

CHAPTER TEN

Subdivisions

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1. Purpose. The purpose of this Chapter is to:

- A. Protect and provide for the public health, safety, and general welfare of Emery Town.
- B. Guide the future growth and development of Emery Town, in accordance with the General Plan.
- C. Encourage the orderly and beneficial development of land within the municipality.
- D. Protect the integrity of buildings, land, and improvements, and to minimize the conflicts among the uses of land and buildings.
- E. Provide a beneficial relationship between the uses of land, buildings, traffic circulations and the proper location and width of streets and building setbacks.
- F. Establish reasonable standards of design and procedures for subdivisions, condominium plats, plat amendments, and lot line adjustments in order to further the orderly layout and use of land, and to ensure proper legal descriptions and recordation of subdivided land.
- G. Ensure that the public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- H. Encourage the wide use and management of natural resources in order to preserve the integrity, stability and aesthetics of the community.
- I. Continue the rural development and variety of structural design within the residential zone.
- J. Provide for open spaces through the most efficient design and layout of the land while preserving the density of land as established in the Zoning and Subdivision Development Code of Emery Town.

2. Penalty for Noncompliance. It is unlawful to transfer ownership of any parcel of land pursuant to an invalid subdivision. The Town may, in its discretion, void such transfers. Additionally, any person who transfers ownership of a parcel of land pursuant to a subdivision that has not been approved under this Chapter shall be criminally liable for a Class C misdemeanor.

3. Subdivision Land Use Authority:

- A. The Land Use Authority for subdivision applications under this Chapter shall be the Subdivision Review Committee (“SRC”). The SRC shall be composed of the Mayor or the Mayor’s representative, the Planning Commission’s Chair or designee, and the Town Clerk. For purposes of subdivision applications, the SRC shall be responsible for the following, but may delegate any responsibility to Town staff:
 - 1. Rendering land use decisions related to applications under this Chapter.
 - 2. Reviewing all applications under this Chapter in an impartial manner and according to the standards and deadlines described in this Chapter.
 - 3. Holding a public hearing for subdivision applications when required by this Chapter.
 - 4. Providing feedback to applicants on their applications in the manner required by this Chapter.
 - 5. Scheduling and holding a pre-application meeting with potential applicants as required by this Chapter.
 - 6. Keeping subdivision application forms and related informational material up to date and publicly accessible and distributing such forms and materials to potential applicants.
 - 7. Providing notice to entities and parties as required by this Chapter.
 - 8. Signing application approvals as required by this Chapter.
 - 9. Ensuring that documents are properly recorded with the County as required by this Chapter.
- B. As subdivision application decisions are administrative, not legislative, the Land Use Authority is authorized to make any land use decision described by this Chapter without Town Council approval.
- C. Except when operating as the Appeal Authority, the Town Council shall not require the Land Use Authority to approve or deny an application under this Chapter.

4. Appeal Authority:

- A. The Appeal Authority for Town decisions relating to this Chapter (e.g., approval or denial of a subdivision application), except where otherwise noted, is the Town Council.
- B. The Appeal Authority shall hear appeals on final decisions made by the Land Use Authorities and shall hear complaints about the conduct of the Land Use Authorities in administering the provisions of this Chapter.
- C. A party appealing or complaining of a Land Use Authority’s decision under this Chapter must exhaust its remedies under this Section (by appealing or complaining to the Appeal Authority) before bringing an action against the Town in a court of law.

- D. A party who has submitted a subdivision application or petition may appeal or complain to the Appeal Authority under this Chapter. In such an appeal or complaint, the party may appeal or complain only regarding the Land Use Authority's treatment of that party's own application; a third party may not appeal or complain of Land Use Authority decisions or conduct.
- E. A party desiring to appeal or complain of a Land Use Authority decision shall submit to the Appeal Authority the following in writing:
 - 1. A brief explanation of the relief the party is seeking, the reason the party submitted its application or petition, the Land Use Authority's decision and treatment of the application or petition, and why the applicant believes the Land Use Authority misapplied the provisions of this Chapter or abused the discretion given it by this Chapter.
 - 2. The most recent version of the application or petition the party submitted.
 - 3. Any supplemental documentation or information that the Appeal Authority requests.
 - 4. All appeals and complaints must be emailed or mailed to the Town Recorder using the Recorder's official Town address and/or email account listed on the Town website.
 - 5. After receiving a complete appeal or complaint in accordance with this Section, the Appeal Authority shall deliver a decision to the applicant, in writing, no later than 45 calendar days after the Appeal Authority receives the appeal or complaint.
- 5. **Process.** Chapter 10 adopts and incorporates the definitions of terms found in Chapter 10 and distinguishes between several processes of subdivision and land division including all subdivisions, condominium plats, plat amendments, plat vacations, and lot line adjustments. The process for subdivision applications involves:
 - A. **Pre-application meeting.** An applicant for a subdivision may contact the Land Use Authority to discuss the scope and purpose of the application and the requirements of this Chapter, and to review any element of the party's proposed subdivision application. The proposed application need not be complete for purposes of this meeting and may - if the party desires - be limited to a concept plan.
 - 1. If a party requests a pre-application meeting, the Land Use Authority shall schedule the meeting within 15 business days after the request. The meeting shall be scheduled at the earliest convenient opportunity, and, at the option of the party requesting the meeting, shall occur within 20 business days after scheduling.
 - 2. The Land Use Authority (or a member of the body that makes up the Land Use Authority) shall conduct the meeting, provide feedback on materials as requested by the party, and shall provide or have available on the municipal website the following at the time of the meeting:
 - a. Copies of applicable land use regulations,
 - b. A complete list of standards required for the project, and
 - c. Relevant application checklists.
 - B. **Application Submission.** The applicant shall provide the SRC with a subdivision application, including drawings in sufficient detail to allow for review of the proposal for compliance with this Section and other applicable laws. The application shall include the elements required as stated in Section 8 of this Chapter.

