

**CLARKSTON TOWN
ORDINANCE NO. 22-06**

**AN ORDINANCE REPEALING THE CURRENT PROVISIONS OF TITLE
11, SUBDIVISION REGULATIONS, OF THE CLARKSTON TOWN CODE
AND ADOPTING REPLACEMENT PROVISIONS FOR THE SAME.**

WHEREAS, the Utah Code §§ 10-9a-102 and 10-9a-601 grants municipalities the right to enact all ordinances necessary or appropriate for the use and development of land within the municipality, including ordinances that regulate and govern the subdivision of land within the municipality;

WHEREAS, the Town Council has determined that the current provisions of Title 11 of the Clarkston Town Code which govern the subdivision and development of land is outdated and needs revision;

WHEREAS, the Town Council has determined that it is in the best interests of the residents of the Town to repeal the existing provisions of Title 11 of the Clarkston Code and replace them with the provisions that are attached to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Council of Clarkston Town, Cache County, State of Utah, as follows:

1. All of Title 11 of the Clarkston Town Code is hereby repealed and replaced with the provisions that are attached to this Ordinance as Exhibit A:

2. To the extent of any conflict between this Ordinance and any other ordinance(s) or regulation(s) of Clarkston Town, the provisions of this Ordinance shall be controlling.

3. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

4. This ordinance shall become effective immediately upon publication or posting as set forth by State law.

Adopted and approved by motion from Councilmember M. Stephensen and seconded by Councilmember M. Fawcett.

Dated this 16th day of August, 2022.

Roll Call Vote:

Mayor Hidalgo	<u>X</u> Aye	<u> </u> No	<u> </u> Abstain	<u> </u> Absent
Councilmember D. Smith	<u>X</u> Aye	<u> </u> No	<u> </u> Abstain	<u> </u> Absent
Councilmember M. Fawcett	<u>X</u> Aye	<u> </u> No	<u> </u> Abstain	<u> </u> Absent
Councilmember M. Stephensen	<u>X</u> Aye	<u> </u> No	<u> </u> Abstain	<u> </u> Absent
Councilmember S. Kurek	<u>X</u> Aye	<u> </u> No	<u> </u> Abstain	<u> </u> Absent

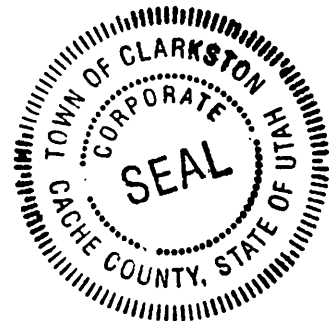
CLARKSTON TOWN

ATTEST:

Kristi Hidalgo
Town Recorder

By: N. Craig Hidalgo
Mayor

Posting Date: August 17, 2022



Clarkston Town Subdivision Ordinance

Ordinance 22-06

Adopted August 16, 2022

TITLE 11
SUBDIVISION REGULATIONS

11-1 GENERAL PROVISIONS
11-2 CONCEPT PLAN
11-3 PRELIMINARY PLATS
11-4 FINAL PLATS
11-5 GENERAL REQUIREMENTS FOR ALL SUBDIVISION
11-6 DESIGN AND CONSTRUCTION STANDARDS FOR IMPROVEMENTS
11-7 IMPROVEMENT BONDING AND WARRANTY

CHAPTER 1
GENERAL PROVISIONS

11-1-1: TITLE
11-1-2: GENERAL PURPOSE OF TITLE
11-1-3: AUTHORITY TO REGULATE
11-1-4: SEVERABILITY
11-1-5: ENFORCEMENT
11-1-6: VIOLATION
11-1-7: PENALTY
11-1-8: APPEALS
11-1-9: NOTICE OF NONCOMPLIANCE
11-1-10: DEFINITIONS
11-1-11: GENERAL CONSIDERATIONS FEES
11-1-12: GENERAL RESPONSIBILITIES
11-1-13: COMPLIANCE REQUIRED
11-1-14: REQUIRED CERTIFICATES, PERMITS AND REVIEWS
11-1-15: FEES
11-1-16: FLOW CHART TABLE

11-1-1 TITLE

This Ordinance shall be known as the Subdivision Ordinance of the Town of Clarkston, Utah.

11-1-2 GENERAL PURPOSE OF TITLE

The purpose and intent of this ordinance is:

- A. To promote the health, safety, and general welfare of residents of the Town of Clarkston, to provide for the orderly division of land and growth within the incorporated area of Clarkston, Utah and maintain the type of community envisioned in the General Plan.
- B. To assure that a proper survey of the properties is made to avoid land discrepancies.
- C. To assure that each lot meets the zoning requirements.
- D. To assure that each lot is adequately provided with proper street frontage and access, utility easements, culinary water, sanitary sewer, fire protection, drainage, etc., to the standards of The Town of Clarkston.

- E. To ensure that the subdivider(s) bear all costs of improving and providing land for streets and easements, and for extending culinary, sanitary sewer, storm drains where applicable to the subdivision site.
- F. To assure that the development, including on-site and off-site improvements, does not impact any wetlands or encroach upon flood plains.
- G. To restrict development on land which is unsuitable because of poor drainage, or severe septic tank limitations.

11-1-3 AUTHORITY TO REGULATE

The Town Council of Clarkston Town adopted this Subdivision Ordinance pursuant to the Municipal Land Use Development Management Act, Title 10, Chapter 9a, of the Utah Code Annotated and such other authorities and provisions of Utah statutory and common laws that are relevant and appropriate.

11-1-4 SEVERABILITY

If any section, provision, sentence, or clause of this title is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this title which shall remain in full force and effect.

11-1-5 ENFORCEMENT:

The planning commission, the town engineer, the town council and such other departments and agencies of town government as are specified under the provisions of this title are hereby designated and authorized as the agencies charged with the enforcement of the provisions of this title and shall enter such actions in court as are necessary. Failure of such departments to pursue appropriate legal remedies, shall not legalize any violation of such provisions.

11-1-6 VIOLATION:

No person shall subdivide any tract or parcel of land located wholly or in part in the town, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision, or a proposed subdivision submitted to the planning commission, nor offer for recording in the office of the County Recorder, any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.

