to those sites and properties located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as estate lot residential use, as allowed by the Table of Uses, or identified on the zoning map as (ResR).

(6) **Commercial (C) District** shall be applied only to those sites and properties, located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as a commercial use, as allowed by the Table of Uses, or identified on the zoning map as (C).

(7) **Light Industrial (LI) District** shall be applied only to those sites and properties, located within the Dutch John Master Plan Area, and presently used or set aside, on the date of adoption of this Ordinance, as a Light industrial use, as allowed by the Table of Uses, or identified on the zoning map as (LI).

All uses and activities, existing on the date of adoption of this Ordinance, and not identified as a use allowed in the Table of Uses are determined to be a nonconforming use and shall be required to comply with the requirements of Chapter 17 herein.

Dutch John Planning and Zoning Document
General Text
Draft Copy

Section 504 - Table of Uses:

The Table of Uses identifies the uses allowed within the Dutch John Zoning Districts within the Dutch John Master Plan Area.

The purpose of the Table of Uses is to implement the goals and policies of the Dutch John Master Plan. The Table of Uses identifies uses allowed as a Permitted Use (identified as "P" in the Table of Uses) and uses allowed as a Conditional Use (identified as "C" in the Table of Uses). Any use not identified as either a Permitted or Conditional Use is deemed to be a prohibited use. Any use not listed is therefore deemed to be prohibited, however, may be approved after receiving a positive recommendation from the Planning and Zoning Commission and further approval of the Town Council to amend this Ordinance.

Dutch John Planning and Zoning Document
General Text
Draft Copy

TABLE OF USES									
USES	ZONING DISTRICTS								
	R-1	RurR	R-2	R-3	ResR			C	LI
Accessory Structure	P	P	P	P	C			P	P
Accessory Uses	P	P	P	P	C			P	P
Accessory Outside Storage	P	P	P	P	C			P	P
Airport									C
Bed and Breakfast Inn	C	C		C				P	
Campground								P	
Car Wash								P	P
Commercial Outdoor Storage									P
Contractor's Shop/Office								P	P
Convenience Store			C		P			P	
Day Care Center	C	C	C	C				P	
Dwelling, Single-Family	P	P	C	P				C	C
Dwelling, Multi-Family	C		P		P				
Dwelling, Short-term Rental	C		C	C	C			C	

TABLE OF USES									
USES	ZONING DISTRICTS								
	R-1	RurR	ResR	R-2	R-3			C	LI
Electric Transmission Line								C	P
Electric Substation								C	P
General Industrial Activity									P

Home Occupation	P	P	P	P	P				
Hotel								P	
Indoor Recreation								P	P
Kennel		C						C	P
Light Industrial								C	P
Major Facility of a Public Utility								C	P
Membership Club								P	C
Manufactured Home	P	C	C	C	P			P	
Attached < 800 SQ FT Rental Space	P	P			P				
Motel								P	
Outdoor Recreation								C	C
Self Service Indoor Storage Facility									P
Personal Service Facility								P	
Place of Religious Assembly	P	P	P	P	P			P	P
Professional Office								P	C
Public Educational Facility	P	P	P	P	P			P	
Public Use	C	C	C	C	C			P	P
Reception Hall/Reception Center		C						P	
Recreation/Commercial	C	C	C	C	C			P	C
Recycling Collection Center								C	P
Residential Facilities for Elderly Persons	P			P	P			C	
Residential Facilities for Persons with a Disability	P			P	P			C	
Residential Treatment Center								P	
Resort Lodge								P	
Restaurant								P	

Retail Store								P	
Sexually Oriented Business								C	C
Telecommunications Site/Facility								C	P
Temporary Construction or Sales Office	C	C	C	C	C			P	P
Temporary Dwelling Unit	C	C	C	C	C			C	C
Travel Trailer Park								P	
Utility Service Facility								P	P
Vehicle Service Center/Service Station								P	P
Warehouse								C	P

Table of Uses Notes: P = Permitted Use
C = Conditional Use
Blank = Prohibited Use

Dutch John Planning and Zoning Document
General Text
Draft Copy

Section 505 - Table of Site Development Standards – Primary Structures:

The Table of Site Development Standards accompanies the Table of Uses. This table identifies the lot requirements, required setback and yard standards, building height standards, site coverage standards, and other requirements for the uses allowed within each Zoning District for the primary structure on each lot.

		TABLE OF SITE DEVELOPMENT STANDARDS							
	ZONING DISTRICTS								
	R-1	RurR	ResR	R-2	R-3			**C**	**LI**
Minimum Lot Size	12,000 Sq. Ft	1 acre	As Required from Site Review for Approved Site Plan	12,000 Sq. Ft	Existing			As Required from Site Review for Approved PDC	As Required from Site Review for Approved Site Plan
Minimum Lot Width	100 feet	150 feet	As Above	100 feet	Existing			As Above	As Above
Minimum Lot Frontage	100 Feet	100 feet	As Above	60 feet	Existing			As Above	As Above
Minimum Front Yard Setback	25 Feet	50 feet	As Above	25 Feet	25 feet			As Above	As Above
Minimum Rear Yard Setback	25 Feet	50 feet	As Above	25 Feet	20 feet			As Above	As Above
Minimum Side Yard Setback	15 Feet	50 feet	As Above	15 Feet	16 feet aggregate (Min of 6 feet)			As Above	As Above
Minimum Side Yard Setback (Corner Lot)	20 Feet	50 feet	As Above	20 Feet	10 feet			As Above	As Above
Minimum Distance Between Buildings	As Required by Code	As Required by Code	As Required by Code	As Require d by Code	As Required by Code			As Required by Code	As Required by Code
Maximum Building Height	35’	35’	35’	35’	35			35’	35’

Maximum Total Lot Coverage (all buildings)	60 Percent	60 Percent	60 Percent	60 Percent	Determined by plan review / Set backs			50 Percent	50 Percent
Landscaping of Property	12 months	12 months	12 months	12 months	12 months			12 months	12 months

Section 506 - Table of Site Development Standards – Accessory Structures:

The Table of Site Development Standards accompanies the Table of Uses. This table identifies the lot requirements, required setback and yard standards, building height standards, site coverage standards, and other requirements for the uses allowed within each Zoning District for the Accessory structures on each lot.

		TABLE OF SITE DEVELOPMENT STANDARDS							
		ZONING DISTRICTS							
		R-1	Rur R	ResR	R-2	R-3		**C**	**LI**
Minimum Lot Size		12,000 Sq. Ft	1 acre	As Required from Site Review for Approved Site Plan	12,000 Sq. Ft	As Existing		As Required from Site Review for Approved PDC	As Required from Site Review for Approved Site Plan
Minimum Lot Width		100 feet	150 feet	As Above	100 feet	As Existing		As Above	As Above
Minimum Lot Frontage		100 Feet	100 feet	As Above	60 feet	As Existing		As Above	As Above
Minimum Front Yard Setback		25 Feet	50 feet	As Above	35 Feet	25 feet		As Above	As Above
Minimum Rear Yard Setback		25 Feet	50 feet	As Above	25 Feet	6 feet		As Above	As Above
Minimum Side Yard Setback		10 Feet	50 feet	As Above	10 Feet	16 feet aggregate (Min of 6 feet)		As Above	As Above
Minimum Side Yard Setback (Corner Lot)		20 Feet	50 feet	As Above	20 Feet	10 feet		As Above	As Above

Maximum Building Height	35’	35’	35’	35’	35 ‘			As Above	As Above
Maximum Building Width	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.			As Above	As Above
Minimum Distance Between Buildings	12 feet	12 feet	As Required by Code	N/A	12 feet			As Required by Code	As Required by Code

Section 507 – Table of Off Street Parking Requirements:

The Table of Off-Street Parking Standards identifies the off-street parking requirements for the uses allowed within each Zoning District.

At no time is parking allowed within 15 feet of any fire hydrant.

TABLE OF OFF-STREET PARKING STANDARDS	
USE	REQUIRED OFF-STREET PARKING SPACES
Residential Dwellings	Two (2) Spaces Per Residence
Elementary Schools and Junior High Schools	As approved by the Town Planning and Zoning Commission through Site Plan Approval
High Schools	As approved by the Town Planning and Zoning Commission through Site Plan Approval
Churches	As approved by the Town Planning and Zoning Commission through Site Plan Approval
Civic/Public Buildings/Public Facilities	As approved by the Town Planning and Zoning Commission through Site Plan Approval
Hotels/Motels	One (1) parking space for each sleeping unit

Industrial, Wholesale Establishments	One (1) parking space for each employee during regular business hours and adequate spaces as determined by the Planning and Zoning Commission for all company owned vehicles and visitors
Retail stores, Offices and Financial Institutions	Two (2) parking spaces plus One (1) parking space for each 300 square feet of gross building square footage
Restaurants	One (1) parking space for each three (3) seats or One (1) parking space for each 100 square feet of gross building square footage whichever is less.
Indoor and Outdoor Recreation Areas	One (1) parking space for each employee during regular business hours and adequate spaces as determined by the Planning and Zoning Commission for all company owned vehicles and visitors
All other Uses	As approved by the Town Planning and Zoning Commission through Site Plan Approval

NOTE: All property owners and applicants for all development approvals are advised that in addition to the minimum off-street parking spaces required they are also required to comply with the minimum standards for the provision of all required handicapped parking spaces as identified and required by the Americans with Disabilities Act, as amended.

CHAPTER 6

USE DEFINITIONS

For the purpose of applying the Table of Uses and rendering other decisions required by this Ordinance, the Uses identified in the Table of Uses are hereby defined as follows:

Accessory Structure: A subordinate structure, not for human habitation, detached from, but located on the same lot as the principal use, the use of which is incidental and accessory to that of the principal use. This structure counts toward the total lot coverage allowance.

Accessory Uses: An accessory use is a use customarily incidental to and on the same parcel as the principal or main use and must be allowed within the applicable zone district.

Accessory Outside Storage: The outside placement of an item for a continuous period of more than 24 hours. Outside placement includes storage in a structure that is open or not entirely

enclosed. Accessory outside storage does not include the outside storage and placement of flammable and hazardous materials.

Airport: Areas used for the landing and takeoff of aircraft and any appurtenant areas which are intended for use as airport buildings or other airport facilities. Such facilities include land and buildings necessary or convenient for the accommodation of the public, including but not limited to parking, retail, dining, hotel, and training facilities.

Attached < 800 SQ FT Rental Space: Secondary Living space which is attached to the primary structure. Space must be fully contained as a dwelling and is rented for long term use only (greater than 30 days).

Bed and Breakfast Inn: A private home of residential design, with no fewer than three (3) but no more than nine (9) rental rooms, that provides short-term lodging for a charge to the public, generally for periods of less than one (1) month, having an owner or manager residing on the site, in which meals may be provided, to guests of the inn or their guests.

Campground: A privately owned area of land used or intended to be used, let, or rented for overnight or short term occupancy by campers, trailers, tents, or recreational vehicles.

Car Wash: A structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles. A facility of this type may be able to accommodate more than one vehicle at the same time.

Commercial Outdoor Storage Area: Outdoor storage means any goods, materials, merchandise, vehicles, construction equipment, cargo containers, and the like, that are not completely contained within a building.

Contractor's Shop/Office: A facility providing for general building repair, service, and maintenance such as, and including installation of plumbing, roofing, signs, electrical, air conditioning and heating.

Convenience Store: Any retail establishment selling consumer products including prepackaged food and household items. A convenience store may also have associated retail sale of gasoline and other petroleum products.

Covenants: A written agreement or promise usually under seal between two or more parties especially for the performance of some action.

Day Care Center: A residence, facility, or pre-school which provides regular care and supervision for children that meets the requirements of Utah Rule 381-100-24 more than three (3) but not more than eight (8) children at any one time during the day for compensation. The care and supervision of three (3) or less children at any time during the day shall be considered to be in-home babysitting, and not subject to this Ordinance.

Dwelling, Single-Family: A building or structure occupied as or designed or intended for occupancy as a residence for one (1) family, the structure having one (1) dwelling unit. (See also

U.C.A. 57-21-2). Each single-family dwelling shall have a minimum of 900 square feet. The minimum rental permitted shall be thirty (30) days.

Dwelling, Short-term Rental: Rental of any property within residential zoning districts shall be permitted for periods of less than 30 days only through application and approval of a conditional use permit. Rental of dwellings within other zone districts are conditional or not permitted as outlined in the Table of Uses.

Dwelling, Multi-Family: A building or structure occupied as or designed or intended for occupancy as a residence for more than one (1) family and containing two (2) or more separate dwelling units which may be separated vertically or horizontally, but not including commercial lodging or bed and breakfast inns. Each dwelling unit shall have a minimum living area of 900 square feet. The minimum rental period for a multi-family dwelling shall be 30 days.

Electric Transmission Line: A series of three or more structures and appurtenant facilities erected above ground, supporting one or more conductors emanating from a power plant or a substation, designed to transmit electric energy in voltages of 115,000 volts or more.

Electric Substation: An assemblage of equipment and appurtenant facilities designed for voltage transformation or voltage control of electricity in amounts of 115,000 volts or more.

General Industrial Activity: A manufacturing operation or processing and assembly of goods including but not limited to personal hygiene products and cosmetics, drugs and pharmaceuticals, tools, equipment and products and which are not likely to be obnoxious or offensive by reason of emission of odor, dust, smoke, noxious gases, noise, vibration, glare, heat or other impacts, nor hazardous by way of materials, process, product or waste.

Home Occupation: A home occupation shall mean an accessory use consisting of a vocational or professional activity conducted inside the dwelling unit and conducted only by the individuals who reside therein and provided that the home occupation:

(1) does not result in noise or vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line,

(2) is clearly subordinate to the use of the lot for dwelling purpose and does not change the character of the lot,

(3) does not include the outside storage of goods, materials, or equipment,

(4) has Signage limited to a non-illuminated identification sign two square feet or less in size,

(5) does not produce traffic volumes exceeding that produced by the dwelling unit by more than 10 average daily trips,

(6) does not include nursing homes, restaurants, vehicle repair businesses, or boarding houses, and meets all required Federal, State and local licensing requirements.

Home occupation shall include the care of not more than three (3) children other than members of the family residing in the dwelling.

Hotel: A building or group of buildings, other than a motel, boarding house or lodging house, containing individual guest rooms, suites of guest rooms and dwelling units, and which furnishes services customarily provided by hotels which may include reception and convention facilities.

Household Pets: Animals or fowl ordinarily in the house and kept for company or pleasure, such as but not limited to dogs, cats and canaries. Household pets do not include inherently or potentially dangerous animals, fowl or reptiles.

Improved Lot: An Improved Lot is a parcel of real estate that has all of the improvements required by this ordinance.

Indoor Recreation: An entirely enclosed building or facility which offers commercial indoor sports activities including but not limited to tennis, bowling, skating, shooting, horse riding or similar activities. This use may include associated eating and drinking areas, retail sales areas and staff offices.

Kennel: Any premises wherein a person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs and cats.

Light Industrial: Places for the conduct of any light manufacturing and assembly activities which are compatible with existing and other uses allowed in the Zoning District and which will not be offensive by reason of emission of odor, dust, smoke, noxious gases, noise, vibration, glare, heat or other impacts, nor hazardous by way of materials, process, product or waste, and where all equipment, compressors, generators and other ancillary equipment is located within a building or structure and any outside storage areas are screened from view from all adjoining properties and streets.

Manufactured Home: A transportable, factory-built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, and when erected on site, the home must be at least 20 feet in width at the narrowest dimension, have exterior and roofing materials acceptable to the Town Building Codes, have a minimum roof pitch of 2:12, and be located on a permanent foundation and connected to the required utilities, including plumbing, heating, and electrical systems. A Manufactured Home shall be identified as real property on the property assessment rolls of Daggett County. All manufactured homes constructed after June 15, 1976, shall be identified by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards Factory-built housing without the manufacturer's data plate shall be considered as a mobile home.

Mobile Home: A transportable, factory-built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code). Travel trailers, motor homes, camping trailers, or other recreational vehicles are excluded from this definition.

Mobile Home Park: Any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping or storage are located, regardless of whether or not a charge is made for such accommodation.

Major Facility of a Public Utility: Any electric transmission lines (greater than 115,000 volts), power plants or substations of electric utilities; major gas regulator stations, transmission and gathering pipelines and storage areas of utilities providing natural gas or petroleum derivatives; and their appurtenant facilities. Any facility that is designed to treat or process culinary water or waste water.

Membership Club: A facility owned or operated by a group of people organized for a common educational, service or recreational purpose. These clubs may be characterized by certain membership qualifications, payment of fees or dues and regular meetings and activities. This use may include hunting and gun clubs but does not include Private Clubs.

Motel: A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

Occupancy: The condition or act of possessing or living in a dwelling or on some property. The period of time during which one rents, owns, or in some way possesses property.

Open Space Areas: Open space reserves may be urban, suburban, or rural; they may be actual designated areas of land or water, or they may be zoning districts or overlays where development is limited or controlled to create undeveloped areas of land or water within a community or region. Preservation, maintenance and ownership of required open spaces within a development shall be accomplished by either:

1. Dedication of the land to the local government as a public park or parkway system for continued maintenance and management as per local ordinances.

2. Creating a permanent, open space *easement* on and over the said private open spaces to guarantee that the open space remains perpetually in the use for which it is dedicated, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the local legislative body.

Outdoor Recreation: An area or facility which offers commercial entertainment or recreation where any portion of the activity takes place outside. This includes but is not limited to a golf driving range, firearms shooting range, riding arena and corrals, outfitters and guide services, tennis facility or similar activities.

Personal Storage Facility: A facility for storage of personal items in individual units, bins, rooms or containers. Any unit, bin, room, or container must be a permanent structure.

Personal Service Facility: An establishment for the provision of personal services, including drive-through service. A retail facility including but not limited to barber or beauty shop, dry

cleaners, optometrist shop, tanning salon, fitness center, reception center, photographic studio or travel bureau.

Place of Religious Assembly: A church, synagogue, mosque, temple or other permanent building used as a Place of assembly for religious worship or services or other religious activities. One accessory dwelling for the housing of the pastor or similar leader of the church and their family will be considered customary and incidental as a part of this use.

Planned Unit Development: (PUD) is a type of building development and also a regulatory process. As a building development, it is a designed grouping of both varied and compatible land uses, such as housing, recreation, commercial centers, all within one contained development or subdivision.

Private Club: A social club, recreational athletic or kindred association which maintains or intends to maintain premises upon which liquor is or will be stored, consumed, or sold. A private club is not open to the public.

Private Educational Facility: Buildings and uses for educational or research activities which has a curriculum for technical or vocational training, Kindergarten, elementary, secondary or higher education and charter schools which may include residential facilities for faculty, staff and students.

Professional Office: A building for the professions including but not limited to government, physicians, dentists, lawyers, realtors, architects, Engineers, artists, musicians, designers, teachers, accountants and others who, through training, are qualified to perform services of a professional. This use includes medical and dental clinics, as well as retail prescription drug distribution or Pharmacy services.

Public Educational Facility: Buildings and uses for educational or research activities which are operated by a public entity and have curriculum for technical or vocational training, kindergarten, elementary, secondary or higher education, including facilities for faculty, staff and students.

Public Use: A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including recreational facilities, administrative and service facilities, and public utilities, including water and sewer lines and facilities, gas and electricity lines and facilities, cable television lines and facilities and telecommunications facilities, but excluding prisons and animal control facilities.

Reception Hall/Reception Center: A facility for the holding of events including but not limited to weddings, wedding receptions, community meetings and group gatherings.

Recreation, Commercial: Recreational facilities operated as a business and open to the general public for a fee such as golf driving ranges and baseball batting ranges, outfitter and guide services and recreational equipment rentals.

Recycling Collection Center: A center for the acceptance and temporary storage of recyclable materials to be transferred to a processing facility. Recycling Collection Centers involve no more than 3 collection containers up to 40 cubic yards in total size. Collection centers located in parking

lots may not occupy required parking spaces. A collection center must be arranged so as to not impede traffic flow. The operator of the collection center shall remove products stored at the site as needed. The operator of the collection center shall keep the collection center in proper repair and the exterior must have a neat and clean appearance. Automated can recycling machines are limited to two (2) per site.

Residential Facility for Elderly Persons: A single or multi-family dwelling unit that meets the requirements of Section 17-27-501, et seq., Utah Annotated Code, 1953, as amended, and any ordinance adopted under authority of that part; and does not include a small health care facility as defined by Section 26-21-2, Utah Annotated Code, 1953. These facilities must comply with all applicable Town, County and State ordinances and regulations for such facilities.

Residential Facilities for Persons with a Disability: A single or multi-family dwelling unit that meets the requirements of Section 17-27-605, et seq., Utah Annotated Code, 1953, as amended, and any ordinance adopted under authority of that part. These facilities must comply with all applicable Town, County and State ordinances and regulations for such facilities.

Residential Treatment Center: A facility for the treatment and care of those suffering from any health or mental health ailments excluding Residential Facilities specifically for the Elderly or Disabled. These facilities must comply with all applicable County and State ordinances and regulations for such facilities.

Resort Lodge: A facility, including either a single building or resort cabins, which serves as a destination point for visitors and generally has accessory recreational facilities for the use of guests.

Restaurant: A place of business where a variety of food and drink is prepared and served to the public for consumption on or off the premises.

Retail Store: An establishment for the retail sale of merchandise. A retail store includes but is not limited to antique or art shops, clothing, department, drug, dry good, florist, furniture, gift, grocery, hardware, hobby, office supply, paint, pet, shoe, sporting or toy stores.

Self Service Indoor Storage Facility: Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who have access to such facility for the purpose of storing and removing personal property.

Sexually Oriented Business: Nude or semi-nude entertainment business, adult theatre, adult cabaret, adult motion picture theatre, adult escort services, out call services, adult bookstore or adult video store. Sexually Oriented Businesses must comply with all applicable Town, County and State ordinances and regulations for such businesses.

Telecommunications Site/Facility: A facility used for the transmission or reception of electromagnetic or electro-optic information, which is placed on a structure. This use does not include radio frequency equipment which has an effective radiated power of 100 watts or less. This use is not required to be located on a building lot or to comply with the minimum lot size requirement for the district in which it is located.

Temporary Construction or Sales Office: A facility temporarily used, for a period not to exceed 12 months, as a construction or sales office.