11-1-7 PENALTY:

Violations of any of the provisions of this ordinance is an infraction. Clarkston Town may bring an action against an owner to require the property to conform to the provisions of this ordinance. An action may include an injunction or any other appropriate action or proceeding to prevent or enjoin the violation. Clarkston Town only needs to establish the violation to obtain the injunction in accordance with State Code 10-9a-611.

11-1-8 APPEALS:

Any adversely affected person shall have the right to appeal approval of the preliminary plat for or against a proposed subdivision by the planning commission to the Appeals Authority within ten (10) days of the date of such action. Any action taken and not appealed within said ten (10) days shall be final. When a written appeal is received by the Appeal Authority within ten (10) days of the time the action was taken, the town will publish notice of the appeal hearing fifteen (15) days prior to the scheduled date by publishing according to State Code. Action by the Appeal Authority will be final.

11-1-9 NOTICE OF NONCOMPLIANCE

- A. Upon inspection and discovery that any provision of the Town's Subdivision Code has been or is being violated, the Town may provide written Notice of Violation to the owner of the property that is the subject of the violation and to any other party who may be responsible for the violation.
- B. The written Notice of Violation shall:
 - 1. Indicate the nature of the violation;
 - 2. Identify the action necessary to correct the violation;
 - 3. Give the property owner fourteen (14) days from the date of receipt of the Notice to correct the violation;
 - 4. State the action the Town intends to take if the violation is not corrected within the fourteen (14) day period; and
 - 5. State that the property owner may request a hearing with the planning commission if the property owner disagrees with the determinations set forth in the Notice of Violation.
- C. The Notice of Violation shall be served upon the property owner and/or the violator by personal delivery, by certified mail, return receipt required, to the address listed on the County Assessor's records for the property.
- D. Within fourteen (14) days of the day on which the Notice of Violation is served on the property owner, the property owner may request a hearing with the planning commission to present facts and argument as to why the property owner is entitled to relief from the Notice of Violation. The property owner shall file the request for a hearing in writing with the Town Clerk. The written request for a hearing shall set forth the property owner's position as to why the property owner is entitled to relief. The Town clerk shall notify the planning commission of the request for a hearing and the request shall be placed on the agenda for the next regularly scheduled meeting of the planning commission, but in no event later than thirty (30) days from the date the Town Clerk receives the request for a hearing. The planning commission shall review the Notice of Violation, the written request for a hearing, and any other information that the property owner or any other interested party may present and make a determination as to whether the violation set forth in the Notice of Violation has taken place or exists. The Town shall have the burden of proving by a preponderance of the evidence the violation took place or exists.
- E. If the property owner has not requested a hearing with the planning commission within the fourteen (14) day period, or if after a hearing on the matter the planning commission determines that the violation set forth in the Notice of Violation has taken place, the planning commission or any other person designated by the Town may record a Notice of Noncompliance on title to the property that is the subject of the Notice of Violation. The Notice of Noncompliance shall generally explain the nature of the violation, indicate that no permits or licenses, including but not limited to, a building permit, may be issued for any structure located on the subject property, and meet all other requirements for the recording of documents in the Cache County Recorder's Office.
- F. If the Town subsequently determines that the violation of the Town's Subdivision Code for which a Notice of Noncompliance has been recorded has been cured or that the property which is the subject of the Notice of Noncompliance is otherwise no longer in violation, the planning

commission, Town Council or other person designated by the Town shall record a release of the Notice of Noncompliance on title to the subject property.

- G. Notwithstanding anything to the contrary in any ordinance or code of the Town, until such time as the violation for which a Notice of Noncompliance issued under this Section has been cured or otherwise resolved, the Town may withhold or deny the issuance of any permits, licenses, or connections of any kind including but not limited to, a building permit, water connection, or other similar permit or connection, for the property in violation or any structure thereon.

11-1-10 DEFINITIONS

The following terms used in this ordinance shall have the respective meanings hereinafter set forth:

ALLEY: A narrow public or private way less in size than a street, designed for the special accommodations of the property it reaches, and not intended for general travel. (A public thoroughfare less than 26 feet wide.)

ARTERIAL (MAJOR) STREETS: A street existing or proposed which serves or is intended to serve as a major traffic way, as a controlled or limited access highway, major street parkway or other equivalent term to identify those streets comprising the basic structure of the street plan. Arterial Streets through subdivisions shall have expanded open space adjacent to the right-of-way. Arterial Streets run North and South.

BENCHMARK: A mark affixed to a permanent or semipermanent object along a line of survey to furnish a datum level.

BLOCK: A piece of land surrounded by streets or other rights-of-way, other than an alley, or land which is designated as a block on any recorded subdivision plat.

CMC: An acronym for Clarkston Municipal Code.

COLLECTOR (MINOR) STREET: A street which carries traffic from minor streets to the major street system, including the principal entrance streets of residential developments and primary circulating streets within such a development. Collector Streets run East and West.

CONCEPT PLAN: A forecast of the development potential of the property. A map and summary of the proposed development or land use, indicating the lands to be included, a brief description of the proposed project, a timeline for the proposed project, and any other information the applicant deems necessary to provide the town with a general overview of the proposed project. The planning commission may only provide comments to current zoning.

CONTRACTOR: The person in charge of construction, who is duly licensed by the State of Utah. This person may also be the subdivider.

CULINARY WATER AUTHORITY: The Clarkston Town Engineer.

EASEMENT: A quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some entity or part of the public.

FINAL PLAT: A subdivision map prepared in accordance with the provisions of this title that is accurately surveyed and such survey marked on the ground so that the streets, alleys, blocks, lots and other divisions thereof can be identified, and which is designated to be placed on record in the office of the County Recorder and the Town Clerk.

GENERAL PLAN: A plan on record at the office of the town clerk, including maps or reports or both, which has been recommended by the planning commission and approved by the town council which helps to establish lines of current and future land use, be it water, growth, roads etc. as provided in Utah Code.

INSPECTOR: The authorized inspector or representative of the Town.

LOT: A portion of the subdivision or parcel of land intended as a unit for building development or transfer of ownership.

LOT FRONTAGE: The distance along the front of the lot bordering a street as required in the various zones.

LUDMA: An acronym for Land Use Development Management Act.

MASTER STREET PLAN: That portion of the general plan which defines the future alignments of major streets and their right of way, including maps or reports or both, which have been approved by the planning commission and city council as provided in chapter 9 of title 10 of the Utah Code Annotated, 1953, as amended.

PLANNING COMMISSION: The Clarkston Town Planning Commission.

PARCEL OF LAND: A contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same claimant or person(s) or entity(ies).

PLAT: A map or drawing on which the subdivision plan or project is submitted, together with such information supporting data and other requirements as are necessary to effect compliance of the subdivision project.

PRELIMINARY PLAT: The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the planning commission and town council for approval.

PROTECTION STRIP: A strip of land bordering a subdivision, or a street within a subdivision, which serves to bar access of adjacent property owners to required street improvements installed within the subdivision until such time as the adjacent owners share in the cost of such improvements.

PUBLIC IMPROVEMENTS: Construction of any work or product that becomes the property of the town. Such improvements may include, but are not limited to, the construction and installation of roads, sidewalks, curbs, gutters, drainage systems, water systems, fire hydrants, accesses to public rights-of-way and such other construction required by this subdivision ordinance.

SECURITY OF PERFORMANCE: Financial assurance provided by the subdivider to the town that all improvements are constructed in accordance with all relevant town ordinances, regulations and standards, and that all expenses incurred for labor and materials used in the construction of the improvements are paid for by the subdivider.

SHALL: Shall is mandatory.

SPECIFICATIONS: The rules and regulations that govern development.

STREET: A public way for sidewalk, roadway, and utility installations, being the entire width from lot line to lot line, and including the terms "road", "highway", "land", "place", "avenue" or other similar designations.

SUBDIVIDER: Any person, persons or corporation dividing or proposing to divide land so as to constitute a subdivision to be shown on a recorded plat. May also be referred to as a developer.

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

B. "Subdivision" includes:

1. The division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and
2. Except as provided in subsection C of this definition, divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural and industrial purposes.

C. "Subdivision" does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;
2. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - a. No new lot is created; and
 - b. The adjustment does not result in a violation of applicable zoning ordinances; or
3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.

D. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the town's subdivision ordinance.

TOWN ENGINEER: Any registered civil engineer appointed by the town council to accomplish the objectives of this ordinance, provided that no such person may serve the Town and a subdivider simultaneously where he would have to check his own work or the work of a member of his firm in connection with any subdivision in the Town.

11-1-11 GENERAL CONSIDERATIONS

- A. The general plan will serve as an advisory guide regarding the use and future development of all land within the corporate boundaries of the town. The size and design of lots, the nature of utilities, the design and improvements of streets, the type and intensity of land use, and the provisions for any facilities in any

subdivision shall be evaluated against the land uses shown and the standards established in the general plan, the zoning ordinance, and other applicable ordinances.

- B. Trees, native land cover, natural watercourses, and topography shall be preserved where possible. Subdivisions shall be so designed as to prevent excessive grading and scarring of the landscape. The design of new subdivisions shall consider, and relate to, existing street widths, alignments and names unless determined otherwise by the town.

11-1-12 GENERAL RESPONSIBILITIES

- A. The subdivider shall prepare plans and plats consistent with the standards contained in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#) and shall pay for the design, construction and inspection of the public improvements required. The town shall process said plans and plats in accordance with the regulations set forth herein. The subdivider shall not alter the terrain or remove any vegetation from the proposed subdivision site or engage in any site development until the subdivider has obtained the necessary approvals as outlined herein.
- B. The town engineer shall review the plans and plats for design; for conformity to the general plan and to the land use ordinance; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.
- C. Plats and/or plans of proposed subdivisions may be referred by the town engineer to any town departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The town engineer is responsible for coordinating any comments received from the public and private entities and shall decide which agencies to refer proposed subdivision plats and plans to.
- D. The town engineer shall review for compliance the engineering plans and specifications for the town required improvements for the subdivision and whether the proposed town required improvements are consistent with this title other applicable ordinances and the most current version of the [Clarkston Town Manual of Design and Construction Standards](#) and shall be responsible for inspecting the town required improvements.
- E. The planning commission shall act as an advisory agency to the town council. It is charged with making investigations, reports and recommendations on proposed subdivisions as to their conformance to the general plan, land use ordinance, and other pertinent documents. After reviewing a preliminary plat or a final plat and the applicable requirements, the planning commission may recommend approval, approval with conditions, or disapproval of the preliminary plat or final plat to the town council.
- F. The town attorney shall verify that the security provided by the subdivider is acceptable, that the subdivider dedicating land for use of the public is the owner of record, that the land is free and clear of unacceptable encumbrances according to the title report submitted by the subdivider and may review matters of title such as easements and restrictive covenants.
- G. The town council has final jurisdiction in the approval of subdivision plats, the establishment of requirements and design standards for public improvements, and the acceptance of lands that may be proposed for dedication to the town.

11-1-13 COMPLIANCE REQUIRED

- A. It shall be unlawful for any person to subdivide any tract or parcel of land which is located wholly or in part in the town except in compliance with this title. No final plat of any subdivision shall be recorded until it has been submitted and approved as herein. A plat shall not be approved if such plat is in conflict with any provision of the master street plan, land use ordinance, this title, or any other state law or town ordinance.
- B. Land shall not be transferred, sold, or offered for sale, nor shall a building permit be issued for a structure thereon, until a final plat or drawing of a subdivision shall have been recorded in accordance with this title and any applicable provisions of state law, and until the improvements required in connection with the subdivision have been completed as provided herein. Building permits shall not be issued without written approval of all public agencies involved. No building depending on public water, sewer, energy facilities, and street or fire protection shall be permitted to be occupied until such facilities are fully provided and operational.
- C. All lots, plots or tracts of land located within a subdivision shall be subject to this title whether the tract is owned by the subdivider or a subsequent purchaser, transferee, devisee, or contract purchaser of the land or any other person.
- D. Except as otherwise provided, it shall be unlawful for any person to receive a Certificate of Occupancy for a lot within a subdivision until water, sewer, storm drainage and all other required underground utilities within the subdivision are installed, inspected and approved by the town, all curb and gutter is installed, and all streets in the subdivision are paved.
- E. It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable which improvements shall include paved streets. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed.