Temporary Dwelling Unit: A dwelling unit temporarily used, for a period not to exceed 12 months, by the property owner during construction or remodeling of the principal dwelling unit for which a building permit has been issued. Temporary dwelling units must meet all applicable Town, County and State Codes including Department of Health regulations for health and safety.

Temporary Use: Fireworks stands, Christmas tree sale lots and similar activities which are open to the public and scheduled to occur over a period not to exceed 40 days in any calendar year and including uses incidental to construction.

Travel Trailer Park: Any parcel of land upon which two or more travel trailers for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodation.

Utility Service Facility: Any electrical distribution lines, natural gas distribution lines, Minor gas regulator stations, cable television lines, communication and telephone lines, and gathering lines or other minor service facilities. This use is not required to be located on a building lot or to comply with the minimum lot size requirement for the district in which it is located, but no buildings are allowed, and the use is limited to the following sizes: (a) gas lines less than 12"; and (b) electric lines of less than 115,000 volts.

Vehicle Service Center/Service Station: A building or use devoted to the retail sale of fuels, lubricants and other supplies for motorized vehicles of all varieties and including minor repair activities.

Warehouse: A building of 1,000 Sq. Ft. or more in area that is used primarily for the inside storage of nonhazardous goods and materials and including accessory office facilities. A warehouse is not a place of business and the public are not allowed access to transact business other than to make deliveries.

CHAPTER 7
PERMITTED USES; REVIEW AND APPROVAL

Section 701 - Approval Required:

All requests to establish a use or to construct any building, structure or improvement identified as a Permitted Use in the Table of Uses shall be made on the application form(s) provided by the Town detailing the nature of the Permitted Use.

Section 702 - Application Requirements:

Applications for a Permitted Use are required to comply with the requirements of this Ordinance and the requirements for a building permit, and any other ordinances applicable to that use.

Section 703 - Review and Approval Procedures:

The Planning and Zoning Commission and Building Official shall review the request for a Permitted Use and determine if the request;

(1) Is for a Permitted Use within the applicable zone district.

(2) Complies with the requirements for the applicable zone district with respect to area requirements, yard requirements, setback requirements, height, buffer and landscape standards, drainage requirements, coverage requirements, parking and unloading requirements and all other requirements applicable to the district.

(3) Does not propose any construction on any critical lands as defined by Federal, State, Local codes and/or plans.

(4) Complies with all easement and rights of way dedication requirements of the Town of Dutch John and provides the necessary infrastructure, as required.

(5) Complies with all applicable building codes, as adopted by the Town.

Upon finding that the proposed use, building or structure complies with the standards and requirements of this Ordinance and the provisions of the Town's adopted Building Codes, the Permitted Use may be authorized and a building permit issued. The Planning and Zoning Commission shall advise the Town Council of all approved Permitted Uses.

If the Permitted Use request does not comply with the requirements of this Ordinance and the Town's adopted Building Codes, The Planning and Zoning Commission shall notify the applicant, identifying what requirements have not been satisfied and whether the applicant should submit a different development application.

CHAPTER 8
CONDITIONAL USE PERMITS

Section 801 - Issuance and Purpose:

Conditional Use permits may be issued as provided by this Ordinance for any of the uses for which a Conditional Use permit is required as identified in the Table of Uses.

The purpose of the issuance of a Conditional Use permit is to allow the proper integration into the Dutch John community of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.

Section 802 - Application Requirements:

All requests for a Conditional Use permit shall be a made on the application form provided by the Town of Dutch John, Planning and Zoning Commission detailing the nature of the Conditional Use request. The applicant shall also provide the necessary information identified for the

submission and review of a plat, site plan or building permit, whichever is applicable. The Town of Dutch John Council is authorized to render a final decision on the issuance of a Conditional Use permit.

Section 803 - Conditions for Approval:

Upon receipt of an application, which is fully completed and provides all of the information required herein, along with the application fee, the building official and the Chairman of the Planning and Zoning Commission shall review the application and shall consider the use requested in the conditional use permit and compare that with the existing neighborhood. If the building official and Planning and Zoning Commission Chairman or the full Planning and Zoning Commission determine that the proposed use is likely to generate significant public interest or that there is a legitimate question as to the suitability of the proposed use, after considering the character of the neighborhood and the economic and aesthetic effects of the proposed use and the harmony of the proposed use with the existing neighborhood, the Planning and Zoning Commission Chairman shall schedule a neighborhood meeting between the neighboring property owners and the developer. Notice in writing shall be sent to all property owners of record within 300 feet of the proposed conditional use. When the developer and affected property owners cannot reach a consensus of opinion regarding compatibility of the proposed land use, the Planning and Zoning Commission shall hold a public Hearing and prior to making a decision shall listen to all of the concerns of all of the affected property owners and interested parties regarding the proposed project's compatibility.

After considering the information and comments of the affected property owners and the applicant for the conditional use permit and following any evaluation or investigation by the Planning and Zoning Commission, the Planning and Zoning Commission shall make a determination as to whether or not the proposed use is compatible and in harmony with the neighborhood. If the Planning and Zoning Commission finds that proposed use is incompatible, not in harmony with the neighborhood or would cause a fundamental change in the characteristics of the neighborhood or the intent of the Dutch John Master Plan, the conditional use permit shall be denied. If the proposed use is found to be compatible and in harmony with the neighborhood and the intent of the Dutch John Master Plan, the commission shall proceed to review and consider the application and grant or deny it pursuant to the additional considerations set forth in the zoning and planning ordinance.

Section 804 - Findings and Conditions:

The Town Planning and Zoning Commission may give approval to a Conditional Use permit in compliance with this Ordinance if, from the application and the facts presented, it finds:

(1) The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.

(2) All Town, State and Federal Building Codes are fully complied with.

(3) The proposed use will be located and conducted in compliance with the purposes of this Ordinance.

(4) That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

(5) The project or its intended conditional use does not propose any construction on any critical lands.

(6) The applicant shall bear the burden of proof that the proposed use does not substantially change the character of the neighborhood

(7) The applicant shall bear the burden of proof that the proposed use does not substantially vary from the intent of the Dutch John Master Plan.

In approving a Conditional Use permit, the Town Planning and Zoning Commission shall impose such conditions or restrictions as it deems reasonable and necessary to secure the purposes of the Dutch John Master Plan and this Ordinance to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. These conditions may include but, are not limited to the following:

(1) That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

(2) That all buildings or other structures are designed to add to the quality of the area.

(3) Provision of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

(4) The provision of required street and highway dedication and improvements and adequate water supply, sewage disposal, drainage, fire protection and emergency vehicle access.

(5) The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

(6) The regulation of operating hours for activities affecting normal schedules and functions.

(7) Regulation of signs.

(8) Identifying a time for regular review and monitoring as determined necessary by the Town of Dutch John Council to ensure the use continues to operate in compliance with all conditions and requirements of approval.

(9) Such other conditions determined necessary by the Town Planning and Zoning Commission to allow the establishment and operation of the proposed Conditional Use in an orderly and efficient manner and in compliance with all elements of the Dutch John Master Plan and the intent and purposes of this Ordinance.

(10) The Conditional Use permit will be good for a maximum time of 2 years at which time the owner may apply for renewal if the permit was not revoked or suspended.

Section 805 - Revocation or Modification of a Conditional Use Permit:

If there is cause to believe that grounds exist for revocation or modification of an approved Conditional Use permit, the Town Planning and Zoning Commission shall hold a public Hearing on the question of modification or revocation of a Conditional Use permit granted under the terms and the provisions of this Ordinance.

A Conditional Use permit may be modified or revoked if the Town Planning and Zoning Commission finds that one or more of the following conditions exist:

(1) The Conditional Use permit was obtained in a fraudulent manner.

(2) The use for which the Conditional Use permit was granted has ceased for at least twelve (12) consecutive calendar months.

(3) One or more of the conditions of the Conditional Use permit have not been met.

Additionally, the conditions under which a Conditional Use permit was originally approved may be modified by the Town Planning and Zoning Commission without the consent of the property owner or operator if the Town Planning and Zoning Commission finds that the use or related development constitutes or is creating a demonstrated nuisance. Should a permit be revoked, there shall be a waiting period of not less than 180 days before re-application will be considered.

Section 806 - Procedure and Hearings for application for conditional use permits or revocation or modification of a conditional use permit:

Whenever a public Hearing is held concerning the issuance of a conditional use permit or the modification or revocation of a conditional use permit, the Planning and Zoning Commission, in consultation with legal counsel, shall establish a procedure to be followed to allow the orderly conduct of the Hearing and the full consideration and presentation of the information necessary to allow the board to make its informed decision. The procedure shall be communicated to all interested parties in advance of the Hearing. Unless other procedures are adopted, the following procedures shall be used.

(1) A chairman shall be selected for the meeting who shall be responsible to maintain order and decorum throughout the course of the Hearing.

(2) Chairman of the meeting shall call the meeting to order and advise the persons in attendance of the procedures to be followed and of the matter under consideration.

(3) Each interested party shall be allowed a brief opening statement to summarize its position.

(4) The party having the burden of proof shall present to the board facts and information, along with input of interested persons and opinions from experts having information helpful to the board and relevant to the matter before the board. At the discretion of the board, persons presenting factual testimony or experts presenting opinion testimony, may be placed under oath and subject to reasonable cross examination.

(5) Following conclusion of the presentation of evidence and opinion by the party having the burden of proof, the responding party or parties shall proceed in like manner to present facts, testimony and other evidence which is material and relevant to the issue to be decided by the board.

(6) Witnesses who are asserting facts or experts presenting opinion testimony may be placed under oath and made subject to cross examination.

(7) Generally, persons presenting general public comment or input such as property owners expressing support or opposition to the proposed use in the form of opinions or personal assessments as to the benefits or detriments of the proposed use will not be placed under oath or subject to cross examination. Those who assert specific facts which may be in dispute, may be subject to being placed under oath and cross examined.

(8) The party bearing the burden of proof shall then be allowed a brief opportunity for rebuttal followed by a rebuttal from the party not having the burden of proof, if new facts or information are presented during the rebuttal.

(9) Each party shall then be allowed an opportunity for a summation or closing statement as follows: The party with the burden of proof, followed by the responding party, followed by the party with the burden of proof.

(10) The board may also allow other concerned citizens or members of the public who have not previously testified to present public input or matters of concern that should be considered by the board in making its decision.

(11) The board may consider relevant and reliable written materials. Following the close of the public Hearing, the board may deliberate and make its decision or may refer

the issues or matters of concern to appropriate parties for further study or investigation.

(12) After deliberation and consideration of all of the input and relevant facts and information, the board shall render a decision and shall set forth the facts and law supporting its decision.

(13) A detailed record or recording of the Hearing shall be made and maintained by the planning and zoning board.

(14) The board shall at all times maintain order at the Hearing and may order the removal of persons or parties that are disruptive of the deliberative process.

(15) The Hearing should be conducted in a manner so as to provide fair opportunity for interested parties and persons to present input and evidence and information to the board and to assure that information considered or relied upon by the board is reasonably reliable. It is not necessary that strict adherence to the judicial rules of evidence or rules of procedure be followed. The board may establish reasonable time limits for each of the phases of the Hearing as set forth above and may limit or prohibit unduly lengthy or repetitive information and may forbid presentation of information, opinions or matters which are relevant or material to the issue to be decided.

(16) Any party aggrieved of the decision of the planning and zoning board may, within thirty (30) days of issuance of the written decision, file an appeal in writing with the Town of Dutch John Council. The written notice of appeal shall be delivered to the Town clerk and shall state in reasonable detail and specificity the areas with which the appellant disagrees with the decision of the planning and zoning board and at least a summary of information supporting the disagreement with the planning and zoning board's decision.

(17) The Town of Dutch John Council shall obtain the record of the proceeding from the Planning and Zoning Commission and may schedule an additional public Hearing or may consider the appeal based upon the record and evidence obtained from the Planning and Zoning Commission. Any deliberation or consideration of the appeal shall comply with the Utah Open and Public Meetings Law.

Section 807 – Short Term Residential Rental Unit as a Conditional Use:

It shall be unlawful for any person to rent for less than thirty (30) days a residence without possessing and maintaining a Conditional Use Permit as required by this ordinance. For this Ordinance, the word Permit means the same as Conditional Use Permit. Only the owner(s), as defined in this ordinance, shall be allowed to hold a Permit. A residence providing short-term rentals, when allowed as a Conditional Use, shall be approved only in accordance with Chapter 8 of this Ordinance, and the conditions for this use as stated below:

(1) General Provisions:

a. The short-term rental of residential property in Dutch John shall be allowed for an indefinite rental period of time.

b. Permits will only be issued to a point where no more than 20% of the residential properties in Dutch John are available for short-term rental.

c. Short Term Rental permits shall only be issued to the owner(s) of the property.

d. All Short Term Rental permits issued for the short-term residential rental unit shall be good for one year from the date of issue and must be renewed annually.

e. Each owner and his agent renting or leasing a short-term residential rental unit shall maintain that unit in a condition fit for human habitation and in accordance with this ordinance and the rules of the Tri-County Health Department. Each short-term residential rental unit shall have electrical systems, heating, sanitation plumbing, and hot and cold water.

f. No alcoholic beverages shall be sold on the premises.

g. No receptions, banquets, or catering shall be permitted other than for registered lodgers.

h. No signs shall be permitted on the premises that advertise the use.

i. Renters of short-term residential rental units shall not create excessive noise that is incompatible with adjacent land uses.

j. Each short-term residential rental unit owner shall keep a register of guests. Such registration or list shall include the names and addresses of all guests and be available for inspection by the Town Council at any time.

(2) Application Requirements:

a. The Application for a Short Term Rental Conditional Use Permit and the Addendum for Short-term Rental of Residential Property must be filled out completely and all required fees paid before the application will be considered.

b. The Conditions for Approval will be questioned on the Addendum portion of the application and must be met in order to be considered for a Short Term Rental Conditional Use Permit.

c. An annual inspection of the property by the Building Inspector shall be a part of this application. Said inspection must be completed before the application or renewal can be considered.

(3) Conditions for Approval:

a. The supervision, maintenance and trouble-shooting of the short-term rental business shall be provided by the owner as defined herein and shall be available on a 24-hour per day basis. One name plate sign not to exceed three inches by five inches made of durable weather-resistant material containing the name and telephone number of the owner or the owner's designated agent, as defined herein, who can be contacted 24 hours a day shall be permanently and conspicuously attached to the building near the front entrance. Such name plate shall not contain any advertising.

b. Required parking areas and access to parking areas shall be maintained and available for use at all times. Parking for this use shall be contained on the site, and shall not be allowed on the public rights-of-way; and snow shall be removed as outlined in state and local codes.

c. There shall be no cooking facilities allowed in guest rooms.

d. A Town business license shall be obtained promptly upon approval of the Conditional Use Permit. Sales and Transient Room taxes must be collected and remitted to the proper authority.

e. Proof of adequate insurance must be provided.

f. No guest rooms shall be located in the basement.

g. No more than four (4) occupants per room shall be allowed, and total occupants of the dwelling cannot exceed the number allowed by the Uniform Building Code.

h. A fire escape plan shall be developed and graphically displayed in each guest room.

i. A notification to guests shall be prepared and shall contain the residence rules and the fact that the residence is being rented under a Short Term Rental Conditional Use Permit that may be revoked if guest actions lead to complaints from neighbors of the residence.

j. Upon receipt of a completed Short Term Rental Unit conditional use permit application, the Town Clerk shall notify all persons with real property within three hundred (300) feet of the proposed short-term residential rental unit location.

(4) Conditions for Conditional Use Permit Renewal:

a. A copy of the current Town business license shall be included with the Short Term Rental conditional use permit renewal application.

b. Proof that sales taxes and Transient Room taxes have been collected and remitted in a timely manner to the proper authorities.

c. Documented complaints must be minimal and must have been successfully addressed by the owner in a timely manner. Original complaints should be reported and or documented to the owner at the time of violation using the Town form available from the Town Clerk. A copy must be submitted to the Town Clerk within 30 days by the aggrieved party. In the case of complaint involving immediate health or safety concerns, 911 should be called before contacting the owner. Recurring and or unresolved complaints could instigate an investigation and cause the permit renewal to be denied.

d. Owner must maintain a list of rental dates, renters and their addresses.

e. Applications for renewal must be submitted 90 days prior to expiration. No property shall be rented on a short-term basis without a current conditional use permit.

f. Annual Inspection. The short-term residential rental unit shall meet all conditions of this ordinance and other applicable ordinances and laws. There shall be an annual inspection of the premises by the Town Building Inspector.

g. Lapse of Operation. The active operation of the Short Term Rental unit shall not have lapsed for more than twelve (12) consecutive months.

(5) Revocation or Modification of a Short Term Rental Permit:

If there is cause to believe that grounds exist for revocation or modification of an approved Short Term Rental Conditional Use Permit, the Planning and Zoning Commission shall hold a public Hearing on the question of modification or revocation of a Short Term Rental Conditional Use Permit granted under the terms and the provisions of this Ordinance.

A Short Term Rental Conditional Use Permit may be modified or revoked if the Planning and Zoning Commission finds that one or more of the following conditions exist:

a. The Short Term Rental Permit was obtained in a fraudulent manner.

b. The use for which the Short Term Rental Permit was granted has now ceased for at least twelve (12) consecutive calendar months.

c. One or more of the conditions of the Short Term Rental Permit have not been met.

Additionally, the Town of Dutch John Council without the consent of the owner may modify the conditions under which a Short Term Rental Conditional Use Permit was originally approved, if the Town of Dutch John Council finds that the use or related development constitutes or is creating a demonstrated nuisance. Should a permit be revoked, there shall be a waiting period of not less than 180 days before re-application will be considered.

Section 808 - Bed and Breakfast Inn as a Conditional Use:

A Bed and Breakfast Inn, when allowed as a Conditional Use, shall be approved only in accordance with this Ordinance and the following:

(1) The lot shall have at least eighty (80) feet of frontage on a dedicated street.

(2) One (1) off-street parking space shall be provided per employee plus one (1) space per guest room. On-street curbside parking may be used to satisfy this requirement at the rate of two (2) spaces per fifty (50) feet of lot frontage.

(3) Meals may be served to residents, employees, overnight lodgers, and guests of overnight lodgers only. No cooking facilities shall be allowed in guest rooms.

(4) Such use shall conform to all applicable health, safety, and building codes and must be capable of such use without structural or site alteration which changes the residential character of the structure and yards.

(5) No alcoholic beverages shall be sold on the premises.

(6) No receptions, banquets, or catering shall be permitted other than for registered lodgers.

(7) No long-term rental of rooms shall be permitted. The maximum stay for lodgers shall be thirty (30) Days.

(8) Proof of adequate insurance must be provided.

(9) A Town business license shall be obtained as a condition of approval.

(10) Proof that sales taxes and Transient Room taxes have been collected and remitted in a timely manner to the proper authorities.

(11) Supervision by an on-site manager or owner shall be required on a 24-hour per day basis.

(12) Care shall be taken to ensure that no exterior lighting shines directly into adjoining properties.

CHAPTER 9

DEVELOPMENT APPLICATIONS AND PROCEDURES

Section 901 - Purpose:

The development applications and procedures of this Ordinance are formulated and intended to protect the integrity and character of the residential and nonresidential areas of the Town of Dutch John through the application of the provisions of this Ordinance, consistent with the goals, policies and guidance of the Dutch John Master Plan. Development applications and development review is structured to consider and determine if the development application should be approved by weighing the public need for and the benefit to be derived from the proposed use(s), building(s) or structure(s) against any associated negative impact(s).

Section 902 - Applicability:

A development and/or building permit application shall be required for all uses, intensification of uses, and construction or modifications for all properties located in the Town of Dutch John Boundaries, as identified and attached hereto. All development applications are to be presented to the Dutch John Planning and Zoning Commission for review and further recommendation either for approval or against approval to the Town of Dutch John Council on the applicable application form(s) available from the Town.

Section 903 – Development Application Forms:

The Town of Dutch John Council have identified submittal requirements, instructions for completing forms and internal procedures for acceptance and filing of applications. Additional information may be required for particular applications. The following application forms can be found in .the Dutch John Web Site (www.dutchjohn.org) under forms and applications.

(1) Planned Unit Development – (PUD)

- **a.** Conceptual Plat
- **b.** Preliminary Plat
- **c.** Final Plat

(2) Subdivision

a. Conceptual Plat
b. Preliminary Plat
c. Final Plat

(3) Conditional Use Permit

(4) Single Purpose Commercial or Residential building permit

(5) Building permit

Section 904 - Development Application Procedures:

The steps in the review and consideration of the various development applications, permits and licenses authorized by this Ordinance may be identified by the Town of Dutch John Council and are found in the Appendix of this Ordinance.

Section 905 - Permits Required:

The standards and requirements of this Ordinance shall apply to all uses or development activity located within the Town of Dutch John Boundaries. No use or development activity may be commenced or undertaken within the Town of Dutch John Boundaries unless all necessary approvals, permits and licenses have been issued in accordance with the provisions of this Ordinance.

Section 906 - Development Application; Initiation:

An application for a required development approval, permit or license shall be initiated by submitting the appropriate application(s) to the Dutch John Planning and Zoning Commission. All applications are to be processed in accordance with the provisions of this Ordinance. All applications including: Application for Dutch John Master Plan Amendment, including text and map amendments; Application for an Amendment to the Planning and Zoning Ordinance; Application for Single Purpose Commercial or Residential Development; Application for Planned Unit Development(PUD); Application for Preliminary and Final PUD Site Plan Approval; Application for Preliminary and Final Subdivision Plat Approval; Application for Conditional Use Permit Approval; Application to the Hearing Officer; and Application for Appeal shall be presented to the Town of Dutch John Council at least thirty (30) days prior to consideration by the Town of Dutch John Council, Planning and Zoning Commission or Hearing Officer, whichever is applicable.

Section 907 - Determination of Application Completeness:

After the receipt of an application and payment of application fees as shown in the Dutch John general fee schedule, the Planning and Zoning Commission shall determine whether the application is complete. If the Planning and Zoning Commission determines that the application is incomplete, the Planning and Zoning Commission shall notify the applicant in writing, identifying the deficiencies of the application, including any additional information which must be

provided and advising the applicant that no action will be taken by The Dutch John Planning and Zoning or Town Council until the deficiencies have been corrected. Determinations of completeness made by the Planning and Zoning Commission shall be reviewed by the Town of Dutch John Council if the applicant considers the determination to be in error.