11-1-14 REQUIRED CERTIFICATES, PERMITS AND REVIEWS

- A. Application: Applications for each of the separate stages of subdivision approval (preliminary plat, and final plat) shall be made to the Planning Commission. Applications shall be made on the respective forms provided and shall be accompanied by the proper fee and the documents and information required by this chapter.
- B. Approval: Action on that application for a stage of a subdivision approval shall be completed in a timely manner after the date of submittal of all required information and items to the Planning Commission.

11-1-15 FEES

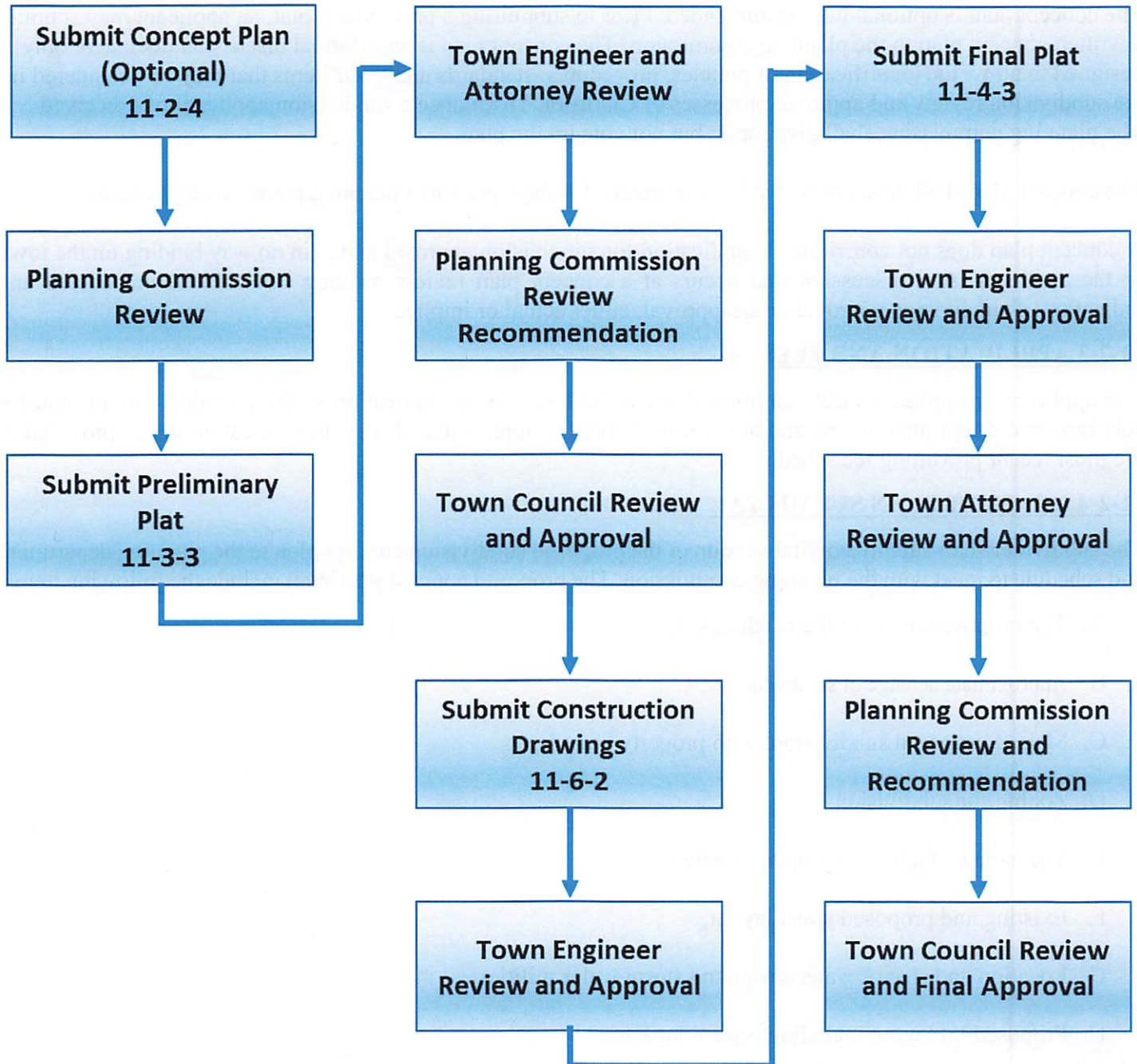
Any and all persons requesting approval on a subdivision preliminary plat, final plat, and plans and specifications for the construction of improvements shall first have paid all fees according to the most current prevailing fee schedule adopted by resolution of the Clarkston Town Council. Said fee schedule is an office checking and field engineering fee to be payable to the town at the time of each of the above-named submittals.

In addition to the above, a retainer fee for construction inspection, based on the most current prevailing fee schedule adopted by resolution of the Clarkston Town Council, shall be payable to the town prior to any construction on subdivision improvements. Costs for any necessary testing, shall be paid by the subdivider, not

the town. Cost for any required materials testing shall be paid directly by the subdivider or shall be reimbursed by the subdivider if payment is advanced by the town. Any failure by a subdivider to make timely payment as required shall be grounds for the withholding of a building permit by the town for any subdivision of the subdivider within the town.

Subdivision Approval

11-1-16 Flow Chart Approval



CHAPTER 2

CONCEPT PLAN

11-2-1: PURPOSE

11-2-2: CONCEPT PLAN

11-2-3: APPLICATION AND FEES

11-2-4: CONCEPT PLAN SUBMITTAL

11-2-1: PURPOSE

The concept plan is optional but recommended. Prior to submitting a preliminary plat, an applicant may submit a written concept plan to the planning commission. The concept plan is an informal discussion document only designed to allow the identification of policies, procedures, standards and other items that may be considered in the subdivision review and approval processes of Clarkston Town once a subdivision application is received. The planning commission shall give input, but not vote on the plan.

The concept plan shall be submitted at least fourteen (14) days prior to a planning commission meeting.

A concept plan does not constitute an application for subdivision approval and is in no way binding on the town or the applicant. Any discussion that occurs at a concept plan review meeting shall not be considered any indication of subdivision approval or disapproval, either actual or implied.

11-2-3 APPLICATION AND FEES

The applicant or applicant's duly authorized agent shall submit an application to the planning commission for subdivision concept plan review and at the same time, the applicant shall pay an application fee as provided in the most recent prevailing fee schedule.

11-2-4 CONCEPT PLAN SUBMITTAL

The subdivider shall submit a digital version of the proposed subdivision concept plan to the planning department and schedule to meet with the planning commission. The proposed concept plan shall include the following items:

- A. The proposed name of the subdivision;
- B. Approximate acreage of subdivision
- C. Map of proposed subdivision, with property boundaries.
- D. Zoning for subdivision
- E. The names of adjacent property owners;
- F. Existing and proposed street layout;
- G. Location and size of water sewer and storm water utilities;
- H. Proposed lot layout including typical lot size;
- I. North arrow;
- J. Minimum scale one-inch equals one hundred feet (1" = 100')

CHAPTER 3 PRELIMINARY PLAT

11-3-1: PURPOSE

11-3-2: APPLICATION AND FEES

11-3-3: PRELIMINARY PLAT REQUIRED INFORMATION

11-3-4: APPROVAL OF PRELIMINARY PLAT

11-3-5: EXPIRATION OF PRELIMINARY PLAT APPROVAL

11-3-1 PURPOSE

The purpose of the preliminary plat is to require formal preliminary approval of a subdivision by the planning commission in order to minimize changes and revisions which might otherwise be necessary on the final plat. The preliminary plat and all information and procedures relating thereto, shall, in all respects, be in compliance with the provisions of this title and any other applicable ordinances.

11-3-2 APPLICATION AND FEES

The subdivider of a subdivision shall file an application for preliminary plat approval with the town planning department on a form prescribed by the town, together with a digital version of the preliminary plat. At the same time, the subdivider shall pay the appropriate filing fee as provided in the current prevailing fee schedule.

11-3-3 PRELIMINARY PLAT REQUIRED INFORMATION

- A. Preliminary plat requirements shall be submitted to the planning commission at least fourteen (14) days prior to the planning commission meeting. (NOTE: Scheduling of the case shall be dependent upon adequacy of data provided to the Town.)
- B. Contents: The preliminary plat shall contain the following information:
 - 1. The preliminary plat shall be drawn to scale not smaller than one hundred feet (100') to the inch, and shall show a north arrow;
 - 2. The proposed name of the subdivision;
 - 3. The location of the subdivision including the address and the section, township and range;
 - 4. The names and addresses of the owner, subdivider if other than the owner, and the engineer or designer of the subdivision;
 - 5. Date of preparation, scale (at least 100 feet to the inch), and north point;
- C. Existing Conditions: The plat shall show the following:
 - 1. The location of the nearest benchmark and legal monument;
 - 2. The boundary of the proposed subdivision and the acreage included;
 - 3. All property under the control of the subdivider, even though only a portion is being subdivided. Where the plat submitted covers only a part of the subdivider's tract, a sketch of the proposed street system

on the unplatted parts of the subdivider's land shall be considered in the light of existing major street plans or other planning commission studies;

4. The location, width and names of all existing streets within two hundred feet (200') of the subdivision and of all prior platted streets or other public ways, utility rights of way, parks, and other public open spaces, permanent buildings and structures, and houses or permanent easements;
5. Section and corporation lines, within and adjacent to the tract;
6. Location of all wells, proposed, active and abandoned, and of all reservoirs within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries;
7. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location;
8. Existing ditches, canals, natural drainage channels and open waterways and proposed realignments; including all easements located within the subdivision plat and their dimensions.
9. Boundary lines of adjacent tracts of unsubdivided land, showing ownership where possible;
10. Contour at vertical intervals of not more than two feet (2') excepting in mountainous or otherwise steep areas where a more practical interval would be warranted;
11. Where applicable, location of the 100-year floodplain as determined by the federal emergency management agency (FEMA).

D. Proposed Plan: The preliminary plat shall show:

1. The layout of streets (designated by actual or proposed names and numbers), showing location, widths and other dimensions of proposed streets, alleys and easements which shall be in conformance to the adopted street master plan;
2. The layout, numbers and typical dimensions of lots;
3. Location of any necessary temporary turnaround easements.
4. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
5. Building setback line, including showing dimensions;
6. Dedications for water, sewers, drainage, utility lines and other purposes;
7. Typical street cross sections and street grades where required by the planning commission;
8. A plan or method by which the subdivider proposes to handle stormwater drainage for the subdivision. Any disposal of stormwater in an open waterway shall require approval of those responsible for the open waterway;

9. A plan for culinary water improvements and waste disposal improvements for all lots proposed within the subdivision;
 10. The preliminary plat must be stamped by the subdividers licensed design engineer
- E. Additional Information Required. In addition to the preliminary plat, the applicant shall provide the following information with the preliminary plat application:
1. Current Title Report for the subdivision area.
 2. Stamped envelopes with the names and addresses of property owners within three hundred (300) feet on all sides of the subdivision.
 3. An adequate traffic report prepared by a qualified traffic engineer when required by the town engineer.
 4. Property Owner Agreements: Where necessary, copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the Planning commission.

11-3-4 APPROVAL OF PRELIMINARY PLAT

- A. The Planning Commission Clerk shall, upon receipt of the complete preliminary plat application, distribute a copy of the plan and supporting data to the town engineer, town attorney, planning commission, Mayor and Town Council for review and written comments on their findings. Upon receipt of the written comments on their findings, the Planning Commission Clerk will provide this information to the subdivider. This may result in revisions to the preliminary plat.
- B. Public Meeting of the Planning Commission: The subdivider will meet with the planning commission, present his/her plan, and respond to any questions or concerns by commission members. The planning commission shall make a recommendation to the town council to approve, conditionally approve, or disapprove the subdivision preliminary plat. A motion to table any recommendation may be continued to the next meeting if it is found that more information is needed before making a decision. If the preliminary plat is recommended for disapproval a written notice, stating the reasons for disapproval, shall be provided by the planning commission to the town council and the subdivider.
- C. Public Meeting of the Town Council: Upon recommendation of the preliminary plat by the planning commission, the town council shall consider the preliminary plat application and all information provided therewith at the next regularly scheduled meeting. After the Town Council has reviewed the preliminary plat, required reports, and any municipal or staff recommendations, it shall approve, conditionally approve, or disapprove the application with any required changes and/or additions it deems necessary. The Town Council shall support its decision by findings of fact included in the meeting record. The subdivider shall be notified in writing of the action taken by, and the findings of the town council regarding the submitted preliminary plat.
- D. If the town council denies preliminary plat approval, no further review of the proposed subdivision shall be made by the town, and a new preliminary plat shall be required to reinitiate the subdivision process.