Section 908 - Remedying Application Deficiencies:

If the applicant fails to correct the specified deficiencies within thirty (60) days following notification of application deficiency by the Planning and Zoning Commission, the application for development approval, permit or license shall be deemed withdrawn and will be returned to the applicant. All application fees shall be forfeited.

Section 909 - Payment of Taxes and Charges Required:

All development approvals may be conditioned so that no final plat or site plan document is recorded or building permit issued on the subject property until all delinquent taxes and charges have been paid to date of approval. Receipts from payment of all Utilities, Sales Taxes, Transient Room Taxes, Property Taxes, business license etc. that apply to the subject property must be provided as proof of payment.

Section 910 - Scope of Development Approvals:

1) Except as otherwise provided, the rights conferred by a development permit upon the filing of a complete application and approval by the Town of Dutch John Council, Planning and Zoning Commission, or Hearing Officer shall be limited to those rights granted in the applicable provisions of this Ordinance and any conditions attached to the development permit.

2) A development permit shall be considered void after one (1) year unless substantial construction or development has taken place; provided, however, that a longer period of time may be provided for a phased subdivision application or phased site plan application as set forth in the condition(s) attached to the preliminary plat or preliminary site plan or final plat or final site plan. A one (1) year extension of a development permit may be granted by the Town of Dutch John Council upon a finding that special circumstances exist which warrant such an extension, including but not limited to a delay caused by a government review agency or a natural disaster.

Section 911 - Amendment to Development Permits:

All proposed amendments to an approved application for a development approval, permit or license issued under the provisions of this Ordinance must be reviewed and reapproved in accordance with the procedures established for the approval of the original development approval or development permit unless determined to be a minor revision under the provisions of this Ordinance. For major amendments to an application for a development approval the review fees will be charged again.

Section 912 - Reapplication Following Denial:

If an application for a development approval, permit or license is denied for failure to meet the requirements of this Ordinance and the denial is a final decision on the property, an application for all or a part of the same property shall not be considered for a period of at least one (1) year from the date of denial unless the subsequent application is for a development that is substantially and materially different from the previously denied proposal, the prior denial was based upon a mistake of fact, or a motion is duly passed by the Town of Dutch John Council to act immediately and identifies a valid public purpose.

Section 913 – Site Inspections:

In order to review information relevant to an application, permit or license, the Planning and Zoning Commission, Hearing Officer or Town of Dutch John Council may, at any reasonable time and for any proper purpose, and upon the permission of the owner, enter upon any public or private premises and make an inspection thereof.

Section 914 - Fee for Processing Development Applications:

The Town of Dutch John Council shall establish, by resolution, a fee schedule, which fee schedule may be amended from time to time by resolution of the Town of Dutch John Council, for the processing and review of all applications, permits and licenses required by this Ordinance designed to recover an amount not less than the actual or anticipated costs of review and processing of the application, including but not limited to costs as follows:

1) Engineering

2) Legal

3) Professional Consulting

4) Inspection Services

5) Copying

6) Publication

7) Mailing

All fees must be paid at the time of application or the application will not be accepted. All fees are non-refundable.

CHAPTER 10

GENERAL REQUIREMENTS AND PROPERTY DEVELOPMENT STANDARDS

Dutch John Planning and Zoning Document
General Text
Draft Copy

Section 1001 - Establishment of Development Standards:

The purpose of development standards is to protect the general health, safety and welfare of the citizens and property owners within the Town of Dutch John. Compliance with all provisions of this Ordinance shall be required for the issuance of any required development approval, license or permit.

Section 1002 - General Requirements:

(1) All Uses, Buildings and Structures are required to comply with Zoning District Requirements. Every building or structure hereafter erected, reconstructed, structurally altered, enlarged or moved, and every building, structure, premises or land used, rearranged, designed or intended for any use shall be built or used only as is permitted in the zone district in which such building, structure, land or use is located.

a. All uses allowed shall either be a permitted or conditional use, as identified in the Table of Uses.

b. All uses of land and other activities not specifically allowed as a permitted or conditional use as identified in the Table of Uses are deemed prohibited uses.

c. All uses, buildings and structures must comply with the intensity, sizing requirements, site coverage standards and other requirements for uses identified in the Table of Site Development Standards.

d. All uses, buildings and structures must comply with the off-street parking requirements as contained in Table of Off-Street Parking Requirements.

(2) Nothing in this Ordinance requiring minimum lot area or lot width shall be construed to prevent the use for one (1) single-family dwelling of any lot or parcel of land, provided that such lot or parcel of land is located in a Zoning District which permits single-family dwellings and was a legally divided lot upon which a dwelling could legally be constructed and existed at the time such lot area and lot width requirements became effective, by adoption of this Ordinance, and provided further that all proposed construction can qualify for the issuance of a building permit as required by other provisions of this Ordinance and the Town's Building Codes.

(3) Lots in Two (2) or More Districts.

Where a lot of record at the time of passage of this Ordinance or any amendments thereto falls into two or more districts, the more restrictive zoning district provisions shall apply.

(4) Required Yard Areas for One Building Only.

No required yard or setback area for any building or lot required for the purpose of complying with the provisions of this Ordinance shall be considered as providing the required yard or setback for any other building or lot.

(5) Every Dwelling, Nonresidential Building and All Associated Accessory Structures shall be on a Lot. All primary structures and all associated accessory structure(s) shall be located and maintained on a deeded lot.

(6) Required Yards to be Unobstructed - Exceptions.

(1) All yard areas are required to be open to the sky and unobstructed except for permitted and approved accessory buildings and for projection of sills, cornices, and other ornamental features and unenclosed steps and un-walled stoops and porches, provided that all buildings or parts thereof comply with the required yard requirements of the Zone District in which they are located.

(2) Underground structures, such as swimming pools, storage tanks, etc., may be located in a required yard area, provided that such structures shall not be located closer than fifteen (15) feet to any property line.

(3) Walls and fences must comply with the requirements of this Ordinance, the Town Building Codes, or the conditions of a development approval.

(7) Maximum Lot Coverage of Accessory Buildings.

a. No accessory building shall be located within any required front yard.

b. No accessory building(s) shall cover more than twenty (20%) percent of the required rear or side yards.

c. No accessory building(s) of a permanent nature shall be placed within the dedicated utility easement of the side or rear yard as was conveyed by the USBR to Daggett County on USBR Drawing # D099A4400250 Dated September 15, 2000. For determining the placement of the accessory building the dripline of the roof overhang will be used – not the wall line.

d. Accessory building footprint square footage counts in the calculation of total lot coverage. Square Footage calculations are determined from the dripline of the building not from the wall line.

(8) Construction in Critical Areas Prohibited.

No building or structure (except for a required public utility and necessary roads) shall be constructed on areas determined to be critical areas as identified, including;

(A) Areas of steep slope of 30% grade or greater, and

(B) Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers, and

(C) Pre-existing drainage system(s) (natural or manmade) unless an approved plan for continuation of such drainage has been designed by a professional Engineer. Said plan for continuation of the drainage system to be as follows:

The Engineering standard for flood water drainage systems is to accommodate a minimum of 125% of the volume of a two hour duration – one hundred year magnitude - storm flow, which volume is to be determined by a hydrologist licensed by the State of Utah, and drainage system is to be designed by a Civil Engineer licensed by the State of Utah.

Section 1003 - Subdivision:

(1) Purpose:

The purpose of this section is to promote (for both current and future needs) the efficient and orderly growth of the Town as well as the public utilities, roadways and common areas of the town. This section will guide the development of required utilities, roadways and common areas as well as, provide/refer to, standards for the physical development of subdivisions of land within this municipality including, but not limited to:

a. The required construction and installation of:

i. Roads

ii. Streets

iii. Curbs

iv. Gutters

v. Drainage systems

vi. Water and sewer systems

b. Accesses to public rights-of-way

c. Dedication of lands and streets

d. Granting easements or rights-of-ways

e. Establish fees and other charges for the authorizing of a subdivision.

(2) Definitions:

See Chapter 6 Definitions, and Utah Code 10-9a-103.

(3) Prohibited Acts:

a. Building on Un-improved Lots:

All buildings shall only be built on improved lots, except buildings which are bona fide agricultural buildings as to which there is no human occupancy and that are allowed in the zone district in which they are built.

b. Subdividing Land:

It shall be unlawful for any person to subdivide for the purpose of transferring, selling, conveying or assigning any tract or parcel of land which is located wholly or in part in the municipality, except in compliance with this ordinance.

c. Subdivisions:

It shall be unlawful for any person to sell or exchange or offer to sell or exchange any parcel of land which has been subdivided unless the subdivision has been approved by Town of Dutch John and meets the provisions of this ordinance and Utah state code.

(4) Penalty:

Any persons, firm, or corporation, who shall subdivide land or who shall transfer or sell any lot or land in a subdivision, as defined in this code, which subdivision has not been approved by the Planning and Zoning Commission , and except as provided for in this code, also approved by the Town Council of Town of Dutch John, Utah, and recorded in the office of the County Recorder, shall be guilty of a misdemeanor for each lot or parcel of land so subdivided, transferred or sold, and the description of such lot or parcel of land by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring, shall not exempt the transaction from such penalties, or from the remedies herein provided. The Town may enjoin such transfer or sale or agreement by action for injunction brought in any court of competent jurisdiction, or may recover a civil penalty by civil action in any court of competent jurisdiction, together with costs and attorney fees incurred in enforcing this chapter.

The civil penalty for illegal subdivision shall be $1,000 per lot or parcel.

Any person or entity violating any of the provisions of this chapter shall be guilty of a class B misdemeanor. Each separate criminal event or each day of violation shall constitute a separate offense.

(5) Validity:

If any section, subsection, sentence, clause, or phrase of this chapter, for any reason, are held to be invalid, such holding shall not affect the validity of the remaining portion of this chapter.

(6) Scope of Subdivision Application:

All lots, plots or tracts of land located within Town of Dutch John shall be subject to this ordinance whether the tract is owned by an Applicant or a subsequent purchaser, transferor or holder of the land.

(7) Enforcement, Permits and Inspections:

a. Planning and Zoning Official to enforce:

The Planning and Zoning Official is hereby designated and authorized as the officer charged with the enforcement of this ordinance.

b. Permits:

The Planning and Zoning Official shall not grant a permit nor shall any officer grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any Utah state law, rule or regulation or ordinance of Town of Dutch John until a subdivision/development plat has been approved and recorded pursuant to this ordinance, and all other requirements are met. Any license or permit issued in conflict with such provisions shall be null and void. It shall be the responsibility of the Applicant to show that the lot has been lawfully created.

c. Inspections:

The Building Official, or designee, shall inspect or cause to be inspected all roads, buildings, fire hydrants and water supply, and sewage disposal systems or other infrastructure in the course of construction, installation or repair. The Applicant shall notify the Building Department of any work to be done, and the Building Official, or designee, shall inspect the work on Monday of the week or by appointment – scheduling is the responsibility of the owner or his designee.

Excavations and installed systems for fire hydrants, water and sewer mains and laterals, shall have been approved by the Engineer. If any such installation is covered before being inspected and approved, it shall be uncovered at the expense of the Applicant after notice to uncover has been issued to the responsible person by the inspector.

(8) Plats:

Prior to subdividing/developing any tract of land, the Applicant shall comply with the requirements of this section.

a. Planning and Zoning Commission Approval

All proposed subdivisions or developments that require recommendation from the Planning and Zoning Commission and approval from the Town Council must complete the following

three steps: concept plan approval, preliminary plat plan approval, and final plat plan approval. Each step must be approved independently. The approval of each of the three steps expires after one year, unless the next step is approved within that time, or unless the Applicant submits a request for extension (not more than 1 year for each extension) and is granted such extension by the Planning and Zoning Commission. Until a completed application for final plat approval and payment of all required fees have been made, the proposed development shall comply with any ordinance or statutory amendments or changes.

b. Concept Plan Review

The Applicant shall submit to the Planning Department the Concept Plan application and required fees. The Planning Department shall evaluate whether the application requirements have been met and the application fees have been paid. If possible, the evaluation shall be completed within 30 days after receipt of the application and required fees.

Prior to submitting a preliminary plat, an Applicant shall submit a initial written "concept plan" to the Planning and Zoning Commission including a sketch plan of the proposed subdivision in which the proposed subdivision is sufficiently described to enable the Planning and Zoning Commission to determine whether the proposed subdivision complies with the municipality's Land Use ordinances, capital growth and General Plans, street plans and services. The Planning and Zoning Commission shall advise the Applicant of possible problems with the proposed subdivision within 30 days after it has received the initial application including sketch plans.

Approval of the concept plan shall not constitute approval of the "Preliminary Plat Plan". This section is mandatory and an Applicant may not submit a preliminary plat plan in lieu of the concept plan. If disapproved, the Planning and Zoning Commission shall express its reasons in writing to the Applicant.

c. Submission of Preliminary Plat Plan

The Applicant shall submit to the Planning and Zoning Commission the Preliminary Plat Plan application and required fees. The Planning and Zoning Commission shall diligently evaluate whether the application requirements have been met and the application fees have been paid. If possible, the evaluation shall be completed within 45 days after receipt of the application and required fees.

At least 10 days prior to the date of the Planning and Zoning Commission meeting at which the preliminary subdivision plat is to be reviewed, the Applicant shall submit seven copies of the proposed Preliminary Plat Plan to the Planning and Zoning Commission office. The Planning and Zoning Commission shall circulate for comment and review copies of the proposed preliminary plat to all affected departments and divisions of Town of Dutch John and to any affected entities which may be providing special services.

Preliminary Plat Plans require a site plan created by a licensed Engineer or Surveyor (see 1003 (8) (e)). Preliminary Plat Plans also require a rendered elevation showing the facade if the new construction is in the ResR, C, LI zone. The Planning and Zoning Commission shall approve only those Preliminary Plat Plans which it finds have been developed in accordance with the standards and criteria specified in this ordinance and all other ordinances of this municipality including, but not limited to, the Major Street Plan, the General Plan and the Building Codes.

Soil Controls: (The following shall be given special consideration)

As part of the preliminary plat plan application, the Applicant shall provide to the Planning and Zoning Commission complete information about any potential geologic problems within the development area including but not limited to expandable soils, potential slide or slough areas, high ground water, etc. If no geologic problems exist in the development area, the Applicant and their Surveyor/Engineer shall so certify to the Planning and Zoning Commission.

The Planning and Zoning Commission shall determine from the concept plan review or the Preliminary Plat Plan application the possible need for environmental impact analysis, which would take into account the soil, slope, vegetation, drainage and other geological characteristics of the site. If the site requires substantial cutting, clearing, grading or other earthmoving operations in construction of structures or roads in the proposed development or if geologic conditions warrant, the Planning and Zoning Commission and/or Town Council shall require the applicant to provide soil erosion and sedimentation control plans or stabilization plans and specifications prepared by a registered civil Engineer.

d. Approval or Disapproval of Preliminary Plat Plan

The Planning and Zoning Commission shall, if possible, act within 45 days after the preliminary plat plan being filed, to recommend approval of the plat if it finds that the development complies with the requirements of the Town of Dutch John ordinances. The Planning and Zoning Commission may conditionally approve the preliminary plat plan imposing such conditions as it may require in order to bring the plat into compliance with the requirements of Town of Dutch John ordinances. In the event the Planning and Zoning Commission disapproves the preliminary plat plan, it shall state in writing to the Applicant each reason it has identified for the disapproval in a timely manner.

e. Form and Contents of Preliminary Plat Plan

The Preliminary Plat Plan shall contain all of the following information:

i The Preliminary Plat Plan shall be drawn to a scale not smaller than 100 feet to the inch, and shall be on standard 24 inch by 36 inch paper.

ii Unless the Subdivision is a Minor Subdivision, then the proposed name of the subdivision shall be shown on the plat and must be a unique subdivision name within Daggett County. See U.C.A 10-9a-603 (a)

iii Sufficient information to accurately locate the property shall be shown on the plat.

iv Where the plat submitted covers only a part of the Applicant's tract, or is part of a larger vacant area, the plat shall show the locations of the subdivision as it forms part of the larger tract or parcel of land. In such case, a sketch of the prospective future street system of the unplanned parts shall be submitted and the street system of the part submitted shall be considered in the light of adjustments and connections with the future street system of the larger area.

v The names and addresses of the Applicant, the Engineer or surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided as shown in the records of the county recorder.

vi A contour map at appropriate intervals appropriate to create proper drainage plans.

vii The boundary lines of the tract to be subdivided, showing all fences, ditches, canals, and existing structures within 100 feet of the boundary line.

viii The location, widths and other dimensions of proposed streets, alleys, easements, parks, and other open spaces and lots, with proper labeling of spaces to be dedicated to the municipality, or held in common.

ix The location, principal dimension and names of all existing or recorded streets, alleys and easements, both within the proposed subdivision and within 600 feet of the boundary thereof, whether recorded or claimed by usage; the location of and dimensions to the nearest existing benchmark or monuments, and section line; the location and principal dimensions for all water courses, public utilities, and other important features and existing structures within the land adjacent to the tract to be subdivided, including exceptional topography, airports and air approaches to the airport.

x The location of existing bridges, culverts, surface or subsurface drainage ways, irrigation lines, ditches, utilities, public buildings, pumping stations, within the subdivision or within 300 feet thereof.

xi Proposed offsite and onsite water facilities, sanitary sewers, storm drainage facilities, and fire hydrants.

xii A tentative plan by which the Applicant proposes to handle a 125% of a 2-hour, 100-year storm water drainage for the subdivision.

xiii Each sheet of the preliminary plat shall contain the sheet number, scale and North arrow.

xiv Boundary lines of adjacent tracts of land, showing fences, ownership and property monuments.

xv All underground utilities and other utility facilities.

f. Fees

The Applicant shall pay nonrefundable fees as required by the Town of Dutch John General Provision Fee Resolution for each step of the development process.

g. Documents Required

The Applicant shall provide to the Planning and Zoning Commission not later than the time the plat is submitted for preliminary approval the following documents:

i Utilities

Information showing availability or plans for providing utilities to the development. (Note: Overhead utility construction is not allowed within the Town of Dutch John)

ii Zone Changes

Proposed changes to existing Land Use zone boundaries or Land Use classifications, if any.

iii Agreements with Adjacent Owners

Copies of any agreements with adjacent property owners to the proposed subdivision.

iv Soil Report

A preliminary soil report prepared by a registered Civil Engineer, based upon adequate test boring or excavations (if required by this ordinance).

v Cost of Infrastructure

Engineered estimates of required public infrastructure costs of infrastructure sufficient in size and capacity for the subdivision in question and all possible/future extensions, broken down for improvement completion assurance purposes.

vi Title of Land

Evidence that the applicant is the record title owner of the land in the proposed subdivision or development.

vii Final Plat

A Final Plat is required after compliance with the provisions of this ordinance.

A Final Plat of the subdivision covering all or part of an approved preliminary plat plan shall be prepared by a licensed surveyor not in the employ of the Town in conformance with the design standards and submitted within one year from the date of preliminary plat plan approval, unless the time is, in writing, extended by the Planning and Zoning Commission. Otherwise, preliminary approval shall be void.

The Applicant shall submit to the Planning and Zoning Commission the Final Plat application and required fees. The Planning and Zoning Commission shall diligently evaluate whether the application requirements have been met and the application fees have been paid. If possible, the evaluation shall be completed within 30 days after receipt of the application and required fees.

h. Authorization to Proceed

One copy of the approved Preliminary Plat with written conditions attached and signed by the Chairman of the Planning and Zoning Commission shall be retained by the Planning and Zoning Commission and one copy shall be given to the Applicant.

Receipt of the signed copy by the Applicant shall be authorization to proceed with the preparation of construction plans and specifications for the improvements required in the final plat. Prior to the construction of any improvements required by this ordinance, the Applicant shall provide the Planning and Zoning office with all construction plans, information and data necessary to install and construct the improvements. This information shall be examined by the licensed Engineer representing the Town and shall be approved if he/she determines them to be in accordance with the requirements of the Town's ordinances. Construction of buildings shall not begin until after the final plat has been approved, and recorded with the County Recorder, and all bonding is in place. Approval of the preliminary plat does not constitute final approval of the project.

The Building Official shall ensure that development is in compliance with the final construction plan, and all other conditions required by the Planning and Zoning Commission and Town Council. After approval of the construction plans by the Town Council, no alteration shall be made without first obtaining recommendation from the Planning and Zoning Commission and approval from the Town Council.

i. Contents, procedure and form of Final Plat.