- E. Granting a preliminary plat approval by the town council shall not constitute a final acceptance of the subdivision by the town council. Nor shall approval of the preliminary plat relieve the subdivider of the responsibility to comply with all required conditions and ordinances, and to provide the improvements and easements necessary to meet all town standards and requirements.
- F. The receipt of a signed copy of the approved preliminary plat shall authorize the subdivider to proceed with the preparation of the construction drawings and final plat. In the event that the final plat is not presented to the planning commission within six (6) months following approval of the preliminary plat such prior approvals shall be void.

11-3-5 EXPIRATION OF PRELIMINARY PLAT APPROVAL

Subject to any extensions as provided in 11-4-2 of this Title, the approval of a preliminary plat shall be effective for a period of six (6) months from the date the preliminary plat is approved by the town council, at the end of which time the subdivider must have submitted a final subdivision plat for approval. If a final plat is not submitted for approval within the six (6) month period following approval, the preliminary approval shall be void, and the applicant shall be required to submit a new preliminary plat for review and approval subject to the existing provisions of this code and all other applicable local, state, and federal requirements in effect at the time of the submission of the application.

CHAPTER 4

FINAL PLATS

11-4-1: PURPOSE

11-4-2: FILING DEADLINE, APPLICATION, AND FEES

11-4-3: PREPARATION AND REQUIRED INFORMATION

11-4-4: REVIEW BY THE TOWN ENGINEER

11-4-5: REVIEW BY THE TOWN ATTORNEY

11-4-6: PLANNING COMMISSION ACTION

11-4-7: REVIEW BY THE TOWN COUNCIL

11-4-8: RECORDING OF THE FINAL PLAT

11-4-9: EXPIRATION OF FINAL APPROVAL

11-4-1: PURPOSE

The purpose of the final plat is to require formal approval by the planning commission and town council before a subdivision plat is recorded in the office of the cache county recorder. The final plat and all information and procedures relating thereto shall in all respects be in compliance with the provisions of this title. The final plat and construction plans submitted shall conform in all respects to those regulations and requirements specified during the preliminary plat process. Final plats may be submitted in phases, provided each phase can exist as a separate project capable of independently meeting all the requirements of this chapter. The separate development of said phases shall not be detrimental to the subdivision nor to the adjacent properties in the event the remainder of the project is not completed.

11-4-2: FILING DEADLINE, APPLICATION, AND FEES

Application for final plat approval shall be made by submitting a digital version of the proposed final plat together with construction plans, to the planning department within twelve (12) months after approval or conditional approval of the preliminary plat by the planning commission. This time period may be extended for up to six (6) months for good cause if the subdivider petitions the planning commission for an extension prior to the expiration date, however only one extension may be granted. At the time of application, the appropriate fee shall be paid in accordance with the current prevailing fee schedule.

11-4-3 PREPARATION AND REQUIRED INFORMATION

A. **Preparation:** The final plat must be prepared by a licensed land surveyor on a sheet of approved mylar with waterproof black ink. The top of the plat shall be either north or east, whichever best accommodates the drawing. The final plat shall be made to a scale large enough to clearly show all details, and in any case not smaller than one hundred feet (100') to the inch, and workmanship on the finished drawing shall be neat, clean cut and readable.

B. **Description And Delineation:** The final plat shall show:

1. The name of the subdivision, as approved by the Planning commission;
2. Accurate angular and linear dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features. A boundary description of the subdivision shall also be provided;

3. An identification system for all lots and blocks and names and numbers of streets. Lot lines shall show dimensions in feet and hundredths;
4. True angles and distances to the nearest established street lines of official monuments, which shall be accurately described in the plat and shown by appropriate symbol;
5. Radii, internal angles, points and curvatures, tangent bearings and the length of all arcs;
6. The location of all monuments to be installed and accurately located by the appropriate symbol. All United States, state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position;
7. The dedication to the town of all streets and highways included in the proposed subdivision;
8. T-posts with rebar and surveyor cap markers shall be shown on the plat and placed at each lot corner prior to approval of the final plat;
9. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners;
10. 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 and entered on the final plat in a form approved by the town attorney;
11. The final plat shall be prepared on twenty-four inch by thirty six inch (24" x 36") approved mylar and shall have a one and one-half inch (1½") border on the left and a one-half inch (½") border on the three (3) remaining sides;
12. The street address for each lot shall be shown on the final plat. Street address shall be assigned by the town;
13. All streets within the subdivision shall be numbered (named streets shall also be numbered) in accordance with and in conformity with the adopted street numbering system adopted by the Town;
14. All boundary, lot and other geometrics (bearings, distances, curve data, etc.) on the final plat shall be close to an accuracy of not less than one part in five thousand (1/5,000);
15. A legend and general notes or statements as required by the town or other interested parties and a north arrow and the scale of the drawing;
16. The location and dimensions of any and all easements within the subdivision area. This includes but is not limited to easements across all lot frontages that are adjacent to public streets and other required easements for water, sewers, drainage, utility lines and other purposes. The utility easement must conform with the most current version of [the Clarkston Town Manual of Design and Construction Standards](#)

17. The area of each lot in square feet or acres;

18. A basis of bearing shall be indicated on the plat.

C. Standard Forms for the Final Plat: The final plat shall include:

1. A registered land surveyor's certificate of survey in the form required by state law;
2. The owner's certificate of dedication;
3. A notary public's acknowledgment;
4. The Clarkston's Planning Commission's certificate of approval;
5. The Clarkston Town Council's certificate of approval;
6. The town engineer's certificate of approval;
7. The town attorney's certificate of approval;
8. A space in the lower left-hand corner of the drawing for the county recorder's use;
9. The board of health certificate of approval in cases where sewage disposal will be through the use of individual waste disposal systems.

D. Submittal: The final plat shall be submitted for approval with a title opinion by a licensed abstract company showing the names of the owner or owners of the subdivision and any encumbrances on the property.