The Final Plat shall be on a sheet of mylar approved by the Daggett County Recorder's office. The plat shall be so drawn that the top of the drawing faces either North or West, whichever better accommodates the drawing. All lines, dimensions and markings shall be

made on the mylar with waterproof black ink. The plat shall be made to a scale large enough to clearly show all details; in any case not smaller than 100 feet to the inch, and workmanship on the finished drawing shall be neat, clean cut and readable. The plat shall have signature blocks for / by all persons required to sign the final plat in the approved form. The final plat shall contain the following information:

i The subdivision or development name and the general location of the subdivision or development in bold letters at the top of the sheet.

ii A North point and scale of the drawing and the date.

iii Accurately drawn boundaries, showing the proper bearings and dimensions of all boundary lines of the subdivision, properly tied to public survey monuments. These lines should be slightly heavier than street and lot lines.

iv The names, widths, lengths, bearings and curve data on center lines of proposed streets, alleys, irrigation lines, ditches and easements; also, the boundaries, bearings and dimensions of all portions within the subdivision intended to be dedicated to the use of the public; the lines, dimensions, bearings and numbers of all lots, blocks and parts reserved for any reason within the subdivision.

v All lots and blocks are to be numbered consecutively under a definite system.

vi All proposed streets shall be named or numbered in accordance with and in conformity with the adopted street naming and numbering system.

vii Each lot shall show the street address assigned thereto. In the case of corner lots, an address will be assigned for each part of the lot having street frontage.

viii The description of the boundaries of the subdivision together with a certification by the Applicant's Engineer stating that the lots described comply with the requirements of the municipality's Land Use ordinance.

ix The registered land surveyor's "Certificate of Survey" in the form required by this Ordinance.

x The owner's Certificate of Dedication signed by all owners of any interest in the land within the development or subdivision.

xi A notary public's acknowledgment of each owner's dedication in the approved form.

xii Approval of an Engineer representing Town of Dutch John.

xiii The Planning and Zoning Commission approval.

xiv The Town Attorneys' approval.

xv The Council's approval shown by the signature of the Mayor and attested by the Clerk.

j. Review and Recommendation by Planning and Zoning Commission

i The Final Plat shall be submitted by the Applicant to the Planning and Zoning Commission for review and recommendation. The Planning and Zoning Commission shall circulate for comment and review copies of the Final Plat to all affected municipal departments and special service districts. The Town Surveyor shall approve or disapprove the plat within 30 days after the plat is submitted to the Planning and Zoning Commission. If he/she disapproves, he shall state to the Planning and Zoning Commission the reasons for the disapproval. At the time of submission of the final plat, the Applicant shall furnish a complete set of construction plans and profiles, prepared by a licensed professional Engineer, not employed by the municipality, of all existing and proposed streets within the subdivision.

ii If the Planning and Zoning Commission recommends against approval of the final plat, it shall so notify the Applicant in writing stating the reasons therefore based on the ordinances of the Town or the laws of the State of Utah. The written notice shall be personally delivered or sent by certified mail to the Applicant within ten days after the action by the Planning and Zoning Commission. If the Planning and Zoning Commission recommends against approval of the final plat, the Applicant may still submit the final plat to the Town Council for approval.

iii The Planning and Zoning Commission may recommend approval of a final plat subject to specified conditions.

iv The Planning and Zoning Commission may recommend approval of the final plat as submitted.

k. Other Required Approvals

i The Engineer representing Town of Dutch John shall approve the Final Plat and standards if he/she finds that the subdivision fully complies with the improvements required by the ordinance, and that the easements are appropriately located and that the design of the development meets good Engineering standards.

ii Following approval by the Planning and Zoning Commission and the Engineer representing Town of Dutch John, the Applicant shall secure the approval of the Town Attorney.

l. Review and Approval by Town Council

i After all other required approvals or recommendations, the Applicant shall take the final plat before the Town Council which shall approve the plat if it finds that all fees and assessments have been paid, and that the plat fully complies with the ordinances of the Town, the laws of the State of Utah, and all other conditions required.

ii The Final Plat, bearing all official approvals as above required, shall be recorded in the office of the Daggett County Recorder by the Applicant and a stamped/recorded complete copy be delivered to the Town Clerk.

m. Requirements of Language

The form of the owner's dedication and other signature blocks shall be available at the planning office and shall be in a form approved by the Town Attorney.

The Town Attorney shall review the plat and determine:

i That all owners of land within the subdivision/development, as identified on a current title report, provided by the applicant, from a Utah licensed title company, have signed the dedication.

ii That the bond, trust account, letter of credit, trust deed, deposit, or other acceptable improvement completion assurance filed with Town of Dutch John is in appropriate form and signed by the necessary parties and is with a company legally doing business in Utah and in good standing, and is sufficient to protect the interests of Town of Dutch John.

iii That the Applicant has executed the subdivision/development agreement required by this ordinance.

iv That the subdivision/development plan complies with the ordinances of the Town of Dutch John and the laws of the State of Utah.

n. Fees prior to final approval. - See Town of Dutch John Resolution adopting Construction and Planning and Zoning Permit Fees.

o. Approval for Six (6) Months to Record Final Plat

If the final plat has not been recorded with the County Recorder within 6 months of final approval, the final plat must be re-submitted for recommendation from the Planning and Zoning Commission and approval from the Town Council.

p. Ongoing Development Approval and Expiration

Each individual phase of a subdivision must have a recommendation from the Planning and Zoning Commission and approval from the Town Council for the final plat of that phase. Preliminary approval of an entire subdivision shall be voided if the final plat of a section or phase is not submitted for final approval within 24 months of the final approval of the most recently approved phase. Any change in the design of the subdivision that received preliminary approval will require resubmission of the plat for preliminary approval. One (l) extension may be granted of up to one (l) year by the discretion of the Planning and Zoning Commission after appropriate extension fees have been paid.

(9) ACCEPTANCE OF DEDICATED STREETS/IMPROVEMENTS:

a. Dedication

The Applicant shall dedicate the public streets, easements and other public improvements to Town of Dutch John at the time the Final Plat is approved. The dedication shall be deemed an offer by the Applicant which shall be irrevocable. Town of Dutch John shall accept the offer of public improvements only if it finds that the Applicant has constructed, installed and maintained the public improvements required by this ordinance and that the improvements comply with the minimum requirements of this ordinance at the time of acceptance.

b. Time of Acceptance

Unless the Town Council extends the time for acceptance of the public improvements, the improvements shall be deemed accepted at the expiration of one year following the completion of the public improvements. In the event the Town Council does not accept the public improvements, the Applicant shall be so advised in writing of the reason for the non-acceptance and shall be required to construct the improvements to Town standards prior to the issuance of any building permit.

(10) GENERAL IMPROVEMENT REQUIREMENTS

a. Scope

This section defines the general requirements for improvements to be built by the Applicant. The improvements shall include all street improvements in front of all lots and along all dedicated streets to a connection with existing improvements of the same kind or to the boundary of the subdivision nearest existing improvements. Layout must provide for future extension to adjacent development and to be compatible with the contour of the ground for proper drainage.

All water lines, sewer lines, appropriate utilities and any other buried conduit shall be installed to the boundary lines of the subdivision. All permanent utilities shall be underground; above ground utility access points shall be screened from public view and permitted by conditional use permit. Transformers and utility meters shall be grouped

where possible. Where street cuts are made for utilities, cutting, backfilling and re-paving shall be undertaken in accordance with good engineering standards or as required by the Planning and Zoning Official.

b. Construction Plans/Drawings

Complete and detailed construction plans and drawings of improvements shall be submitted to the Engineer prior to commencing construction. Construction shall not be started until plans have been checked and approved by the Engineer.

For the purpose of standardizing the preparation of drawings to obtain uniformity in appearance, clarity, size and style, the following is required:

i The construction plans shall be submitted in triplicate. Two sets shall be retained by the Engineer and one set shall be returned to the Applicant with approval mark of the Engineer.

ii The approved set shall be available at the construction site.

iii These plans and designs shall meet the standards defined in the specifications and drawings hereinafter outlined. The minimum information required on drawings for improvements are as follows:

1 All drawings and/or prints shall be clear and legible and conform to good Engineering and drafting practice. Size of drawings shall be 22" x 34" (trim line) with one-half inch border on top, bottom and right sides, left side one and one-half inches.

2 North Arrow.

3 Scale and elevations referenced to U.S.G.S. datum.

4 Stationing and elevations for profiles.

5 Name of Municipality

6 Project Title (Subdivision, etc.)

7 Specific Type and Location of Work

8 Space for Approval Signature of Engineer and Date

9 Name of Engineer or Firm Preparing Drawings with License Number.

10 Curb and gutter, drains and drainage structures, sidewalks and street surfacing shall show:

a An appropriate scale of no more than l": 100'.

b A plan view, profile, and cross-section for the roadways.

11 Drainage System Plans:

a The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area, but also where applicable the system shall be designed to route the runoff from those areas adjacent to and "upstream" from the development itself, as well as its effects on lands downstream.

b All proposed surface drainage structures shall be indicated on the plans.

c All appropriate designs, details, and dimensions need to clearly explain proposed construction materials and elevations shall be included in the drainage plans.

d The storm drainage system must be designed to retain onsite storm water for 125% of a 2 hour, 100 year storm over the impervious area.

(11) REQUIRED IMPROVEMENT COMPLETION ASSURANCE

a. Required improvements.

The improvements required by this ordinance apply to all developments and owners/developers and to all persons that have or receive any interest in any land which is located within a subdivision, development, proposed subdivision, or proposed development.

b. Improvements made prior to recording final plat.

The improvements required by this ordinance shall be constructed, installed and maintained by the Applicant and inspected and accepted by the Town prior to recording the final plat, unless the construction, installation, and maintenance is guaranteed in the manner provided in this ordinance. Improvements shall not be installed or constructed until their location and specifications have been approved by the Engineer representing Town of Dutch John.

c. Guarantee of performance.

In lieu of completion and acceptance by the Town Council of the improvements required by this ordinance before approval of the final plat by the Town Council, the Applicant may provide funds to guarantee that the installation and construction

of the required improvements shall be completed, inspected and approved by the Town within two years from the date of approval of the final plat and that the improvements shall be maintained in a state of good repair free from defective material or workmanship for a period of 24 months from the date of completion by one or more of the following methods:

i Bond

Applicant may file with the Town Recorder a bond payable to the Town with a corporate surety, licensed and in good standing in Utah and approved by the Town Council and the Town Attorney, in an amount equal to one hundred twenty percent (120%) of the cost of improvements not previously installed, as estimated by the Engineer representing the Town of Dutch John. The bond shall guarantee that all improvements required by this ordinance shall be installed as required herein and that the improvements shall be maintained in a state of good repair free from material or workmanship defects for a period of 24 months from the date of completion. The bond shall be irrevocable and shall provide for the payment of the funds therein to the Town in the event of default or any failure by the Applicant to install the improvements as required herein and in the development agreement.

ii Trust Account

Applicant may deposit in a trust account payable to and controlled by the Town with a bank, credit union or savings and loan institution doing business in Utah and licensed and in good standing with the Utah Department of Financial Institutions and insured by the applicable federal agency (FDIC, FSLIC etc.) an amount of money equal to at least 120% of the cost of the improvements. The costs of the improvements shall be determined by the Engineer representing Town of Dutch John. The trust account agreement shall be approved by the Town attorney and shall be signed by the Applicant, the Town and the bank and shall provide for the payment of the funds therein to the Town in the event of default or any failure by the Applicant to install the improvements as required herein and in the development agreement. The agreement shall also guarantee that all improvements required by this ordinance shall be installed as required herein and that the improvements shall be maintained in a state of good repair free from material or workmanship defects for a period of 24 months from the date of completion.

iii Irrevocable letter of credit.

Applicant may deliver to the Town of Dutch John an irrevocable dedicated letter of credit payable to the Town from a bank, credit union or savings and loan institution doing business in Utah and licensed and in good standing with the Utah Department of Financial Institutions and insured by the

applicable federal agency (FDIC, FSLIC etc.) which letter shall in an amount of money equal to at least 120% of the cost of the improvements. The costs of the improvements shall be determined by the Engineer representing Town of Dutch John. The letter of credit shall be approved by the Town attorney and shall provide for the payment of the funds therein to the Town in the event of default or any failure by the Applicant to install the improvements as required herein and/or in the development agreement. The letter of credit shall also guarantee that all improvements required by this ordinance shall be installed as required herein and that the improvements shall be maintained in a state of good repair free from material or workmanship defects for a period of 24 months from the date of completion.

d. No Sales prior to Guarantees

No lot or portion of a subdivision may be approved, recorded, sold or conveyed until all required improvements have been completed or until Town has accepted and received financial guarantees to assure adequate performance and completion.

e. Applicant Responsible for Completion

The Applicant shall be and will remain responsible for completion of the required improvements and for the quality of the materials and workmanship. In no event shall the Town be responsible to pay any bills incurred by Applicant. Town shall have no responsibility to install improvements or expend any funds not paid for by the financial guarantees set forth herein.

(12) Recording of Notice

The Town may require the Applicant to record notice on the development that until all required improvements have been installed and approved and accepted by the Town, no building permit shall be issued for any structure in the development and no person shall be allowed to occupy any structure therein.

(13) Default: Criminal penalty

In the event the Applicant defaults in any performance required by this ordinance or the development agreement or the bond or trust account documents, the Town Council may declare the trust account or bond funds forfeited and the Town may install, or cause to be installed, the required improvements using the funds thus obtained. This shall not relieve the Applicant from liability for the performance of all obligations required by this ordinance. Failure by the Applicant to complete the improvements required herein within the time established by this ordinance shall be a class B misdemeanor as to each lot sold or conveyed to a third party.

(14) Partial Releases of Funds

Subject to the improvement assurance documents approved by the Town and Town Attorney, at such times as the Town inspects and approves the improvements installed by the Applicant and upon written approval from the Town, the obligation of the improvement assurance may be reduced in proportion to the costs of installation of the improvements that have been inspected and approved by the Town. In no case shall more be released from the improvement assurance for the completion of each item of work shown on the detailed breakdown of costs than is attributed to that item of work.

(15) Partial Release Payment Approval

Approval of partial payment from a trust account or reduction in other improvement assurance must be in writing and is conditioned upon the Town receiving, on a form approved by the Town, proof of completion of the work and, in the event of partial payments, a signed Utah Conditional Waiver and Release upon progress payment in the form approved by the Town Attorney.

(16) Final disposition and release

The Applicant shall remain responsible for the quality of all materials and workmanship. At the completion of the work, the Applicant shall submit a sworn declaration that all improvements have been completed and installed in accordance with the ordinance, plans, plat, development agreement, etc. Upon receipt of the declaration, the Engineer representing the Town of Dutch John and/or public works department, shall make a preliminary inspection, of the improvements, and shall submit a report to the Town Council, setting forth the conditions of such facilities. If all liens are paid, and other conditions thereof are found to be satisfactory, the Town Council shall release the remaining portion of the bond, trust account, or letter of credit or other assurance, except that an amount equal to ten percent (10%) of the cost of the improvements as installed shall be retained for two years as set forth herein as an improvement assurance guarantee to warranty the materials and workmanship. If the conditions of material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability; or if any outstanding liens are not paid, the Town Council may declare the Applicant in default.

(17) Warranty Period Maintenance

The Applicant shall, during the improvement assurance warranty period, maintain all of the improvements in the subdivision in good condition and free from defects in materials and workmanship. During the warranty period, the Town may provide routine maintenance of public improvements such as snow removal and cleaning, which has been dedicated to and accepted by the Town.

(18) Warranty of Improvements

a. The Applicant shall warrant and guarantee that the improvements provided hereunder, and every part thereof, will remain in good condition for a period of two years after the date of the construction completion inspection report by the Engineer and agrees to make all repairs to and maintain the improvements and every part thereof in good condition during that time with no cost to the municipality.

b. The Engineer shall determine when repairs or maintenance are required for improvements which have not been accepted by the municipality. Unless unreasonable, arbitrary or capricious, the Engineer's decision shall be binding on the Applicant. The improvements required hereby extend, but are not limited to, the street base, and all pipes, joints, valves, backfill and compaction as well as the working surface, curbs, gutters, sidewalks, and other accessories which are or may be affected by the construction operations. Whenever, in the judgment of the Engineer, the work needs repair, maintenance, or rebuilding, he shall cause a written notice to be served the Applicant and thereupon the Applicant shall undertake and complete such repairs, maintenance or building. If the Applicant fails to do so within ten days from the date of the service of such notice, the Engineer shall have such repairs made and the costs of such repairs shall be charged to the Applicant with an additional 25% of the cost of the repairs levied in addition thereto for stipulated damages resulting from such failure on the part of the Applicant to make the repairs.

c. The Applicant shall be responsible for all of the repairs of the improvements during the improvement assurance warranty period and shall promptly, at its own expense, make all necessary repairs and correct all discovered defects. If, at the end of the warranty period, the improvements comply with the requirements of this ordinance and applicable Town codes, the Town shall give its final written approval and acceptance of the improvements and shall fully release the improvement assurance warranty commitment. If at or prior to the end of the warranty period, the improvements fail to comply with this ordinance and the standards of construction of the Town, the Town shall notify the Applicant in writing of such defects. The Applicant shall have not more than sixty (60) days to correct the defects to the improvements. If the defects are not corrected to the satisfaction of Town of Dutch John within the sixty (60) day period, then the Town shall be entitled to disbursement of the retained warranty assurance funds.

(19) Warranty Assurance Duration

The Planning and Zoning Commission has determined that a period of less than two (2) years would be inadequate to protect the public health, safety and welfare of the community due to the potential unstable soil conditions in the subdivision or development area and due to the extreme fluctuations in climatic conditions that exist in Eastern Daggett County make it impracticable to discover sub-standard or defective performance within a one (l) year period. Therefore the warranty

assurance period shall be two (2) years from date of final completion and inspection by Town of Dutch John. Prior to final release, the Applicant must provide evidence of final payment on the Utah Labor and Release form from all contractors, subcontractors, and materialmen providing work on the development.

(20) Default on two year warranty

In the event the Applicant is in default, or fails or neglects to satisfactorily repair and maintain the required improvements during the two (2) years from the date of approval and acceptance of the improvements by the Town Council, or to pay all liens in connection therewith, the Town Council may declare the bond, or escrow or other assurance, forfeited, and the Town may repair or cause the required improvements to be repaired, using the proceeds from the collection of the bond, escrow or other assurance, to defray the expense.

(21) Release:

After a period of two (2) years from the completion and acceptance of all required improvements, the Town shall release, at the request of the Applicant, the remaining ten percent (10%) of the escrow, or other assurance, provided the required improvements do not show unusual depreciation and all improvements are installed as required and are operational and the Applicant and the development are in compliance with all requirements of the ordinance, development, plan, trust account agreement, etc.

Section 1004 - SINGLE LOT AND MINOR SUBDIVISIONS

Objectives:

The purpose of this section is to streamline the process of approval for single-lot and minor subdivision proposals for the subdivision of individual lots which already are served with Town services such as Paved Roads, Water and Sewer. Owners of property in any zone which already has town services and who make a proposal for a single-lot or minor subdivision shall make application through the Land Use Administrator's office, rather than through, the Planning and Zoning Commission process.

This subsection is not intended to allow the applicant to bypass any of the improvements/objectives/requirements of the Purposes stated in Section 1003(1) above.

Prior to subdivision or development of Land, the Applicant shall:

1) Concept Plan submittal

Submit an application with a Concept Plan to the Land Use Administrator's office. The Land Use Administrator shall review application and Concept Plan under plat

and shall advise the Applicant of possible problems with the proposed single-lot subdivision within 30 days after receiving the initial application documents. The approval of the Concept Plan shall not constitute approval of the Preliminary Plat or Final plat. If disapproved, the Land Use Administrator shall express the reasons in writing to the Applicant in a timely manner.

2) Submission of Preliminary Plat.

After approval of the Concept Plan, the Applicant shall submit five (5) copies of the proposed preliminary plat to the Land Use Administrator's office. The Land Use administrator shall circulate for comment and review copies of the proposed preliminary plat to all affected departments and divisions of the Town government and to any districts which provide services.

3) Land Use Administrator's Approval

i Conditions of approval.

The Land Use Administrator shall approve the Preliminary plat if it is found to be in accordance with the standards and criteria specified in this ordinance and all other ordinances of the Town including, but not limited to, the Land Use Ordinance, Master Street Plan, the General Plan, building codes and Master Park Plan.

ii Environmental Review Requirements

The Land Use Administrator shall determine from the review of the Concept Plan or the Preliminary Plat any possible need for environmental Impact analysis, which would take into account the soil, slope, soil erosion, sedimentation control, vegetation, waterways, drainage and other geological characteristics at the site. If the site requires substantial, clearing, grading earth moving to develop the site, the Administrator shall require the applicant to provide control plans and specifications prepared by a Utah Registered Civil Engineer.

iii Approval/Disapproval Timing

The Land Use Administrator shall within 30 days after the Preliminary Plat had been filed with the Land Use office either approve or disapprove the Preliminary Plat based on compliance with the municipal ordinances.

iv Authorization

Authorization to proceed with development and the Single-lot subdivision is permitted once one (l) copy of the approved final plat with the written conditions has been signed by the Land Use Administrator, Town Attorney, Dutch John Water & Sewer, a licensed Surveyor and Engineer representing

the Town of Dutch John if Engineering work is required, and has been recorded and is stamped with the date and file number at the County Recorder's office, and has been filed with the Daggett County Surveyor's office. A recorded copy must be filed with the Town of Dutch John Land Use Administration office. If the Final plat has not been recorded within a 12-month period, the Final plat must be submitted for approval to the Land Use Administrators office.

v Fees - See the Town of Dutch John - Planning and Zoning permit Fee Resolution.

The Applicant shall pay a nonrefundable plan check fee for each lot. The fee shall be paid on or before the date the Preliminary plat is submitted for Final approval.

vi Final Plat Form

The Final plat shall be prepared by a licensed surveyor hired by the Applicant. The form of the plat shall follow the Major Subdivision Plat provisions where applicable. See Standards for Final Plat. (Section 1003 (8) (I).)

vii All improvements necessary for the development of the subdivision lots shall be installed at the expense of the Applicant.

viii Notice to public not required unless determined to be necessary by the Land Use Administration Office.

ix Minor subdivisions are only permitted on existing roads which meet the standards for which the road is reasonably expected to be used. When the properties are subdivided, the portions of the properties that lie upon an existing public street shall not be required to be dedicated or deeded to the Town.

Section 1005 - ORDERLY DEVELOPMENT REQUIRED

An Applicant shall develop a subdivision/development in an orderly manner and in such a way that the required improvements will be continuous, and all of the improvements will be made available for the full, effective and practical use and enjoyment by the purchaser, grantee, assignee, transferor or lessee of any of the lands within the development.

Section 1006 - DESIGN STANDARDS, AREA AND ACCESS REQUIREMENTS

1) Minimum area of subdivision

There shall be no minimum area for a subdivision, except as required to meet the minimum lot size and zoning requirements, as provided in the Land Use ordinance for the area in which the subdivision is located.

2) Utilities

All improvements to utility systems that would naturally be extended in future to additional subdivisions will be sized appropriately to accommodate the best estimate of future needs. This is to ensure that pre-existing infrastructure need not be re-built each time additional demand is added. All utilities will be underground and within the road easements.

3) Access

It shall be the responsibility of the Applicant to provide the proper road access to the subdivision as required in this ordinance. The mere existence of a road or right-of-way to the proposed subdivision does not mean that adequate access exists. The Applicant shall follow the requirements of the International Fire Code — Appendix D: Fire Apparatus Access Roads.

4) Relations to adjoining street systems

Owners/Developers shall locate access streets within the subdivision so that the streets connect with existing public streets. Reasonable effort should be made to locate and design streets so that the adjoining land is not adversely impacted. Half streets on the boundary of a subdivision are prohibited.

5) Angle of minor streets:

Minor streets shall approach the major or collector streets at an angle between 80 and 100 degrees.

6) Streets to conform to Master Street Plan

Master and collector streets shall conform to the width designated on the master street plan wherever a subdivision is in an area for which a major street plan has been adopted. For territory where such street plan has not been completed at the time the subdivision preliminary plan is submitted to the Planning and Zoning Commission, major or collector streets shall be provided as required by the Planning Commission, with minimum easement widths of 80 feet for major streets and 66 feet for collector streets.

7) Minimum street width

Streets shall have a minimum width of 40 feet of asphalt. All streets and alleys must conform to the requirements detailed in the currently adopted edition of the International Fire Code, Appendix D Fire Apparatus Access Roads. A reduction in

the minimum width of asphalt of any street or portion thereof serving a residential property may be approved by the Land Use Administrator if the following apply and are addressed:

a. The reduction is justified by a special consideration such as topography;

b. The reduction has been specifically approved by the Fire Marshal;

c. The length of the street or portion thereof is less than 0.1 mile;

d. No parking is allowed on the reduced section and no parking signs shall be legally posted on the reduced section;

e. The asphalt width may not be reduced to less than 26 feet; and

f. The reduced roadway width shall not satisfy the required frontage for the lot.

8) Alleys

Alleys shall have a minimum width of 26 feet of asphalt and shall only be one direction. Alleys shall not be permitted in the following residential zones: R-l, R2, and R-3. The maximum length of an alley shall only be 700 feet. A snow removal easement shall be included in the design of the alley. There shall be no parking within an alley.

9) Cul-de-sacs

Maximum cul-de-sac (dead end street) length shall be no more than 500 feet. Dead ends over 150 feet in length must be terminated by a turnaround not less than 100 feet in diameter. See the International Fire Code, Appendix D Fire Apparatus Access Roads for examples of allowed turnarounds. If surface water drainage is into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary asphalted 110 foot diameter turning area shall be provided at the dead end thereof to remain and be available for public use so long as the dead end exists. A temporary cul-de-sac is only allowed for a period of 8 years.

10) Easements within Roadways

The Applicant shall set aside easements of at least 15 feet in width on each side of the road for utility access and maintenance to each lot.

11) Service roads

Service roads paralleling major streets shall be required unless the Planning Commission approves double frontage lots which may back onto major highways or collector streets as designated on the major street plan. Where lots back onto a major highway or collector street, a buffer planting strip of trees or shrubs shall be provided at a width of ten feet or wider, but in no case less than ten feet.

12) Protection strips prohibited

Protection strips are prohibited. Plats shall not be approved where a proposed subdivision/development plat or any proposed or actual street to the subdivision/development cuts off access to the proposed or actual street by adjacent property owners.

13) Blocks

a. Length and Walkways

Blocks shall not be longer than 1,300 feet. Dedicated walkways five feet wide may be required in the middle of blocks. Where a walkway is required, the Applicant shall surface the full width of the walkway with concrete or asphalt and install a chain link fence at least four feet high on each side, the full length of the walkway. The chain link fence shall be owned and maintained by the property owner on whose property the fence is located.

b. Width

Blocks shall be at least two building lots wide

14) Lots

All lots shown on the subdivision plan shall conform to the minimum requirements of the Land Use ordinance for the zone in which the subdivision is located, and to the minimum requirements of the Engineer representing Town of Dutch John and Ashley Valley Water and Sewer for sewage disposal. The minimum width for any residential building lot shall be as required by the Land Use ordinance.

a. All lots shall abut a dedicated street, a public street, or a street which has become public by right of use. Streets shall be at least 40 feet wide (asphalt). In the event a lot abuts a public right-of-way created by use, the owners/developers shall improve the right-of-way to the standards required by this ordinance.

b. Corner lots shall have extra width sufficient for maintenance of required building lines on both streets.

c. All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than allowed to remain lot remnants.

d. Where the land in a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the office of the county recorder.

15) Future Roads

Section lines and quarter section lines shall be reserved for public roads, unless designated differently on the master road plan, or unless such location is determined to be unnecessary for future road purposes by the Planning Commission. The minimum easement width of 66 feet total, and 33 feet on each side of section lines will be required. See Master Road Map for all road easements.

16) Street Grades

Minimum street grades of a .5 percent will be required, with the maximum grade being 7 percent for collector streets, and 10 percent for minor streets. Where the observance of this standard is unfeasible, the Planning and Zoning Commission shall have the power to grant an exception, when special pavement surfaces and adequate leveling areas are installed, or, in the opinion of the Planning and Zoning Commission, the best subdivision of the land is thereby secured.

17) Street curves

Where the street lines within a block deflect from each other at any one point more than ten (10) degrees, there should be a connecting curve. The radius of the curve for the inner line should not be less than three hundred fifty (350) feet for major streets, two hundred fifty (250) feet for an important neighborhood street, and one hundred fifty (150) feet for minor streets.

Section 1007 - SUBDIVISION IMPROVEMENTS

1) Time of construction

The improvements required by this ordinance shall be installed, approved and accepted prior to recording the final plat, except as provided in this ordinance. Improvements shall not be installed until the location and specifications are approved by the Engineer. All Utilities IE: Gas, Electric, Water and Sewer mains and laterals and fire hydrants shall be installed prior to the surfacing of streets and the installation of road base, curbs, gutters, and sidewalks.

2) Streets on property of other public agencies or utility companies

Where it is proposed that streets be constructed on property controlled by a public agency or utility company, approval for the location, improvement, and maintenance of such streets shall be obtained from the public agency or utility company.

3) Street improvements.

All streets shall be constructed by the Applicant in accordance with the standards, rules, and regulations of this ordinance.

4) Curbs, gutters, and sidewalks

Curbs, gutters, and sidewalks shall be installed on existing and proposed streets by the Applicant in all subdivisions except the rear of those lots which back on major streets and are not permitted access to such streets. After recommendation by the Planning and Zoning Commission, the Town Council may waive curb and gutter and sidewalk requirements on streets which exceed an average grade of ten percent between intersections, and may do so in subdivisions where the average lot width exceeds 200 feet at the front building setback line and/or the average lot area exceeds 50,000 square feet.

The design for curb and gutter in Residential subdivisions shall be either high back or modified high back according to UDOT standards. Curb and gutter design in commercial zones shall be high back. The design for curb and gutter in Industrial zones shall be either high back or modified high back.

5) Water supply

The Applicant shall install water mains and service lines or laterals from such mains to each lot within the subdivision prior to the installation of road base, surfacing, curbs and gutters, and sidewalks.

6) Fire hydrants

Fire hydrants shall be installed by the Applicant at locations determined by the Engineer representing Town of Dutch John and the Dutch John Fire Department.

7) Sewage disposal

The Applicant shall connect with the Dutch John sanitary sewer system and provide sewer mains and extend laterals from the main sewer line to each lot in the subdivision prior to the installation of the road base, surfacing, curbs, gutters and sidewalks, unless waived by the council.

8) Surface Water

The Applicant shall design, construct and install a storm water drainage system within the subdivision which shall be constructed of materials and according to the specifications of the master storm drain plan and according to generally accepted Engineering standards based on 125% of a 2 hour, 100 year storm. Each phase of a subdivision shall be connected during construction to a storm water retention system sufficient to retain storm water for that phase. The storm water retention system may consist of one or more storm water retention areas. Each phase of a subdivision must have its own storm water retention area, unless the storm water retention area of that phase is combined with the storm water retention area of another phase. If the storm water retention area is used for multiple phases, then the combined storm water retention area must be designed to retain storm water for all phases that use that storm water retention area. For residential subdivisions, the storm drainage system and area shall be provided by the owner/developer and maintained in one or more of the following ways:

a. Establish a homeowners association with the proper documents and funding mechanism, including the articles of incorporation and bylaws and CC&Rs, to own and maintain the storm water retention area and system for storm water runoff control purposes. This requirement for owning and maintaining the storm water retention area and system is only the minimum requirement and reason for the homeowners association to exist. The homeowners association may have additional rules, regulations, and purposes.

OR

b. If the storm water retention area and system is entirely on the surface and not underground, then the owner/developer shall, in lieu of an HOA, set aside an area approved by the Town Council within the Subdivision Engineered to retain the water as required by this ordinance, which may be privately owned. If not a common area, the retention pond/area shall be established by recorded easements and covenants and restrictions that run with the land and that require the owner of the land to maintain the area as designed and at its expense and to make any repairs or improvements as needed over the years to effectuate the purpose of the water retention facility. The owner shall be required to hold the Town harmless from any damage or expense related to repairs or maintenance or from damage caused by failure of the system, in perpetuity. The area shall also be identified on the plat and the recorded documents shall be approved by the Town Attorney as to form and effect. The following requirements must also be met for this option to be used:

i A solid, free-standing, permanent sign must be located on the property within 10 feet of the storm water retention area. The sign must be visible when viewed from the storm water retention area. The bottom of the sign must be between 3 feet from the ground level

at the base of the sign. The sign must be 2 feet wide and I foot tall. The cap height, measured as the distance from the imaginary line upon which the letters in a font appear to rest to the top of the uppercase letters, must be at least I inch for all words on the sign. The sign must have the following language permanently written on it: "The storm water retention area located on this property shall be maintained by the owner(s) of the same property. For more information, see book __page of the Daggett County Records. This sign may not be removed or altered under penalty of law."

ii The following language must be written on the recorded subdivision plat with a reference in the legend indicating the private property containing the storm water retention area: "The storm water retention area located on this property shall be maintained by the owner(s) of the same property."

18) Fences

Fences installed along the perimeter of a subdivision/development when the Planning and Zoning Commission determines such fence is necessary to protect adjacent lands or the residents of the subdivision/development.

19) Landscaping

The Planning and Zoning Commission and/or Town Council may require an Applicant to provide ground cover where it determines that soil erosion may be a problem or that surface water may flood portions of the Town or damage Town property, or to prevent the growth of noxious weeds which may become a nuisance or fire hazard or endanger public health. It may specify the types of ground cover.

20) Monuments

Permanent monuments shall be accurately set and established at such points as are necessary to definitely establish all lines of the plat except those outlining individual lots. Monuments shall be of a type approved by the Engineer. All subdivision plats shall be tied to a corner or monument of record or established land office survey corner.

21) Street signs

The Applicant shall furnish and install all necessary street signs in accordance with Town specifications and UDOT standards. (See 02-16 Sign Regulations)

22) Street names

New street names should not duplicate those already existing. Before the street is named, the proposed name must be submitted to and approved by the Planning

Commission.

23) Private lanes, driveways, and access

All private lanes, driveways, accesses, etc. that connect to a public street shall be paved starting from the public street to a line not less than 25 feet away from the public street. The entire width of the private lane, driveway, access, etc. must be paved. Design and construction of private lanes, driveways and accesses will be reviewed by the fire marshal and be approved prior to construction.

24) Street Lighting

The Town of Dutch John is attempting at every opportunity to work within the guidelines of the "International Dark Sky Communities". There may occur instances where public safety demands a Street Light and these instances will be dealt with on a case by case basis.

Section 1008 - INSPECTION

All construction work involving the installation of improvements in subdivisions and developments shall be subject to inspection by the Town of Dutch John. Certain types of construction shall have continuous inspection while others may have only periodic inspections.

1) Continuous inspection is required on the following types of work:

a. Laying of street surfacing.

b. Pouring of concrete for curb and gutter, sidewalks and other structures.

c. Laying of sewer pipe, drainage pipe, water pipe, valves, hydrants and testing.

2) Periodic inspections shall be required on the following:

a. Street grading and gravel base

b. Excavations for curb and gutter and sidewalks

c. Excavations for structures

d. Trenches for laying pipe

e. Forms for curb and gutter, sidewalks and structures

3) No Work Performed without Inspector

On construction requiring continuous inspection, no work shall be done except in the presence of the inspector.

4) Requests for inspection

Requests for inspections shall be made to the municipality by the person responsible for the construction. Requests for inspection on work requiring continuous inspection shall be made three days prior to the commencing of the work. Notice shall also be given seven days in advance of the starting of work requiring periodic inspection – or by appointment.

5) Construction completion inspection

An inspection shall be made by the Engineer representing Town of Dutch John after all construction work is completed. Any faulty or defective work shall be corrected by the persons responsible for the work within a period of 30 days of the date of the inspection report of the Engineer representing Town of Dutch John defining the faulty or defective work.

6) Inspection of Water and Sewer Improvements

The Applicant shall arrange for the inspection of water and sewer improvements through the Dutch John Designated Engineer.

Section 1009 - DEVELOPMENT COSTS

The cost of all improvements, which are required under the provisions of this ordinance, as well as the cost of improvements to existing Town infrastructure necessitated by the development, shall be paid by the Applicant.

Section 1010 - SIGNATURE BLOCKS

The following are the officially recognized signature blocks required on each plat (where applicable):

(1) Owner's Dedication:

"The undersigned do hereby certify that they are all of the owners (or have legal authority, which is attached, to execute this instrument on behalf of the owners) of the foregoing described tracts of land, and do hereby set apart and subdivide the same into lots, blocks, and utility easements as shown on this plat, which is hereby made a part hereof, and assign to the lands included in said plat the name of subdivision.

The undersigned owner(s) further hereby dedicate, grant and convey to Dutch John Town all those parts or portions of said tracts of land designated on this plat as right-of-ways and/or streets, the same to be used as public thoroughfares, forever and grant and dedicate a perpetual right and easement over and under the land designated on the plat as public utility easements, the same to be used for the installation, maintenance and operation of public utility service lines as may be authorized by Town of Dutch John.

DATED this day of , 20

Signature: _____

Property Owner(s)

(2) Type of Ownership

All owners of interests in the land must sign and the signatures must be acknowledged. Use one of the following signature blocks for the Notary Public, based on the type of owner: **a**=Property Owner(s) **b**=Corporation **c**=Partnership **d**=LLC **e**=Family Trust

Notary Public's "Acknowledgment" (This should immediately follow the "Owner's Dedication")

a. (Complete only if APPLICANT is the Property Owner):

"State of _____

County of _____, ss:

On this _____ day of _____, 20, personally appeared before me and

_____ and _____,

Signer(s) of the above instrument, who duly acknowledged to me that they executed the same.

_____

Notary Public

My Commission expires: Residing at:

_____

b. (Complete only if APPLICANT is a Corporation):

"State of_____

County of_____, ss:

Dutch John Planning and Zoning Document
General Text
Draft Copy

On this_____day of_____, 20 , personally appeared before me,_____, who being by me duly sworn did say that he/she is the _____of_____Corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of its board of Directors/Bylaws, and he/she acknowledged to me that said corporation executed the same.

_____

Notary Public

My Commission expires: Residing at:

_____

c. (Complete only if APPLICANT is a Partnership):

"State of_____

County of_____, ss:

On this_____day of_____, 20 , personally appeared before me, _____, the signer(s) of the foregoing instrument, on behalf of _____ partnership, and declared that the foregoing instrument was duly authorized by the partnership at a lawful meeting held or by authority of its partnership agreement and signed in behalf of said partnership.

_____

Notary Public

My Commission expires: Residing at:

_____

d. (Complete only if APPLICANT is a LLC):

"State of_____

County of_____, ss:

On this_____day of_____, 20 , personally appeared before me,_____, who being by me duly sworn did say that he/she is/are the managing member of_____ LLC and that the foregoing instrument was duly authorized by the LLC at a lawful meeting held or by authority of its operating agreement and signed in behalf of said LLC.

_____

Notary Public

My Commission expires: Residing at:

_____

e. (Complete only if APPLICANT is a Family Trust):

"State of_____
County of_____, ss:

on this_____day of_____, 20 , personally appeared before me,_____, who being by me duly sworn did say that he/she is the Trustee of_____Trust, dated and that the foregoing instrument was signed in behalf of said Trust by authority of its Trust Agreement.

_____
Notary Public
My Commission expires: Residing at:
_____

(3) Certificate of Survey:

"Certificate of Survey" of the Registered Professional Land Surveyor that creates the final plat as follows:

"I,_____, a registered professional land surveyor in the State of Utah, do hereby certify that the above described plat has been correctly drawn to the designated scale and is a true and correct representation of the foregoing description of lands included in said subdivision, based on data compiled from the records of the Daggett County Recorder's Office and of a survey made on the ground. I have read the current zone requirements. In my professional opinion the lots described hereon comply with the current zone, and all information required by ordinance or State law to be included on the plat is duly and accurately shown thereon and that all measurements have been verified and monuments placed as shown thereon.

DATED this_____day of_____, 20___.

_____
Surveyor
State License Number: _____"

(4) Lien Holder Dedication:

In case a Lien Holders Dedication pertains to the plat, the following shall be added (if applicable):

"The undersigned holders of a lien, easement or other non-possessory interest in the above and foregoing described tracts of land, hereby consent to and join in the foregoing plat and dedication thereof by the legal owners thereof and hereby release and quit claim to Town of Dutch John all of the right, title and interest of the under signed in the rights in said lands dedicated, granted and conveyed to said Town by the owner's dedication aforesaid.

DATED the day of , 20 ___.Signature:

_____

(5) Mayor's Certificate of Approval:

Town of Dutch John Mayor's "Certificate of Approval" as follows:

"This is to certify that this plan and dedication of the_____ Subdivision in Town of Dutch John were duly approved and accepted by the Mayor and Town Council of Town of Dutch John on this_____day of _____, 20."

_____ Attest:_____

Mayor Town Recorder"

(6) Town Attorney Certificate of Approval:

Town of Dutch John Attorney's "Certificate of Approval" as follows:

"I have examined the proposed plat and in my opinion it conforms with the Town of Dutch John Ordinances applicable thereto and now in force and effect.

DATED this_____day of_____, 20___.

_____

Town Attorney"

(7) Dutch John Water & Sewer Certificate of Approval:

Dutch John Water & Sewer "Certificate of Approval" as follows:

"I have examined the proposed plat and in my opinion they conform with Dutch John Water & Sewer standards applicable thereto and now in force and effect. Sewer & Water will be made available once conditions are met.

DATED this_____day of_____, 20___.

Dutch John Water & Sewer:

_____

(8) Land Use Administrator's Certificate of Approval:

Town of Dutch John Land Use Administrator's "Certificate of Approval" as follows:

"I have examined the proposed plat and in my opinion it conforms with the Town of Dutch John Ordinances applicable thereto and now in force and effect.
DATED this_____day of_____, 20___.

_____

Section 1010 - Creation of Non-conforming Lots Prohibited:

No parcel or lot which does not conform to the zoning district requirements in which it is located may be created for the purpose, whether immediate or future, of any building, use or development allowed by this Ordinance.

Section 1011 - Residential Mobile Homes Required to be in Mobile Home Park:

(1) Except as provided in this Ordinance, no person shall park or locate any mobile home or use a mobile home as a dwelling permanently, temporarily, or for indefinite periods of time, unless the mobile home is located in a mobile home park, meets ANSI A225.1 Standards with a certificate of certification and obtaining a Town of Dutch John building permit. Both the ANSI A225.1 certification and the Town of Dutch John building permit shall be obtained prior to bringing a mobile home into Dutch John.

(2) Any mobile home or mobile home park in existence within a zoning district as described by this Ordinance on the date of this Ordinance being enacted is deemed to be legally non-conforming and is not subject to the provisions of this Ordinance, except those concerning blocking, anchorage and tie-down, which shall provide for vertical loads, uplift, and lateral forces and frost protection in compliance with ANSI Standards. But any person who alters or extends such a legally non-conforming mobile home or mobile home park shall conform to all applicable provisions of this Ordinance and ANSI A225.1 Standards for such alterations and extensions.

(3) If the use of such a legally non-conforming mobile home is discontinued for a period of twelve consecutive months or more or is moved from the lot it is on, no person shall occupy the mobile home until it conforms to all requirements of this Ordinance.

Section 1012 - Sale or Lease of Required Space Prohibited:

No area needed to meet the lot width, yard area, setback, coverage, parking or other requirements of this Ordinance for a lot or building may be sold or leased separate from such lot or building.

Section 1013 - Buildings on a Lot:

Every dwelling or building shall be on a “lot" as defined in this Ordinance. A building may not be built such that it is situated across the lot lines of two or more adjoining lots.

Section 1014 - Frontage Required:

Every lot shall have frontage upon a dedicated or publicly approved road or street, or right-of-way providing access to a dedicated or publicly approved road or street, or to a Town approved private right-of-way.

Section 1015 - Fences, Walls and Hedges:

Fences, walls and hedges shall not exceed six (6) feet in height. Front yard fences are not allowed excepting a side yard fence may extend to the front lot line, however, the height of the side yard fence must be reduced to four (4) feet from the point perpendicular from the lot line to the adjacent front corner of the primary structure to the front lot line. Fencing shall comply with clear-vision requirements at all intersections and access locations onto public roads.

Section 1016 - Front Yards:

The front yard shall be measured from the property line to the nearest front face of the building, covered porch/deck, covered terrace, or uncovered deck or porch greater than 8 feet in width, or attached accessory building.

Section 1017 - Side and Rear Yards:

(1) Every part of the required side or rear yard shall be open and unobstructed except for accessory buildings as permitted by this Ordinance and the ordinary projection of window sills, cornices and other ornamental features projecting not more than twelve (12) inches.

(2) Open or lattice-enclosed fire escapes, fireproof outside stairways, balconies opening upon fire towers and ordinary projections of chimneys and flues may be allowed by the Building Official to project into a required yard area up to a maximum distance of three (3) feet.

Section 1018 - Exceptions to Height Limitations:

(1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, water tanks, wireless or television masts, or similar structures may be erected above the height limits prescribed if screened from view from the ground level, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

(2) Public buildings may exceed the maximum height allowed in the zoning districts in which they are located provided approval is granted following the Conditional Use permit procedures contained in this Ordinance.

Section 1019 - Maximum Height of Accessory Buildings:

No building which is accessory to a residential structure shall be erected to a height greater than thirty five (35) feet or the height of the adjacent home if it is less.

Section 1020 - Clear View of Intersecting Streets:

In all zoning districts, no obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street lines except a reasonable number of trees pruned to permit unobstructed vision to automobile drivers and pumps at gasoline service stations.

Section 1021 – Surveyed Property Corners/Points Required:

For determination of front, back and side yard setbacks and location of a proposed building on a lot it will be required that the actual surveyed property corners are located prior to commencing construction.