E. Utility Easement Approval: The final plat shall show all utility easements required for the installation and maintenance of utilities needed to serve the subdivision. The final plat shall not be approved by the town engineer until the subdivider obtains the signature of an officer of every utility company providing utility services in the town, which signature shall indicate that the utility easement is in a form acceptable to the utility company's plans for providing services in the subdivision.

11-4-4 REVIEW BY THE TOWN ENGINEER

The Town engineer shall review the final plat and construction plans and determine compliance with the engineering and surveying standards and criteria set forth in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#) and all other applicable ordinances of the Town and the State of Utah. It is incumbent on the design engineer to fully familiarize themselves with the most current version of the Clarkston Town Manual of Design and Construction Standards and prepare plans and plats accordingly. If, upon initial review, the town engineer deems the construction plans or plat to be deficient or incomplete, the plans will be returned to the subdivider/design engineer for revisions. As the culinary water and sanitary sewer authority, the town engineer shall review the construction plans for compliance with the water and sewer master plan of the town and the overall impact the development is expected to have on those systems. The town engineer shall sign the final plat if the town engineer finds that the subdivision and the construction plans fully comply with the improvement standards required by this chapter, that the survey description is correct, that the current water and sewer systems with any proposed improvements are adequate to meet the needs of the development, and that all easements are

correctly described and located. The town engineer shall complete a review of the plat and construction plans within thirty (30) days after being submitted for review to the engineer, unless a longer time is necessary for good cause. If the final plat and construction plans comply, the town engineer shall provide written approval and forward the plat to the town attorney. If the final plat or the construction plans do not comply, the town engineer shall return the plat to the subdivider with comment.

11-4-5 REVIEW BY THE TOWN ATTORNEY

The town attorney shall review the final plat and the current title report to verify compliance with the town's regulatory requirements and to ensure it has been properly prepared to allow for the legal transfer of individual lots and the dedication of public and private land without encumbrances. The town attorney may also review public easements, protective covenants and other documents where applicable. Upon satisfactory completion of the items specified in this section, the town attorney may provide written review of the plat to the planning commission before the plat is presented to the town council and make any recommendations necessary to bring the plat into compliance with any state or town requirements.

11-4-6 PLANNING COMMISSION ACTION

Upon receipt of the final plat, the planning commission shall review the plat to determine whether the plat conforms with the preliminary plat, with all changes requested, and with all requirements imposed as conditions of acceptance. If the submitted final plat is not acceptable, the planning commission shall notify the subdivider and specify the respects in which it is deficient. If the planning commission determines that the final plat is in conformity with all requirements of the ordinances of the town and with the conditions of acceptance by the planning commission, it shall recommend approval of the final plat and the chairperson of the planning commission shall sign the plat in the appropriate block and forward the plat to the town council.

11-4-7 REVIEW BY THE TOWN COUNCIL

- A. Within a reasonable time, following approval of the final plat by the town engineer, the planning commission and the town attorney, the final plat shall be submitted to the town council for its review and consideration. The town council shall not be bound by the recommendations of the planning commission and may set its own conditions and requirements consistent with this title. If the town council determines that the final plat is in conformity with the requirements of this title, other applicable ordinances, and any reasonable conditions as recommended by the planning commission or as set on the town council's own initiative, that all fees have been paid as required, and that the town council is satisfied with the final plat of the subdivision, it shall approve the final plat. If the town council determines that the final plat is not in conformity with this title or other applicable ordinances, or any reasonable conditions imposed, it may disapprove the final plat specifying the reasons for disapproval. Within one (1) year after the town council has disapproved any plat, the subdivider may file with the planning department, a plat altered to meet the requirements of the town council. No final plat shall have any force or effect unless the same has been approved by the town council and signed by the mayor and town clerk, town engineer and all other required officials.
- B. The town council shall not give final approval to any subdivision plat until the planning commission has approved the plat.

11-4-8 RECORDING OF THE FINAL PLAT

Following town council approval, and the signing of the final plat by the mayor and town clerk, and all other

required officials it shall be the responsibility of the subdivider to file the final plat with the county recorder's office.

11-4-9 EXPIRATION OF FINAL APPROVAL

If the final plat is not recorded within twelve (12) months from the date of town council approval, such approval shall be null and void. This time period may be extended by the town council for up to an additional six (6) month period for good cause shown. The subdivider must petition in writing for an extension prior to the expiration of the original twelve (12) months. No extension will be granted if it is determined that it will be detrimental to the town.

CHAPTER 5

GENERAL REQUIREMENTS FOR ALL SUBDIVISIONS

11-5-1 GENERAL LAYOUT STANDARDS

11-5-2 LOT LAYOUT STANDARDS

11-5-3 STREET LAYOUT STANDARDS

11-5-4 DEDICATION OF WATER

11-5-1 GENERAL LAYOUT STANDARDS

- A. The town's general plan shall be used as an advisory guide for all subdivision layouts.
- B. Where trees, waterways, scenic points, historical spots or other town assets and landmarks, as determined by the planning commission, are located within a proposed subdivision, reasonable steps should be taken to preserve these features in conformance with the [Clarkston Town Manual of Design and Construction Standards](#).

11-5-2 LOT LAYOUT STANDARDS

The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for building, and be properly related to topography, to the character of surrounding development and to existing requirements. A subdivision should not create lots which would make improvement impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewage, driveway grades or other physical conditions. Lot layout shall conform to the standards contained in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#).

11-5-3 STREET LAYOUT STANDARDS

Subdividers shall locate streets within the subdivision so that the streets connect with existing public streets and shall meet the provision of the adopted town master street plan or the transportation section of the general plan. Those streets which have not been designated on the master street plan shall be as required by the planning commission and town council. Street layout shall conform to the standards contained in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#).

11-5-4 DEDICATION OF WATER

As a condition of approval of the subdivision, the town council may require each subdivider, which has not received preliminary approval prior to the adoption hereof, to provide one acre-foot of usable water per dwelling unit, residential lot, commercial lot, or separate parcel created by the subdivision whichever is greatest, to the town. This contribution of water is intended to assist the town in meeting the water supply needs brought on as a result of the development. This requirement for usable water may be satisfied through the application of one or a combination of the following options:

- A. Culinary quality water which, in the opinion of the town, would qualify for conversion to a municipal use with a point of diversion residing in an existing town diversion point or that may be transferrable to an existing town diversion point.
- B. A subdivider or developer may in lieu of providing water, pay the amount identified in the most current "prevailing fee schedule" as set forth by the town council. Fees collected by the town shall be earmarked

for the purpose of obtaining additional water rights or developing existing water resources. The town may refund any fees received in accordance with this option if the subdivider or subdivider provides water in accordance with CMC A of this section.