Section 1022 - Storage of Commercial Vehicles in Residential Districts Prohibited:

The storage of commercial vehicles and the storage of construction equipment shall not be permitted on any lot in a residential district, provided that construction equipment may be stored on a lot during construction of a building thereon, but shall not exceed one (1) year.

Section 1023 - Fences Required Around all Swimming Pools and Pool Areas:

All swimming pools and pools areas shall be completely surrounded by a fence or wall having a height of at least six (6) feet. No openings larger than thirty-six (36) square inches, except for gates which shall be equipped with self- closing and self- latching devices, shall be provided.

Section 1025 - Concessions in Public Parks and Playgrounds:

Concessions, including but not limited to amusement devices, recreational buildings, care takers' dwellings and refreshment stands shall be permitted to be temporarily situated on a public park or playground when approved by the Town of Dutch John Council, provided it can be shown that the concession is in the interest of the public and is in harmony with the objectives and purposes of this Ordinance and the characteristics of the zone district in which it is located.

All concessions providing the sale or serving of food and beverage shall comply with the Department of Health Food Service Rules and shall receive a food service permit from the Tri-County Health Department.

Section 1026 - Setbacks from State and Federal Highways:

Notwithstanding any other provision of this Ordinance, all buildings abutting a highway having a state or federal designation (except non-access highways), shall be set back at least seventy five (75) feet from the near edge of the highway right-of-way.

Section 1027 - Landfills and Transfer Stations:

All Landfills and Transfer Stations shall be maintained in accordance with the standards of the State Department of Environmental Quality. Transfer Stations shall be in compliance with Utah Administrative Code R315-313-2. Landfills shall be in compliance with Utah Administrative Code R315-302-1.

Section 1028 - Uses Which Create a Nuisance Prohibited:

Any use which creates an unsightly view, emits or is likely to, emit noise, smoke, dust, odor or vibration in amounts sufficient to substantially depreciate values of surrounding buildings or lands or which substantially deprives the owners of adjoining property of the use or enjoyment of their lands shall be prohibited.

Section 1029 - Noxious Weeds:

All property owners shall comply with the requirements of the "Utah Noxious Weeds Act," Title 4, Chapter 17, Utah Code Annotated, 1953, as amended. Should the terms of said section be repealed, amended or modified, property owners shall comply with any successive State regulation dealing with noxious weeds.

Section 1030 - Storage Location of Travel Trailers, Recreational Vehicles, Boats, Camping Trailers, Truck Campers and Motor Homes:

Unless permitted as a use allowed by the zoning district as identified in the Table of Uses, the location or storage of travel trailers and mobile homes outside of mobile home parks, travel trailer parks and campgrounds, and the location or storage of recreational vehicles, boats, camping trailers and truck campers shall be subject to the following:

(1) If a building permit has been obtained pursuant to the terms and conditions of this Ordinance for construction of a single family residence in a properly zoned district the owner of the property on which the construction is to be done may park a travel trailer for temporary use while construction is underway so long as the construction is actively being pursued and for no more than twelve (12) months cumulative time.

(2) At no other time shall the mobile home, travel trailer, recreational vehicle, boat, camping trailer, truck camper or motor home be continuously occupied or used for living or sleeping purposes.

(3) If a travel trailer, recreational vehicle, boat, camping trailer, truck camper or motor home is located or stored outside of a garage or carport, it shall be placed in the rear or side yard of the lot, except that placement in other than the rear or side yards for loading and unloading purposes may be permitted for a period of time not to exceed twenty four (24) hours.

Section 1031 - Household Pets:

Household pets are allowed.

Section 1032 - Wildland/Urban Interface:

To help mitigate wildland/urban interface fire problems the following safety measures will be required:

(1) All brush and trees shall be kept clear for at least ten (10) feet from the home.

(A) Limbing up of deciduous trees need only be done to the extent that the ground fuels (leaf layer, stems) are clearly separated from the aerial canopy.

(B) Most coniferous and broadleaf trees have the sclerophyll coating on the leaves or needles and have a high sap content. These factors make it critical they be limbed at a minimum of six (6) feet from the ground.

(2) All cured dry grass shall be kept mowed below six (6) inches in height.

Section 1033 - Abandoned, Wrecked, or Junked Vehicles:

It shall be unlawful to park, store or leave or permit the parking, storing, or leaving of any licensed or unlicensed motor vehicle of any kind or part(s) thereof which is in a wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the Town of Dutch John Boundary for a period of time in excess of seventy-two (72) hours, except that two (2) or fewer such vehicles or parts thereof may be stored if within a building, or placed behind an opaque screening fence; and except that said vehicles and parts may be within a junk yard or automobile wrecking yard lawfully established pursuant to the provisions of this Ordinance. For the purposes of this Ordinance, any vehicle that is not currently licensed and insured to the minimum levels established by state law shall be considered inoperable.

The accumulation and storage of more than two (2) such vehicles or part(s) thereof, as defined above, on private property except as set forth above shall constitute a nuisance, detrimental to the health, safety, and welfare of the inhabitants of Dutch John. It shall be the duty of the owner of such vehicle or part(s) thereof or lessee or other person in possession of private property upon

which such vehicle or part(s) thereof is located, to remove the same from such property or take other remedial action as directed by the Town Council.

Section 1034 - Landscaping:

Front yard and side yard landscaping for any lot with a dwelling or business must be completed within 12 months of the issuance of the occupancy permit. Rear yard landscaping must be completed within 24 months following the issuance of the occupancy permit.

Landscaping may be required for privacy, visual screening, sound deadening, and appearance enhancement for the purpose of insuring compatibility of the proposed uses with that of existing and anticipated future uses in the vicinity. Undeveloped and/or unused portions of properties shall either be landscaped, or have other means of weed and erosion control established.

Planting shall comply with clear-vision requirements at all intersections and access locations onto public roads.

Chapter 11

PLANNED UNIT DEVELOPMENT (PUD)

SECTION - 1101 GENERAL

(1) Approval.

***P**lanned **U**nit **D**evelopments* (PUDs) shall be allowed by planning commission approval in any zoning district. Such planned unit development permit shall not be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the *density* and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements of a subdivision ordinance, except as modifications thereof are specifically authorized in the approval of the application for the planned unit development.

(2) Intent.

These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying Town and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

Planned unit development (PUD) regulations provide an opportunity for innovative and creative development, while assuring that the development will complement existing neighborhood character. These regulations allow flexibility beyond that allowed by other zoning districts, if the proposed development is well designed and can be successfully integrated into the neighborhood. Planned developments provide flexibility in the application of the zoning code as it pertains to dimensional requirements, density and land uses without the use of the variance procedure of the code. Planned developments are also intended to encourage the efficient use of land and resources, to promote

efficiency in public and utility services, and to encourage innovation in the planning and building of all types of development.

SECTION - 1102 CONDITIONS

(1) Area.

PUD's shall not have an area less than that approved by the planning commission as adequate for the proposed development.

(2) Uses.

A ***PUD*** that will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered to be a permitted use in a ***PUD***, which allows residential uses and shall be governed by *density*, design and other requirements of the ***PUD*** permit.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

(3) Ownership.

The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property. A title search of ownership performed by a local title company of professional competence to perform such search shall be undertaken and the results of said title search submitted with the application for the final ***PUD*** plat.

(4) Design Criteria.

In return for greater flexibility in site requirements, ***PUDs*** shall deliver exceptional quality community designs that:

1. Preserve critical environmental resources,

2. Provide high quality community amenities,

3. Incorporate creative design in the layout of buildings and circulation, and

4. Provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

Design criteria shall be used as the principle tool in evaluating the merits of a proposed ***PUD***. The planning commission shall use the following criteria, in addition to any other applicable sections or chapters of this title, to hold ***PUDs*** to higher architectural standards

than standard residential developments. The burden shall be on the applicant to demonstrate that the proposed development plans comply with each of the following criteria:

1. Conformance to the general plan and overlay zones. The proposed development plan shall conform to applicable elements of the Town's Master plan, any applicable overlay zones, specific area master plans and Town goals and policies.

2. Compatibility with surrounding development. Proposed uses, activities, overall ***PUD*** layout and design as well as densities shall have a compatible, efficient and functional interrelationship with surrounding uses and activities, and shall not adversely affect the sustainability of the surrounding area.

3. Environmental design. Site plan, building design and open space provisions shall be designed to produce a development that is responsive and sensitive to natural features and the aesthetic quality of the community. Site planning and design shall minimize any required cut or fill to afford maximum protection of natural landforms and features. Natural features and/or geologic hazards that may affect the property on which the ***PUD*** is proposed shall be identified and mitigation measures established. Building design shall maximize preservation of vegetation and landforms, enhance drainage and minimize soil erosion. Developments must consider, where appropriate, designs for foot traffic and pedestrian movement in and among ***PUDs*** through sidewalks, trails, foot bridges and hiking paths.

4. Architectural standards. An architectural design plan that ensures architectural consistency in the proposed development, architectural character and preservation or improvement of the visual character of the Town shall be provided and, upon approval, shall form part of the plan. Architectural character is based upon the suitability of a building for its purposes, the appropriate use of materials and upon principles of harmony and proportion of the building with other proposed buildings and surrounding land uses. Buildings or other improvements shall be compatible with the orientation, directional emphasis, shape, volume, massing, proportion, rhythm, scale and materials of the contextual setting and streetscape of the site.

5. Architectural elements, designs, concepts, building styles and materials shall be subject to review by the Planning Commission to ensure consistency with the purposes and provisions of the ***PUD*** ordinance, overlay zones, specific area master plans and the general plan.

a) Arrangement.

Where feasible, the least height and *density* of buildings and uses shall be arranged around the boundaries of the development.

b) Specific regulations.

Lot area, width, yard, height, *density* and coverage regulations shall be determined by approval of the site development plan as derived by site visitation and the fit and form of the plan.

(5) Open spaces.

Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

a) Dedication of the land as a public park or parkway system; or

b) Creating a permanent, open space *easement* on and over the said private open spaces to guarantee that the open space remain perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the legislative body.

(6) Landscaping.

Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the planning commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall be submitted to the planning commission with the application. A general pedestrian movement plan as well as internal driveways and fire protection access plans.

(7) General Drainage/Grading plan.

Construction in Critical Areas is prohibited.

No building or structure (except for a required public utility and necessary roads) shall be constructed on areas determined to be critical areas as identified, including;

(D) Areas of steep slope of 30% grade or greater, and

(E) Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers, and

(F) Pre-existing drainage system(s) (natural or manmade) unless an approved plan for continuation of such drainage has been designed by a professional Engineer. Said plan for continuation of the drainage system to be as follows:

The Engineering standard for flood water drainage systems is to accommodate a minimum of 125% of the volume of a two hour duration – one hundred year magnitude - storm flow, which volume is to be determined by a hydrologist licensed

by the State of Utah, and drainage system is to be designed by a Civil Engineer licensed by the State of Utah.

(8) Signs.

The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application. Signage and area lighting shall adhere to the other requirements of this Ordinance.

(9) Desirability.

The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general well-being of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the planned unit development.

SECTION - 1103 PLANNING COMMISSION DETERMINATION

In carrying out the intent of this section, the planning commission shall consider the following principles:

(1) It is the intent of this section that site and building plans for a ***PUD*** shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.

(2) It is not the intent of this section that control of the design of a ***PUD*** by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this section.

(3) The planning commission shall be authorized to approve or disapprove an application for a ***PUD***.

In an approval, the commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a ***PUD*** by the planning commission shall be permitted to be appealed to the Town Council of the jurisdiction.

SECTION – 1104 REQUIRED CONTRIBUTIONS

General.

The legislative body, as part of the approval of a ***PUD***, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

(1) Dedication of land for public park purposes.

(2) Dedication of Public Utility easements to provide for continuity of public utility services to surrounding areas.

(3) Dedication of land for public school purposes.

(4) Dedication of land for public road right-of-way purposes.

(5) Construction of, or addition to, roads serving the proposed project where such construction or addition is reasonably related to the traffic to be generated.

(6) Construction of utilities to be dedicated to the Public Use as seen fit.

(7) Installation of required traffic safety devices.

(8) Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

SECTION - 1105 PLANNING COMMISSION ACTION

(1) Approval.

The planning commission shall have the authority to require that the following conditions for a ***PUD*** (among others it deems appropriate) be met by the applicant:

a) That the proponents intend to start construction within 1 year of either the approval of the project or of any necessary zoning district change, and intend to complete said construction, or approved stages thereof, within 4 years from the date construction begins.

b) That the development is planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses. Written proof of such may be required.

c) That the applicant is current on all local taxes and utilities as well as being in good standing on all debt secured by the property for which an application is being made.

(2) Limitations on application.

a) Upon approval of a ***PUD***, construction shall proceed only in accordance with the plans and specifications approved by the planning commission and in compliance with any conditions attached by the jurisdiction as to its approval.

b) Amendment to approved plans and specifications for a ***PUD*** shall be obtained only by following the procedures here outlined for first approval.

c) The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.

Section 1106 - *PUD* review procedures.

1) Applications for permitting a ***PUD*** and approval of a site plan in a ***PUD*** shall follow these steps:

a) Concept plan review

b) Preliminary development plan review (***PDP***)

c) Final development plan (***FDP***) review.

2) Optional submission of final development plan (***FDP***). In cases of single-stage ***PUDs***, or where the applicant wishes to begin the first stage of a multiple-stage ***PUD*** immediately, the applicant may at his option submit an application for the ***FDP*** review simultaneously with the concept plan review. In such case, the applicant shall comply with all provisions of this chapter applicable to submission of the Sec. The Planning Commission and City Council shall consider such applications simultaneously and shall grant or deny the FDP in accordance with the provisions of Section 1109.

Section 1107 - Concept plan review.

1) **Purpose:** The purpose of the ***PUD*** Concept Plan is to afford the applicant an opportunity to have the general feasibility of a ***PUD*** proposal informally reviewed by the City without incurring substantial expense.

2) **Required information.** A ***PUD*** concept proposal statement shall provide the following information, a completed application form and the required review fee:

a) Name and address of person(s) requesting establishment of the ***PUD*** district;

b) A drawing that identifies the location and boundaries of the proposed ***PUD*** district;

c) A preliminary site plan with a written narrative and financial/funding summary; the narrative shall describe how the ***PUD*** advances the objectives of the Dutch John Master Plan and why the ***PUD*** serves better than the regulations of the guiding district to meet those objectives;

d) Anticipated timing for each stage of development; and

e) Any additional information as required by the Director to determine the ***PUD's*** conformance to the Comprehensive Plan and any applicable redevelopment plans.

3) Response to the ***PUD*** concept proposal statement. Within 20 days of receiving a completed ***PUD*** concept plan application, the Director shall produce a written response to the application that may include comments and/or recommendations. A ***PUD*** application may proceed only after a response has been submitted to the applicant. Acceptance of, or response to, the ***PUD*** concept plan by the Director shall not constitute- or require, approval of the ***PUD*** rezoning or site plan. Review by the Planning Commission or City Council of a Concept Plan is not mandatory but may be conducted at the request of the applicant or the recommendation of the Director.

Section – 1108 Preliminary development plan review.

(1) All ***PUD*** preliminary development plans shall be reviewed under the zoning amendment process as set forth in Chapter 4 of this Code.

(2) In addition to the information required in Chapter 4 of this Code, the following information is required:

a) If land encompassed within a proposed ***PUD*** is to be platted, re-platted or subdivided, all material for review under Chapter 10 of the Town Code is also required. Subdivision review under Chapter 10 shall be carried out simultaneously with the review of a ***PUD***.

b) Proposed declarations of covenants, conditions and restrictions, articles of owners, associations and all other such documents as the Town may deem necessary in such form and containing such provisions as will ensure:

i. That adequate property control is provided to protect the individual owner's rights and property values; and

ii. To ensure continuing compliance with the ***PUD***, as approved.

c) The Town shall require that declarations of covenants, conditions and restrictions, or other documents provide that in the event any association or corporation fails to maintain properties in accordance with the applicable ordinances and regulations of the Town or fails to pay taxes or assessments on properties as they become due, and in the event the Town incurs any expenses in enforcing its ordinances or rules and regulations, which expenses are not immediately reimbursed by the association or corporation, the Town shall have the right to assess each property its pro rata share of such expenses. The assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.

d) **Finding for Approval.** The findings necessary for approval of a ***PUD*** application shall be as follows:

i. The proposed development conforms with the goals and objectives of the Town's Master Plan and any applicable redevelopment plans;

ii. The proposed development is designed in such a manner as to form a desirable and unified environment within its own boundaries;

iii. The development is in substantial conformance with the purpose and intent of the guiding district, and departures from the guiding district regulations are justified by the design of the development;

iv. The development will not create an excessive burden on parks, schools, streets or other public facilities and utilities that serve or are proposed to serve the development;

v. The development will not have undue adverse impacts on neighboring properties; and

vi. The terms and conditions proposed to maintain the integrity of the plan are sufficient to protect the public interest.

e) **Limitation on preliminary development plan approval.** The Town Council's approval of a ***PUD*** preliminary development plan shall expire unless:

i. Construction has commenced or an application for final plat has been filed within one year of the date the Town Council approves the ***PUD*** preliminary development plan, or

ii. Construction has commenced or an application for final plat has been filed within two (2) years of the date that the Town Council approves the corresponding final plat for the first stage or the entire boundary of the *PUD* preliminary development plan, or

iii. The applicant files a written request for an extension with the Planning Commission at least 14 days prior to expiration of Council approval. Upon receipt of said request the following process shall be carried out:

a. The Planning Commission shall place the applicant's request on the agenda of a regularly scheduled Council meeting to be held within 30 days of the filing of the extension request;

b. The Council at its discretion may grant the extension for not more than one (1) year if such extension is demonstrated to be necessary. One (1) such extension may be made.

f) **Site improvements.** A grading permit may be issued at any time following the Town Council's approval of the ***PUD*** Development Plan.

Section 1109 - Final development plan and conditional use permit.

(1) **Submittal of final development plan.** Upon approval of the ***PUD*** application and rezoning, but prior to issuance of building permits, the applicant shall submit a final development plan together with an application for a conditional use permit for the development shown in the final development plan. This plan must be consistent with the approved ***PUD*** application. Final development plans and conditional use permits shall be processed according to the procedures established in Chapter 10 Section 1003 (8).

(2) **Submittal requirements.** Application for final development plan and conditional use permit approval shall consist of the following:

a) If required, a final plat of the land to be developed;

b) All materials required under Section 1003 (8) in "final" form;

c) Additional information as required by the Director or Council.

(3) **Legal instruments.** As part of the final development plan and conditional use permit, the applicant shall submit "final" declarations or covenants, conditions and restrictions, articles of owners, associations and all other such documents as the City may deem necessary pursuant to Section 1003 (8) of this Code.

(4) **Building Permits.** Upon approval by the Planning Commission, the building permit application, along with the appropriate information required for building permits shall be submitted to the Building Official who shall process the building permit in conformance with the Building Code.

(5) Security deposit. Security deposits shall be provided in accordance with Chapter 10 section (10) (C) of this Code.

Section 1110 - Amendments to an approved *PUD* final development plan.

(1) Amendments to an approved ***PUD*** Development Plan shall be administered as follows:

(2) **Minor Amendments**. Minor amendments to a ***PUD*** final development plan are:

a) Size increases to signage approved as part of the ***PUD*** (Changes that do not result in an increase in signage or changes to signage not included in the final development plan do not require an amendment. All changes to signage require a sign permit.);

b) Landscape changes;

c) Parking lot configuration changes (not change in number of spaces);

d) Less than a ten (10) percent change in floor area in any one (1) structure;

e) Less than a ten (10) percent change in the approved separation of buildings;

f) Less than five (5) percent change in the ground area covered by the project;

g) Less than a five (5) percent change in the number of residential units; or

h) Less than a five (5) percent change in the number of parking spaces.

(3) **Major Amendments.** Major amendments to a ***PUD*** final development plan are:

a) Any decrease in the amount of approved open space;

b) More than a ten (10) percent change in floor area in any one (1) structure;

c) More than a ten (10) percent change in the approved separation of buildings;

d) Any change in the original approved setbacks from property lines;

e) More than five (5) percent change in the ground area covered by the project;

f) More than five (5) percent change in the number of parking spaces; or

g) The introduction of new uses not included in the ***FDP*** approval.

(4) **Review of minor amendments.** Proposed minor amendments (as specified in Sub-section 2 above) to a ***PUD*** Development Plan shall be reviewed and decided by the Director. Decisions of the Director may be appealed to the City Council. The Director may determine that a proposed 'minor' amendment is in fact a 'major' amendment and may refer such proposed amendments to the Planning Commission and Council according to the procedure established in Subsection. 5, below. Application fees for a minor amendment to a ***PUD*** Development Plan are set forth in Appendix C of this Code.

(5) **Review of major amendments.** Any major amendment to a ***PUD*** development Plan shall be considered by the Planning Commission at a public hearing. The recommendation of the Planning Commission shall be considered by the City Council. Any major amendment shall require a majority vote of the Council.

(6) **Determining if the Underlying *PUD* District Must Be Rezoned.** Proposed amendments to a ***PUD*** Development Plan that would substantially change the use of the

proposed development from one (1) zoning classification to another will require that the parcel in question be rezoned to the appropriate ZONE district. Procedural requirements for a re-zoning are set forth in Chapter 4 of this code.

Section 1111 - Fees.

The application fee for a ***PUD*** or amendment thereto is set by Appendix C of the Town Code. In addition, legal fees, consultant fees, and other reasonable costs incurred by the Town in its review and consideration of the ***PUD*** application shall be paid by the applicant.

Dutch John Planning and Zoning Document
General Text
Draft Copy

CHAPTER 12

SUPPLEMENTARY REQUIREMENTS

Section 1201 - Construction in Flood Channels:

No building or structure (except those constructed for flood control purposes by a governmental agency) shall be constructed within a flood channel or within one hundred (100) feet from the banks of a flood channel.

Section 1202 - Temporary Buildings and Uses:

(1) Supplementary Requirements for Temporary Buildings and Temporary Uses:

The Zoning Administrator may issue a temporary use permit for a temporary building, or use, not to exceed sixty (60) days in duration, with a finding that the use will not conflict with the uses in the vicinity of the subject property. To determine the compatibility of uses, the Zoning Administrator may call a Public Hearing. Request for a temporary use permit shall be submitted in writing on the application provided by the Town.

In issuing the permit, the Zoning Administrator may;

(A) Identify the length of the time the temporary use permit shall be valid – not to exceed sixty (60) days.

(B) Identify hours of operation of the temporary use.

(C) Identify and establish any other requirements determined necessary for the protection of the health, safety and welfare of the General Public.

(2) Temporary buildings and uses are permitted with a positive recommendation following a review by the full Planning and Zoning Commission as follows:

(A) Temporary buildings, trailer or skid mounted Construction Offices and or travel trailers used in conjunction with construction work only during the period of such construction, subject to securing a temporary use permit and the following:

i Any permit approved for such temporary building shall be limited to a period of time not to exceed one (1) year from the date of approval.

ii Any temporary building shall be removed from the property upon the expiration of the previously approved use permit or within ten (10) days after completion of the construction work, whichever occurs first.

(B) Temporary uses such as the cutting or storage of lumber or the storage of building materials and construction equipment conducted or used in conjunction with

construction work only during the period of such construction, subject to securing a use permit and the following:

i. Any use permit approved for such temporary use shall be limited to a period of time not to exceed one (1) year from the date of such approval.

ii. Such temporary use shall be removed from the property upon the expiration of the previously approved use permit or within ten (10) days after completion of the activity, whichever occurs first.

(C) Temporary real estate offices:

i Such office shall be located on the property being subdivided or sold, and its use shall be limited to the sale of lots or property.

ii Such office shall be subject to the height, yard, intensity of use and parking regulations for the zoning district in which it is located and shall meet minimum water and sanitary standards as required by the Tri-County Health Department.

iii Any use permit approved for such office shall be limited to a period not to exceed one (1) year from the date of approval.

iv Such office shall be removed from the property upon the expiration of the use permit.

CHAPTER 13

MINOR REVISIONS TO APPROVED DEVELOPMENT PERMITS

Section 1301 - Applicability:

These provisions are adopted to facilitate the review and approval by the Town of Dutch John Council of minor changes and revisions to an existing approved development permit, minor revisions to construction and improvement plans and the establishment of a new Permitted Use(s) within an existing building or structure already occupied by a Permitted Use.

Section 1302 - Minor Revisions to Development Permits and Construction Plans:

Upon receipt of an application for a minor revision to an approved development permit, or minor revision to approved construction plans and/or required improvement plans, the Zoning Administrator may approve such minor revision with a finding that the revision does not:

(1) Increase vehicular traffic;

(2) Increase the demand for parking or parking area(s);

(3) Increase the development site, number of lots or building size;

(4) Increase noise or odor levels, lighting, dust or dirt;

(5) Create any unsightly conditions;

(6) Decrease privacy to adjacent property owners or landscaping, screening or buffering treatments;

(7) Change the general layout of the development area or site.

In reviewing an application for a minor revision to an approved development permit or minor revision to approved construction plans and required improvement plans, the Zoning Administrator may schedule a review and consideration of the application by the Planning and Zoning Commission prior to making a final decision on an application. The Zoning Administrator may approve the minor revision as requested by the applicant, approve the minor revision with conditions, or deny the request for a minor revision. The Zoning Administrator shall notify the Planning and Zoning Commission and Town of Dutch John Council at their next regular meeting of actions taken by the Zoning Administrator in approving or denying minor revision applications. The Zoning Administrator's decision shall be final upon the close of the Planning and Zoning Commission meeting at which notification occurred.

Section 1303 - Appeal of Zoning Administrator Decision for Minor Revisions:

Any person aggrieved by a decision of the Zoning Administrator concerning a decision for a minor revision may file an appeal of the Zoning Administrator's decision with the Hearing Officer, with a minimum of seven (7) days notification provided by the Zoning Administrator to members of the Planning and Zoning Commission and Town of Dutch John Council. The Zoning Administrator shall forward all materials and records on the matter to the Hearing Officer.

CHAPTER 14

MOVING OF BUILDINGS

Section 1401 - Intent:

These provisions are designed to facilitate and manage the moving of buildings and structures within the Town of Dutch John site and to establish necessary requirements for the moving of buildings and structures.

Section 1402 - Application Required:

An application for a Building Permit must be completed and approved before any building is moved to or from any property in Dutch John. If the building is a Mobile Home then the Moving Structure Permit must be obtained from the County Assessor's Office.

Section 1403 - Approval Procedures:

An application for a Building Permit for the moving of buildings shall be reviewed and approved by the Zoning Administrator and Town Building Official.

In considering the request for the moving of buildings, the Zoning Administrator and Town Building Official shall consider the following, among other items, and find:

(1) That the building will have no material negative effect on the surrounding area and property values in the area to which the building is to be moved.

(2) The building is in conformity with the type and quality of the buildings existing in the area to which the building is to be moved.

(3) That the building and the property on which the building is proposed to be located complies fully with all the provisions of this Ordinance and all applicable Building Codes.

(4) The building and its proposed location does not in any way adversely affect existing buildings, uses or property in the area.

(5) That all approvals, dedications and improvements required by the Town of Dutch John are provided in conformity with the standards of this Ordinance and other applicable Ordinances.

(6) Verification by both the property owner and the Building Inspector is required to ensure no structure shall hamper or interfere with any existing maintenance easements. Verification shall be through research of the County Recorder's records on all easements affecting the property, including but not limited to: property lines, roadway access and utilities. Property Owner shall have Property Survey corners in place prior to verification process.

Upon finding of compliance with the items listed and any other items deemed necessary, the Zoning Administrator and Town Building Official may approve the application for the moving of buildings.

Section 1404 - Permits and Guarantees Required:

Before building permits can be issued, and as a condition of approval of the application for the moving of buildings, the Zoning Administrator and Town Building Official may require the applicant to post a bond as determined necessary to adequately cover the installation of all improvements required by the Town in approving the application.

Section 1405 - Certificates of Occupancy:

Prior to the issuance of any certificate of occupancy, the Building Official will ensure that the building complies with all requirements of this Ordinance, the Town's adopted Building Codes and other codes as adopted by the Town of Dutch John Council and shall require that all conditions of approval of the application for the moving of buildings have been complied with.

Section 1406 - Restoration of Old Site:

When the site to be vacated by the moving building or structure is located within the Town, the Zoning Administrator and Building Official shall require a bond, or all costs associated with the restoration of the vacated site to a safe and visually pleasant condition.

CHAPTER 15

AIRPORT AREA REGULATIONS

Section 1501 - Purpose:

The regulations contained in this chapter are established to restrict the use of land adjacent to or in the immediate vicinity of the Dutch John Airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. These restrictions will help avoid or lessen hazards resulting from the operation of aircraft, avoid creation of new hazards, and to protect the lives of people who use the Dutch John aircraft facilities.

Section 1502 - Definitions:

For the purpose of this chapter, the terms set out in this section shall have the following meanings:

(1) **Airport Influence Area (AIA):** That land near an airport that is directly influenced by activity at the airport; consequently, land use planning or zoning measures need to be taken to prevent incompatible development within this area. The affected area varies in size depending on the type of airport and flight activity that occurs there. (WFRC definition)

(2) **Approach Zone (EAZ):** An area that begins at the end of the Runway Protection Zone (RPZ) with the centerline being a continuation of the centerlines of the landing strip and extending an additional 4000' past the end of the RPZ. The beginning width of the EAZ where it abuts the RPZ would be 700' with the ending width being 2000'.

(3) **FAR Part 77:** 14 CFR 77 U.S.C. That part of the federal Aeronautics and Space statutes which deals with "Objects Affecting the Navigable Airspace", commonly referred to as Federal Aviation Regulations (FAR) Part 77. Part 77"…establishes standards for determining obstructions in navigable airspace; sets forth requirements for notice to the (FAA) Administrator of certain proposed construction or alteration; provides for aeronautical studies of obstructions to air navigation, to determine their effect on the safe and efficient use of airspace; provides for public Hearings on the hazardous effect of

proposed construction or alteration on air navigation; and provides for establishment of antenna farms.

(4) **No Development Zone:** An area that includes the Runway Protection Zones and the Approach Zones on both ends of the runways. No above ground development permitted. Underground development of utilities within this zone is permitted.

(5) **Runway Protection Zone (RPZ):** An area off the runway end to enhance protection of people and property on the ground. (FAA AC 150/5300-13, "Airport Design")

Section 1503 - Height Limits near Airports:

(1) In the Light Industrial (LI) and Multiple Use (MU-40) zones surrounding the airport no construction or development shall be allowed that will breach the FAR Part 77 guidelines.

(2) The Runway Protection Zones and Approach Zones shall be No Development Zones.

Section 1504 - Construction and Use Regulations:

(1) Notwithstanding any other provision of this title, no uses may be made of land or buildings within the Town which will create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing or taking off of aircraft.

(2) Plans for proposed structures to be located within two thousand (2,000) feet of the main runway and within the approach or transition zones <u>will</u> be required to be submitted to the Federal Aviation Administration (FAA) for their review and recommendation regarding the proposed structure's impact on the airport.

(3) Plans for proposed structures to be located within two thousand (2,000) feet of the crosswind runways and within the approach or transition zones <u>may</u> be required to be submitted to the Federal Aviation Administration (FAA) for their review and recommendation regarding the proposed structure's impact on the airport.

(4) Plans for a proposed structure or alteration of an existing structure over two hundred (200) feet in height or a structure that will penetrate a 1:100 plane from a runway <u>will</u> be required to be submitted to the Federal Aviation Administration (FAA) for their review and recommendation regarding the proposed structure's impact on the airport (FAA form 7460 - **NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION**).

CHAPTER 16

Dutch John Planning and Zoning Document
General Text
Draft Copy

SIGNS

Section 1601 – Purpose:

To increase safety and to reduce unnecessary distractions along public streets and rights-of-way, it is necessary to control and regulate the size, location and type of sign proposed for establishment in the Town of Dutch John. A further purpose is to protect the character and image of the Town of Dutch John.

Section 1602 - Maximum Allowed Signage:

(1) Identification Signs located in Residential Districts.

(A) Signs identifying the name of the occupant of a residence, the occupant's profession or title, and the address of the dwelling are permitted, subject to the following requirements:

1. Signs shall not exceed four (4) square feet in area.

2. Signs shall not be illuminated.

3. Signs shall be located on the property to which they pertain, and the number shall be limited to one (1) sign for each dwelling.

(B) No other signs are permitted within residential zones except for necessary warning and public information signs or signs identifying churches, schools, public utility buildings or publicly owned or operated properties and buildings.

(2) Identification Signs in Commercial and Industrial Districts.

(A) All Identification signs in the Commercial and Industrial Districts shall be a “monument” type sign, not exceeding six (6) feet in height above finished grade, or a building sign, attached directly to a building, which shall not extend beyond the corner of the building nor above the roof line of the building.

(B) Signs shall not exceed an area of one (1) square foot for each linear foot of street frontage, but in no case shall the sign be larger than one hundred (100) square feet. Where there is more than one (1) sign located on the property, the aggregate sign area shall not exceed one (1) square foot for each linear foot of street frontage or one hundred (100) square feet, whichever is less; however, nothing contained herein shall require the aggregate sign area for any one establishment on the property to be less than fifty (50) square feet.

(C) Signs may be illuminated, but the source of illumination shall not be visible, and no flashing or intermittent illumination shall be employed.

(D) Signs shall not be moving, animated or audible in any manner.

(E) All signs shall be located on the property to which they pertain, and the number shall be limited to one (1) for each separate establishment on the property.

(3) Permanent Directional Signs.

(A) Signs shall not exceed twelve (12) square feet in area.

(B) Signs may be double faced.

(C) Signs may be illuminated, but the source of illumination shall not be visible, and no flashing or intermittent illumination shall be employed.

(D) Signs may be placed flat against a wall of a building, or such signs may be freestanding, but placement against a wall of a building shall be no higher than eight (8) feet above grade. The height of a freestanding sign shall not exceed twelve (12) feet above grade.

(E) Signs may be located in or project into required yards, but such signs shall not be located in or project into any street or alley.

(F) Signs may be used to designate entrances or exits to or from a parking area if necessary, but the number shall be limited to one (1) for each such entrance or exit.

(G) Signs shall contain no advertising copy.

(4) Temporary Directional Signs.

(A) Signs shall not exceed twelve (12) square feet in area.

(B) Signs may be double faced.

(C) Signs shall not be illuminated.

(D) Signs may be placed flat against a wall of a building or may be freestanding, but placement against a wall of a building shall be no higher than eight (8) feet above grade. The height of a freestanding sign shall not exceed twelve (12) feet above grade.

(E) Signs may be located in or project into required yards, but such signs shall not be located in or project into any street or alley.

(F) Signs shall contain no advertising copy.

(G) A Temporary Directional Sign shall be removed from the property within ten (10) days after the purpose of the sign is fulfilled.

(5) Temporary Signs Pertaining to the Sale, Lease, Hire or Rental of Property.

(A) Signs shall not exceed one hundred (100) square feet in area.

(B) Signs may be double faced.

(C) Signs shall not be illuminated.

(D) Signs may be placed flat against a wall of a building or may be freestanding, but placement against a wall of a building shall be no higher than twenty-four (24) feet above grade nor above the roof line. The height of a freestanding sign shall not exceed twenty-four (24) feet above grade.

(E) Signs may be located in or project into required yards, but such signs shall not be located in or project into any street or alley.

(F) Signs shall not be moving, animated or audible in any manner.

(G) Signs shall be located on the property to which they pertain, and the number shall be limited to one (1) for each such property.

(H) Signs shall be removed from the property within ten (10) days after the purpose of the signs is fulfilled.

(6) Off Premise Advertising Signs, advertising Goods or Services offered at a place other than the location of the sign.

(A) All Off Premise Advertising Signs, advertising Goods or Services offered at a place other than the location of the sign are prohibited within the Town of Dutch John.

CHAPTER 17

APPEALS AND VARIANCES

Section 1701 - APPEALS OF ADMINISTRATIVE DECISIONS

(1) Authority

As described in Section 3 of this chapter, the Hearing Officer shall hear and decide appeals alleging an error in any administrative decision made by the Planning and Zoning Commission in the administration or enforcement of this title. In addition, the Hearing Officer shall hear and decide applications for variances.

(2) Parties Entitled to Appeal

An applicant or any other person or entity within the jurisdiction of the Hearing Officer adversely affected by a decision administering or interpreting this title may appeal to the Hearing Officer.

(3) Procedure

Appeals of administrative decisions made by the Planning and Zoning Commission, to the Hearing Officer shall be taken in accordance with the following procedures:

a) Filing of appeal:

An appeal shall be made in writing within fourteen (14) days of the administrative decision by the Planning and Zoning Commission and shall be filed with the Planning and Zoning Commission Chairman. The appeal shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court.

b) Fees:

Non-refundable application and Hearing fees shown on the Town of Dutch John consolidated fee schedule shall accompany the appeal.

c) Stay of Proceedings:

An appeal to the Hearing Officer shall stay all further proceedings concerning the matter about which the appealed order, requirement, decision, determination, or interpretation was made unless the Planning and Zoning Commission Chairman certifies in writing to the Officer, after the appeal has been filed, that a stay would, in the Planning and Zoning Commission Chairman's opinion, be against the best interest of the Town.

d) Notice Required

(i) Public Meeting

All public meetings shall be conducted as meetings open to the attendance of the general public. Upon receipt by the Planning and Zoning Commission Chairman of an appeal of an administrative decision, the Hearing Officer shall be notified of the appeal and shall schedule and hold a public meeting in accordance with the standards and procedures adopted for such meeting.

(ii) Notice of Appeals of Administrative Decisions of the Planning and Zoning Commission

Appeals from a decision of the Planning and Zoning Commission are based on evidence in the record. Therefore, testimony at the appeal meeting shall be limited to the appellant and the respondent. Upon receipt of an appeal of a decision by the Planning and Zoning Commission, the Hearing Officer shall schedule a public meeting to hear arguments by the appellant and respondent. Notification of the date, time and place of the meeting shall be given to the appellant and respondent, by the Hearing officer, a minimum of fourteen (14) calendar days in advance of the meeting. The Appeal and Variances Hearing Officer may give e-mail notification, or other form of notification chosen by the Hearing Officer.

(4) Standard of Review

a) The standard of review for an appeal:

Other than as provided in subsection D2 of this section, shall be de novo. The appeals Hearing officer shall review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the decision below.

b) An appeal from a decision of the Planning and Zoning Commission shall be based on the record made below.

i No new evidence shall be heard by the Hearing Officer unless such evidence was improperly excluded from consideration below.

ii The Hearing Officer shall review the decision based upon applicable standards and shall determine its correctness.

iii The Hearing Officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.

(5) Burden of Proof:

The appellant has the burden of proving the decision appealed is incorrect.

(6) Action by the Hearing Officer:

The Hearing Officer shall render a written decision on the appeal. Such decision may reverse or affirm, wholly or in part, or may modify the administrative decision. The Hearing Officer shall have fourteen (14) calendar days to render a decision. A decision by the Hearing Officer shall become effective on the date the written decision is signed.

(7) Notification of Decision:

Notification of the decision of the Hearing Officer shall be mailed by USPS to all parties to the appeal within ten (10) days of the Hearing Officer's decision.

(8) Record of Proceedings:

The proceedings of each appeal Hearing shall be recorded on audio equipment. The audio recording of each appeal Hearing shall be kept in accordance with the records retention requirements of the State of Utah. Copies of the tapes of such Hearings may be provided, if requested, at the expense of the requesting party.

(9) Appeals:

Any person adversely affected by a final decision made by the Hearing officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

(10) Administrative Procedures:

The Planning and Zoning Commission shall adopt administrative procedures, consistent with the provisions of this section, for processing appeals, the conduct of an appeal Hearing, and for any other purpose considered necessary to properly consider an appeal.

(11) Stay of Decision:

The Hearing Officer may stay the issuance of any permits or approvals on the decision for thirty (30) days or until the decision of the district court in any appeal of the decision in accordance with State statute under UCA 10-9a.

Section 1702 – VARIANCES

The variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this title that create

unreasonable hardship. When such hardship may be more appropriately remedied, if at all, pursuant to other provisions of this title, the variance procedure is inappropriate.

(1) Authority of Hearing Officer:

The Hearing Officer may grant variances from the provisions of this title only in compliance with the procedures set forth in section C of this section and only in accordance with each of the standards enumerated in this chapter.

(2) Parties Entitled to Seek Variances:

Applications for variances may be filed by an owner of the property affected or by the property owner's authorized agent. All applications for variances shall be filed on forms approved by the Planning and Zoning Commission.

(3) Procedures:

a) Application:

An application for a variance shall be filed with the Planning and Zoning Commission and shall include the following items and information unless determined inapplicable by the Planning and Zoning Commission:

i The property owner's name and address and the owner's signed consent to the filing of the application;

ii The applicant’s name and address, if different than the owner, and the applicant's interest in the subject property;

iii The names and addresses of all professional consultants, if any, advising the applicant with respect to the application;

iv The address and legal description of the subject property;

v County ownership plat numbers identifying the property; and

vi Noticing and posting requirements shall be met as specified in this title.

vii A site plan drawn to scale identifying all property lines, structures, including primary and accessory structures, fences, right-of-way, and their respective distances from the property lines;

viii An elevation drawing to scale showing all elevations of existing and proposed structures;

ix When the variance involves building height a streetscape plan showing the height of the buildings on both sides of the street to the nearest intersection;

x When the variance involves grade changes, a topographical drawing prepared by a licensed surveyor shall be included. The existing topography shall be shown in dashed lines at two-foot (2') intervals and the proposed grade shall be shown in solid lines at two-foot (2') intervals. All retaining walls shall be identified and the height shall be shown on the plan relative to the proposed grades. Retaining walls shall be designed by a structural Engineer licensed to practice in the State; and

xi When a variance request involves setbacks or height or grade changes a complete landscape plan shall be provided. Plans shall show landscape design and identify all species and caliper of proposed plants.

xii A color aerial plat map of the area, not less than 14" x 20" and showing the area of the requested variance and at least 500 feet on each side of the area.

xiii The specific feature or features of the proposed use, construction or development that require a variance;

xiv The specific provision of this title from which the variance is sought and the precise variance being sought;

xv A statement of the characteristics of the subject property that prevent compliance with the provisions of this title and result in unnecessary hardship;

xvi A statement of the minimum variation of the provisions of this title that would be necessary to permit the proposed use, construction or development;

xvii An explanation of how the application satisfies each standard set forth in this chapter;

xviii Any other information identified by the Planning and Zoning Commission to be pertinent to the requested variance.

b) Fees:

Non-refundable application and Hearing fees shown on the Town of Dutch John consolidated fee schedule shall accompany the application for a variance.

c) Public Meeting:

Upon receipt of a complete application for a variance, the appeals Hearing officer shall hold a public meeting with notice in accordance with the requirements of this title.

d) Action by Appeals Hearing Officer:

Upon the close of the public meeting, the Hearing Officer shall render its decision, granting, granting with conditions, or denying the variance, unless the Appeal and Variances Hearing Officer determines that additional time to study the information presented is necessary and which case a written decision shall be promptly rendered and delivered to each of the parties by mail or email.

e) Special Procedures in Connection with Other Applications:

Whenever a variance is needed in addition to a zoning amendment or a conditional use, the Planning and Zoning Commission shall not schedule a Hearing on the variance until a final approval has been rendered on these other applications by the Planning and Zoning Commission or the Town Council, as applicable.

(4) Prohibited Variances:

The Hearing Officer shall not grant a variance that:

a) Is intended as a temporary measure only; or

b) Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; or,

c) Authorizes uses not allowed by law (i.e. a "use variance").

(5) Standards for Variances:

Standards shall be governed by State statute 10-9a.

(6) Variances Less Than Requested:

A variance less than or different than that requested may be authorized when the record supports the applicant's right to some relief but not to the relief requested.

(7) Conditions on Variances:

In authorizing a variance, the Hearing Officer may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest to mitigate any harmful effects of the variance or that will

serve the purpose of the standard or requirement that is waived or modified. The Hearing Officer may require a guarantee or bond to ensure that the conditions imposed will be followed. These conditions shall be expressly set forth in the Hearing Officer's decision granting the variance. Violation of any condition or limitation on the grant of a variance shall be a violation of this title and shall constitute grounds for revocation of the variance.