CHAPTER 6

DESIGN AND CONSTRUCTION STANDARDS FOR IMPROVEMENTS

11-6-1 DEPARTMENT STANDARDS

11-6-2 SUBDIVISION IMPROVEMENT PLANS

11-6-3 CULINARY WATER

11-6-4 STORM DRAINAGE

11-6-5 STREET IMPROVEMENTS

11-6-6 UTILITIES

11-6-1 DEPARTMENT STANDARDS

Standards for design, construction specifications and inspection of street improvements, curbs, gutters, sidewalks, storm drainage, flood control facilities, water distribution, fire hydrants and sewage disposal shall be prepared by the town engineer. All such standards shall be in conformance with the standards adopted by applicable state and federal regulatory agencies. All subdividers shall comply with the established standards provided they have been approved by the Clarkston Town Council

11-6-2 SUBDIVISION IMPROVEMENT PLANS

- A. Subdivider shall be required to construct and install all public improvements required by this Title and the [Clarkston Town Manual of Design and Construction Standards](#) as a condition of approval of the subdivision.
- B. Construction plans and specifications for all proposed improvements shall be prepared by a professional engineer, licensed by the state of Utah, to provide the design services for the improvement being constructed. Construction plans shall conform to the standards contained in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#). It is incumbent on the design engineer to fully familiarize themselves with the most current version of the Clarkston Town Manual of Design and Construction Standards, and prepare plans and plats accordingly. If, upon initial review, the town engineer deems the construction plans or plat to be deficient or incomplete, the plans will be returned to the subdivider/design engineer for revisions. The town will not design the development or project through the "redline" process.

11-6-3 CULINARY WATER

- A. All subdivisions shall provide a culinary water distribution system. Standards for design are contained in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#). Such systems shall be in accordance with town standards and subject to the approval of the Town engineer.

11-6-4 STORM DRAINAGE

- A. A system to collect, convey, and dispose of storm water shall be designed and constructed for all subdivisions and shall conform to the standards contained in the most current version of the [Clarkston Town Manual of Design and Construction Standards](#).

11-6-5 STREET IMPROVEMENTS

- A. All subdivisions shall provide paved streets and improvements. Street Improvements shall conform to the most current version of the [Clarkston Town Manual of Design and Construction Standards](#).

11-6-6 UTILITIES

All utilities including power, cable television, and telephone shall be underground and shall be so placed prior to road improvements such as asphalt surfacing.

CHAPTER 7

IMPROVEMENT BONDING AND WARRANTY

11-7-1 SECURITY FOR SUBDIVISION IMPROVEMENTS

11-7-2 WARRANTY PERIOD AND WARRANTY DEPOSIT

11-7-1 SECURITY FOR SUBDIVISION IMPROVEMENTS

- A. A final plat of a subdivision of land shall not be signed by the mayor and town clerk without a certification by the town engineer that the improvements described in the subdivider's plans and specifications have been constructed and installed in conformance with town standards.
- B. In lieu of installing all improvements prior to recording a final plat, the subdivider may enter into a security of performance agreement (otherwise known as a development agreement) acceptable to the town as security to ensure completion of all required improvements. The security of performance agreement shall be in a form approved by the town council and may contain specific provisions approved by the town attorney. The agreement shall include, but not be limited to:
 - 1. Subdivider's agreement to complete all improvements within a period of time not to exceed twelve (12) months from the date the agreement is executed;
 - 2. The improvements shall be completed to the satisfaction of the town and in accordance with town standards as adopted by the town council;
 - 3. The security for performance shall be equal to one hundred ten percent (110%) of the town's engineer's estimated cost of the improvements to be installed exclusive of power, natural gas, telephone, and cable television;
 - 4. The town shall have immediate access to the security proceeds;
 - 5. The security proceeds may be released at intervals determined by the town engineer upon the request of the subdivider as improvements are completed. The amount of the release shall be determined by the town but in no case shall it be in excess of the amount estimated by the town engineer at the time the original security amount for the proposed and now completed improvement was established. Such requests for release may be made only once every thirty (30) days and no release shall be authorized until such time as the town has inspected the improvements and found them to be in compliance with the town's standards. The final ten percent (10%) of the security proceeds shall be released following completion of all required improvements including power, natural gas, telephone, and cable television provided no deficiencies are found. All releases shall be by written authorization by the town engineer.
- C. The security for performance agreement shall require the establishment of one of the following:
 - 1. An escrow account, in any bank acceptable to both the town and subdivider. The bank shall agree to hold and apply the proceeds in the escrow account only for the named improvements. The agreement shall give the town the right to withdraw those funds necessary to complete any improvements not installed within the twelve (12) month time limit established;

2. An irrevocable letter of credit which shall require the following specifications:
 - a) Have an expiration date of not less than twelve (12) months,
 - b) Be obtained from a bank which meets the following standards:
 1. Have total assets of fifty million dollars (\$50,000,000.00) or more,
 2. Have an equity capital to total assets ratio of five percent (5%) or more,
 3. Have a minimum capitalization of fifty million dollars (\$50,000,000.00),
 4. Have a good profitability trend,
 5. Be approved by the town attorney;
 6. A cash bond agreement accompanied by a cashier's check payable only to the town of Clarkston.
- D. No extensions in time will be granted for the completion of improvements.

11-7-2 WARRANTY PERIOD AND WARRANTY DEPOSIT

- A. In addition to the security for performance agreement described in CMC 11-7-1 of this chapter, the subdivider shall present a warranty deposit to the city equal to the percentage allowed by state law, UC 10.9a-604.5(3)(b) of the total cost for all improvements.
- B. A warranty period shall follow the most current version of the [Clarkston Town Manual of Design and Construction Standards](#).
- C. The warranty deposit may be made separately or with the security for performance agreement. In any event, the warranty deposit, shall be made prior to the signing of the final plat by the mayor and city recorder.