(8) Effect of Granting Variances:

The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by the regulations of the Town, including, but not limited to, a zoning certificate, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

(9) Limitations on Variances

Subject to an extension of time granted upon application to the Planning and Zoning Commission, no variance shall be valid for a period longer than one (l) year unless a building permit is issued or complete building plans have been submitted to the Planning and Zoning Commission within that period. The Planning and Zoning Commission may grant an extension of a variance for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted prior to the expiration of the variance.

(10) Appeal of Decision:

Any person adversely affected by a final decision made by the Hearing Officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

(11) Stay of Decision:

The Hearing Officer may stay the issuance of any permits or approval based on its decision for thirty (30) days or until the decision of the district court in any appeal of the decision in accordance with State statute 10-9a.

Section 1703 - APPEAL OF FEES

Any person aggrieved by the fees charged or assessed for a land-use application may file a petition for review of the decision or assessment with the Hearing Officer in accordance with the provisions of this ordinance within five (5) business days after the fee is finally established. An application for a land use is not considered filed until the fee required for that application is paid. In the event a fee is appealed, the applicant may pay the disputed fee and proceed to have the application considered while the appeal is being processed with any subsequent increase in the fee determined after the appeal or decrease in the fee determined after the appeal to be adjusted and paid or refunded at the time of the decision of the Hearing Officer.

Section 1704 - EXHAUSTION OF ADMINISTRATIVE REMEDIES

No person may challenge in district court the Town's actions on any petition under this title until that person has exhausted all available administrative remedies.

Section 1705 - EX PARTE COMMUNICATION

Ex Parte communication between the Hearing officer and parties involved in an appeal pending before the Hearing officer relating in any way to the subject of the appeal is prohibited.

CHAPTER 18

NON-CONFORMING USES

Section 1801 - Continuing Existing Uses:

Any use of land, building or structure lawfully existing at the time of passage of this Ordinance may be continued, even though such use does not conform to the regulations of this Ordinance for the zoning district in which it is located.

Section 1802 - Expansion of a Non-conforming Use:

A non-conforming use of land, building, sign or structure shall not be enlarged, extended, reconstructed or structurally altered unless such enlargement, extension, reconstruction or structural alteration and further use of such property conforms to the requirements of this Ordinance for the zoning district in which such property is located.

A building or structure occupied by a non-conforming use, or a building or structure non-conforming as to height and/or yard requirements, may be added to or enlarged or moved to a new location on the lot upon a variance being authorized by the Hearing Officer providing that during the Hearing, the Hearing Officer shall find:

(1) The addition to, enlargement of, or moving of the building will be in harmony with the purposes of this Ordinance and shall be in keeping with the intent of this Ordinance.

(2) That the proposed change does not impose any unreasonable burden upon the lands and residents located or residing in the vicinity of the nonconforming use or structure.

Section 1803 - Repairs:

Repairs may be made to a non-conforming building or to a structure housing a non - conforming use.

Section 1804 - Alteration Where Off-Street Parking is Insufficient:

A non-conforming building or structure lacking sufficient off-street parking space as required by this Ordinance may be altered or enlarged as per this chapter, provided additional automobile parking space is supplied to meet the requirements of this Ordinance for such alteration or enlargement.

Section 1805 - Restoration of Damaged Buildings:

A non-conforming building or structure or a building or structure occupied by a non-conforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy may be restored and the occupancy or use of such building, structure or part thereof which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is commenced within a period of six (6) months following the damage or destruction and is diligently pursued.

Section 1806 - One Year Vacancy:

A building or structure or portion thereof occupied by a non-conforming use which is or hereafter becomes vacant, abandoned and remains unoccupied by a non-conforming use for a period of one (1) year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

Section 1807 - Change of Use:

A non-conforming use may only be changed to a use allowed in the Zoning District in which the property is located by following the use permitting procedures as identified in this Ordinance.

An existing non-conforming lot or parcel shall not be enlarged or modified except to create a situation where the lot becomes a conforming lot or to create landscaping, fencing, curb, gutter, road widening, minimum off-street parking or other similar improvements that will provide a safer and more compatible facility.

CHAPTER 19

ENFORCEMENT

Section 1901 - Enforcement Procedures and Duties

This Ordinance may be enforced by the Town by any and all appropriate means authorized by State Law and Town ordinances including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of development approvals, permits and licenses.

(1) It shall be the duty of the Zoning Administrator and other Town Staff to enforce these requirements and to bring to the attention of the Town Attorney or designee any violations of this Ordinance.

(2) No building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of this Ordinance, nor shall the Town have any obligation to issue certificates of occupancy or to extend roads or other facilities or services to any parcel created in violation of this Ordinance.

(3) A violation of any provision of this Ordinance shall be a Class B Misdemeanor and the violation is subject to such fines and imprisonment that may be applicable pursuant to the provisions of the Utah Code. Each violation and each day that a violation continues shall be a separate offense.

Section 1902 - Civil Enforcement:

Appropriate actions and proceedings may be taken by the Town in law or in equity to prevent any violation of this Ordinance, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, and to prevent illegal occupancy of a building, structure or premises.

Section 1903 - Reconsideration/Revocation of Approvals, Permits and Licenses:

An approved development application, permit or license may be reconsidered and revoked by the Town Council in accordance with the procedures set forth in this Section if it is determined that the application, decision, permit or license was based on materially inaccurate or incomplete information.

Section 1904 - Revocation Procedures:

(1) Duties of the Zoning Administrator. If the Zoning Administrator determines, based on inspection, that there exists reasonable grounds for revocation of a development permit or license authorized by this Ordinance, the Zoning Administrator shall set a public Hearing before the Town of Dutch John Council.

(2) Notice and Public Hearing. At least fourteen (14) days of notice of a proceeding to reconsider or revoke the development permit or license shall be given to the applicant and the Public.

(3) Required Findings. The Town of Dutch John Council may revoke the development approval, permit or license upon making one or more of the following findings:

a. That the development permit was issued on the basis of erroneous or misleading information or misrepresentation provided by the applicant.

b. That the terms or conditions of approval of the permit relating to establishment or operation of the use, building or structure have been violated or that other laws or regulations of the Town applicable to the development have been violated.

(4) Effect. A decision to revoke a development permit or license shall become final five (5) days after the date notice of the decision was given. After the effective date, all activities pursuant to such permit shall be deemed in violation of this Ordinance.

(5) Decision and Notice. Within ten (10) days of the conclusion of the Hearing, the Town of Dutch John Council shall render a decision and shall notify the holder of the permit or license of the decision and any other person who has filed a written request for such notice.

CHAPTER 20

DEFINITIONS

Definitions. For the purpose of this Ordinance, certain words are hereby defined as follows:

(1) **Adjacent:** Meeting or touching at some point, or across a street, alley or other public or private right-of-way.

(2) **Applicant:** The owner of land or the owner's authorized representative.

(3) **Appurtenances:** The visible, functional, or ornamental objects accessory to and part of a building.

(4) **As-built Profile:** A map or drawing which depicts a vertical section of a road, street, curb, conduit or other physical feature as it has been actually constructed.

(5) **Average Daily Traffic (ADT):** The average of one-way vehicular trips that use a road or driveway during a 24-hour period.

(6) **Basement:** That portion of a building between floor and ceiling which is partly below and partly above grade, located such that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling

(7) **Town of Dutch John Council / Town Council / Town:** The Town Council of the Town of Dutch John situated in Daggett County, Utah.

(8) **Building:** A structure having a roof supported by columns or walls for housing, shelter or enclosure of persons, animals or property of any kind.

(9) **Buildable Area:** The portion of a lot which is within the envelope formed by the setbacks that form the required yards.

(10) **Building Height:** The vertical distance from grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or the average height of the highest gable, hip or gambrel roof as measured vertically from finished grade.

(11) **Building, Principal:** A building in which is conducted the principal use of the lot on which it is located. In a residential zoning district, any residential dwelling is deemed to be the principal building on the lot on which it is situated.

(12) **Bulk:** The total volume of the structure, found by multiplying the square footage by the height.

(13) **Camper:** Means a unit containing cooking or sleeping facilities that is designed to be loaded onto or affixed to the bed or chassis of a truck to provide temporary living quarters for recreational camping or travel use.

(14) **Carport:** A private garage not completely enclosed by walls or doors. For the purpose of this Ordinance, a carport shall be subject to all regulations prescribed for a private garage.

(15) **Certificate of Occupancy:** A certificate issued by the Town of Dutch John after final inspection and upon a finding that the building, structure, or development complies with all provisions of the applicable Town codes, permit requirements and approved plans.

(16) **Planning and Zoning Commission:** The Planning and Zoning Commission of the Town of Dutch John as appointed by the Town Council of the Town of Dutch John.

(17) **Conditional Use:** A use of land for which a Conditional Use permit is required pursuant to this Ordinance.

(18) **Construction Plan:** The maps or drawings accompanying an application which show the specific location and design specifications of improvements to be installed in accordance with the requirements of approval by the Planning and Zoning Commission and Town of Dutch John Council.

(19) **Contiguous:** The touching or overlap of two (2) or more use district boundaries or property lines.

(20) **Critical Slope, 30% Slope:** An area where the rise or fall is equal to or exceeds thirty (30%) percent (1:3) over a horizontal distance of 100 feet or greater.

(21) **Easement:** A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose. In no case shall a permanent structure either Primary or Secondary be built within a dedicated easement without first getting permission from the party to whom the easement is dedicated. State law shall govern on the use of dedicated utility easements.

(22) **Facility:** A structure or place which is built, installed, or established to serve a particular purpose.

(23) **Single Family Limit:** The definition of the term family will be consistent with the Utah State Code ann. **10-9a-505.5. Limit on single family designation.**

(A) As used in this section, "single-family limit" means the number of unrelated individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(B) A municipality may not adopt a single-family limit that is less than:

i Three, if the municipality has within its boundary:

1 A state university; or

2 A private university with a population of at least 20,000; or

ii Four, for each other municipality.

(24) **Frontage:** All property fronting on one side of the street, highway or private road.

(25) **Garage, Private:** An accessory building designed or used for the storage of not more than four automobiles owned and used by the occupants of the building to which it is accessory, provided that on a lot occupied by a multiple dwelling, the private garage may be designed and used for the storage of one and one-half (1 ½) times as many automobiles as there are dwelling units in the multiple dwelling. A garage shall be considered part of a dwelling if the garage and the dwelling have a roof or wall in common.

(26) **Geologic Hazard:** A geologic condition which may pose a significant threat to persons or property.

(27) **Grading:** Any excavating, filling or combination thereof. Grading is regulated by the appendix chapter titled ``Excavation and Grading'' of the most current edition of the Town's adopted Building Codes.

(28) **Guest:** Any transient person who occupies a room for sleeping purposes.

(29) **Improvements:** Street grading, street surfacing and paving, curb and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities or other such installations designated by the Planning and Zoning Commission or Town of Dutch John Council.

(30) **Intensity:** The concentration of activity, such as combination of the number of people, cars, visitors, customers, hours of operation, outdoor advertising, numbers of buildings, numbers of livestock, etc.

(31) **Loading and Unloading Space:** A permanently maintained space on the same lot as the principal building accessible to a street or alley and not less than ten (10) feet in width, twenty feet (20) in length, and fourteen (14) feet in height.

(32) **Lot:** A parcel of land occupied or to be occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot areas as are required by this Ordinance, having frontage upon a street or upon a right-of-way not less than sixteen (16) feet wide. Except for group dwellings and guest houses and dwellings associated with agricultural uses and lands, not more than one (1) dwelling structure shall occupy any one lot.

(33) **Lot, Area:** The area of a horizontal plane within the lot lines of a lot.

(34) **Lot, Corner:** A lot abutting on two (2) intersecting or intercepting streets where the interior angle of intersection or interception does not exceed one hundred thirty-five (135) degrees.

(35) **Lot, Interior:** A lot other than a corner lot.

(36) **Lot, Coverage:** The percentage of the area of a lot which is occupied by all permanent buildings, other impervious surfaces or other covered structures. Building coverage to be measured at the drip edge.

(37) **Lot, Depth:** For lots having front and rear lot lines which are parallel, the shortest horizontal distance between such lines; for lots having front and rear lot lines which are not parallel, the shortest horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line; and for triangular shaped lots, the shortest horizontal distance between the front lot line and a line within the lot, parallel with and at a maximum distance from the front lot line having a length of not less than ten (10) feet.

(38) **Lot, Line:** Any line bounding a lot.

(39) **Lot Line, Front:** The boundary of a lot which separates the lot from the street; and in the case of the corner lot, the front lot line is the shorter of the two lot lines separating the lot from the street, except that where these lot lines are equal or within fifteen (15) feet of being equal, either lot line may be designated the front lot line, but not both.

(40) **Lot Line, Rear:** The boundary of a lot which is most distant from, and is, or is most nearly, parallel with the front lot line; except that in the absence of a rear lot line, as is the case of the triangular-shaped lot, the rear lot line may be considered as a line within the lot parallel with and at a maximum distance from the front lot line having a length of not less than ten (10) feet.

(41) **Lot Line, Side:** The boundary of a lot which is not a front lot line or a rear lot line.

(42) **Lot of Record:** A lot which is part of a legally created subdivision, the plat of which has been recorded in the office of the County Recorder of Daggett County; or a lot, parcel or tract of land, the deed of which has been recorded in the office of the County Recorder of Daggett County prior to the enactment of this Ordinance.

(43) **Lot, Through:** A lot having a pair of opposite lines abutting two (2) streets and which is not a corner lot. On such lots, both lot lines are front lot lines.

(44) **Lot, Width:** For rectangular lots, lots having side lot lines not parallel and lots on the outside of the curve of a street, the distance between side lot lines measured at the required minimum front yard line on a line parallel with the street or long chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured thirty (30) feet behind the required minimum front yard line on a line parallel with the street or long chord.

(45) **Maximum Building Height – Primary Structures:** The maximum building height shall be measured at the tallest point of the ridge of the roof down to the permanent ground level. This measurement is not to include roof projections such as weather vanes, antennas, decorative features etc.

(46) **Maximum Building Height – Secondary Structures:** The maximum building height shall be measured at the tallest point of the ridge of the roof down to the permanent ground level. This measurement is not to include roof projections such as weather vanes, antennas, decorative features etc.

(47) **Maximum Building Width – Secondary Structures:** The maximum building width as measured across the side of the building which faces the road frontage and is not screened by the Primary Structure.

(48) **Manufactured Home:** A transportable, factory-built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, and when erected on site, the home must be at least 20 feet in width at the narrowest dimension, have exterior and roofing materials acceptable to the Town's Building Codes, have a minimum roof pitch of 2:12, and be located on a permanent foundation and connected to the required utilities, including plumbing, heating, air conditioning and electrical systems. A Manufactured Home shall be identified as real property on the property assessment rolls of Daggett County. All manufactured homes constructed on or after June 15, 1976, shall be identified by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

(49) **Mobile Home:** A transportable, factory-built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code). The following are excluded from this definition:

(A) Travel trailers, motor homes, camping trailers, or other recreational vehicles; and

(B) Manufactured home.

(50) **Mobile Home Park:** Any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes or storage are located, regardless of whether or not a charge is made for such accommodation.

(51) **Mobile Home Space:** A plot of ground within a mobile home park or travel trailer park designed for the accommodation of one mobile home or travel trailer together with its accessory structures including carports or other off-street parking areas, storage lockers, patios, patio covers, awnings and similar appurtenances.

(52) **Name Plates and Signs:** "Name plates and signs" shall include:

(A) One name plate for each dwelling unit, not exceeding two square feet in area, indicating the name of the occupant or a permitted home occupation.

(B) One sign board not exceeding eight square feet in area appertaining to the lease or sale of the property or the sale of products produced on the property or warning against trespassing.

(C) One bulletin board not exceeding eight square feet in area for a church or other institution for the purpose of displaying the name and character of services or other activities conducted therein.

(D) One identification sign not exceeding eight square feet in area for buildings other than dwellings.

(E) All such bulletin boards and identification signs shall be attached to and parallel with the front wall of the building. If any name plate, bulletin board or sign is illuminated, indirect lighting only shall be used; no flashing or intermittent illumination shall be employed.

(53) **Natural Waterways:** Those areas varying in width along streams, creeks, gullies, springs, faults or washes which are natural drainage channels.

(54) **Non-conforming Building or Structure:** A building or structure or portion thereof lawfully existing at the time this Ordinance became effective which does not conform to all the height, area and yard regulations herein prescribed in the zone in which it is located.

(55) **Non-Conforming Use:** The lawful use of any building, lot, parcel or tract of land existing at the time this Ordinance, or amendments thereto, become effective which does not conform to the use regulations of the zoning district in which it is located.

(56) **Nuisance:** Any use or activity which emits noise, smoke, dust, odor or vibration in amounts sufficient to substantially depreciate values of surrounding buildings or lands, or a use or activity which substantially deprives the owners of adjoining property of a property right.

(57) **Off-street Parking:** An area adjoining a building providing for the parking of automobiles which does not include a public street but has convenient access to it.

(58) **Owner:** Means the owner, lessor, or sub-lessor of a residential rental unit. A managing agent, leasing agent, or resident manager is considered an owner for purposes of notice and other communication required or allowed.

(59) **Parking Lot:** An open area, other than a street, used for parking of more than four automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

(60) **Parking Space:** A permanently surfaced area, enclosed or unenclosed, of not less than eight feet six (8'6") inches in width and having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

(61) **Permitted Use:** A use of land which is specifically designated in the table of uses as a "permitted" use in the zone for which a permit is requested.

(62) **Principal Use:** The primary purpose or function for which a parcel is used.

(63) **Public Improvement:** Any publicly owned and maintained drainage ditch, roadway, street, parkway, sidewalk, pedestrian way, landscaping, off-street parking area or other facility or amenity.

(64) **Rental Agreement:** Any agreement, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions regarding the use and occupancy of a residential rental unit for any period less than or greater than 30 days.

(65) **Renter:** Means any person entitled under a rental agreement to occupy a residential rental unit to the exclusion of others.

(66) **Right-of-Way:** Land occupied or intended to be occupied by a public or private trail, road or other public transportation use or railroad, electric transmission line or other utility uses.

(67) **Road:** A public or private thoroughfare which affords a means of access to abutting property.

(68) **Setback:** The required minimum distance between the building and the related front, side or rear lot line. This distance is to be as determined by table 505 – 1 for Primary Structures or table 505 – 2 for Secondary structures or if not found in these tables is to be determined by the minimum of Building Code requirements if such exists or by site inspection and determination by the Planning and Zoning Commission . This distance is to be measured from the property line to the drip line of the structure in question.

(69) **Short-term Residential Rental Unit:** Residence that is rented for less than thirty days, and includes the appurtenances, grounds, and facilities held out for the use of the residential renter generally, and any other area or facility provided to the renter in the rental agreement. Only allowed after obtaining a conditional use permit and business license.

(70) **Sign:** Any device for visual communication, including any structure or natural object or part thereof that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency or any civic, charitable, religious, patriotic, fraternal or similar organization.

(71) **Site Built Home:** A housing unit constructed at a site in accordance with the Building Codes of the Town.

(72) **Solar Energy Device:** A device which converts the sun's radiant energy into thermal, chemical, mechanical or electric energy.

(73) **Solar Access:** The ability to receive sunlight across real property for any solar energy device.

(74) **Solid Waste:** (as per Utah Code Annotated § 19-6-102(16)) means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, or other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C., Section 1251, et seq. “Solid waste" does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

(A) Certain large volume wastes, such as inert construction debris used as fill material;

(B) Drilling muds, produced waters and other wastes associated with the exploration, development or production of oil, gas or geothermal energy;

(C) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(D) Solid wastes from the extraction, beneficiation and processing of ores and minerals; or

(E) Cement kiln dust.

A solid waste is considered a hazardous waste if it is listed as hazardous or if it exhibits any one of the hazardous characteristics set forth hereafter. "Hazardous waste" (as per

Utah Code Annotated § 19-6-102(9)) means a solid waste or combination of solid wastes which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(75) **Storage:** The actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such waste.

(76) **Story:** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

(77) **Street Line:** The boundary which separates the right-of-way of a street from the abutting property.

(78) **Street:** A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare which has been made public by right of use and which affords the principal means of access to abutting property.

(79) **Structural Alteration:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any rebuilding of the roof or exterior walls.

(80) **Structure:** Anything constructed or erected which requires location on the ground or attached to something having location on the ground, but not including tents, vehicles, travel trailers or mobile homes.

(81) **Subdivision:** The division of a tract or a lot or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose of sale or of building development, including associations, corporations or any circumstance of joint tenancy or tenants in common, provided that this definition shall not include a bona fide division of agricultural purposes, nor shall this definition apply to the sale or conveyance of any parcel of land which may be shown as one of the lots of a subdivision of which a plat has theretofore been recorded in the office of the County Recorder.

(82) **Substantial Modification:** A change which significantly alters the impacts and/or character of a structure, development or use.

(83) **Travel Trailer:** A trailer/camper unit mounted on axles/wheels not exceeding eight (8) feet in width intended to be moved by a personal vehicle.

(84) **Use:** The purpose or purposes for which land or a building is occupied, maintained, arranged, designed or intended.

(85) **Yard:** The open space at grade level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided in this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the principal building is to be used; however, on any lot wherein a setback line has been established by the regulations of this Ordinance for any street abutting the lot, such measurement is to be taken from the principal building to the setback line.

(86) **Yard, Front:** A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection thereof other than steps, unenclosed balconies and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

(87) **Yard, Rear:** A yard extending between the side yards of a lot, or between the side lot lines in the absence of side yards, and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. On corner lots and interior lots, the rear yard is in all cases at the opposite end of the lot from the front yard.

(88) **Yard, Required:** The minimum open space as specified by the regulations of this Ordinance for front, rear and side yards as distinguished from any yard area in excess of the minimum required.

(89) **Yard, Side:** A yard between the building and the side lot and extending from the front yard to the rear lot line as defined or along the full depth in absence of front and rear yards and being the minimum horizontal distance between a side lot line and the side of the principal building or any projection thereof other than steps, unenclosed balconies or unenclosed porches. An interior side yard is defined as the side yard adjacent to a common lot line.

(90) **Zoning District:** Any portion of the unincorporated area of Daggett County in which the same zoning regulations apply.

Dutch John Planning and Zoning Document
Appendix – "A"