C. **Application Review.** For subdivision applications, the review process begins when an applicant submits a complete application. The review process as laid out in Section 10 of this Chapter shall be adhered to. The SRC may consider the following in their review:

1. Does the application meet the requirements of this code?
2. Are all the lots suitable for building?
3. Are hazardous areas or conditions present, and if so, have the conditions been abated?
4. Do all lots border public streets?
5. Is the subdivision consistent with the General Plan?
6. Will the development enhance the character and aesthetics of the community?
7. Proof of enough water shares for the development?

D. **Approval.** The Land Use Authority shall approve any complete subdivision application made under this Chapter that complies with applicable municipal ordinances. The applicant shall then record the approved plat with the County Recorder's Office within 180 calendar days, provided that the applicant has completed any improvements or posted any performance guarantee required by the Town.

6. **Simple Lot Subdivisions.** Subject to this Chapter, an applicant may subdivide property by metes-and-bounds into two or three lots or parcels without the necessity of recording a plat, provided that all proposed lots or parcels front a dedicated public street and comply with the applicable zone standards. This process shall be completed in the following manner:

A. An applicant shall submit an application to the SRC for a simple lot subdivision that includes at a minimum:

1. The name of applicant or authorized agent and contact information;
2. A property address and parcel number;
3. The address for the subdivision;
4. The metes and bounds description of the property proposed to be split;
5. Any other information that may be requested by the SRC;
6. The subdivision name.

B. Simple lot subdivisions shall not be approved until such time as the applicant provides utility hook-ups to each proposed lot or parcel. If the application does not result in a violation of a land use ordinance or an adverse development condition, the SRC shall approve the petition.

C. The applicant shall not initially be required to install sidewalks for a simple lot subdivision; however, as part of the building permits process, the owner of the land must install sidewalks prior to an occupancy permit being issued. All other design standards set forth in this Chapter are not applicable to a simple lot subdivision unless specifically required by the SRC.

D. The applicant may need approval from the Public Health Department on simple lot subdivisions if it is determined that the property is not serviced by the public sewer system.

7. **Exemptions from Plat Necessity.**

A. Agricultural Land:

1. Applications to subdivide agricultural land are exempt from the plat requirements (but not the other application requirements) of Section 8(3) of this Chapter if the resulting parcels:
 - a. Qualify as land in agricultural use under Utah Code §59-2-502;
 - b. Meet the minimum size requirement of applicable Town land use ordinances; and
 - c. Are not used and will not be used for any nonagricultural purpose.
2. For subdivision applications for which this exception applies, an applicant may submit to the Town—in place of a plat—a record of survey map that illustrates the boundaries of the parcels.
3. If the Town approves a subdivision application based on a record of survey map, the applicant shall record the map, signed by the Town, with the County Recorder’s Office. This shall be done in the same manner as is done for a plat under Sections 11 and 12 of this Chapter.
4. If a parcel resulting from a subdivision under this exception ever ceases to be used for agriculture, the subdivision shall become invalid. The Town may, in its discretion, impose the penalty in Section 2 of this Chapter and/or require a subdivision amendment before issuing a building permit.

B. Minor Subdivisions:

1. An applicant may submit to the Emery County Recorder’s Office for recording a document that subdivides property without a necessity of recording a plat, if the subdivision:
 - a. Results in less than 10 lots;
 - b. Is not traversed by the mapped lines of a proposed street, as shown in the general plan, and does not require the dedication of any land for street or other public purposes;
 - c. Has been approved by the culinary water authority and the sanitary waste authority; and
 - d. Is located in a zoned area, each lot in the subdivision meets the frontage, width, and area requirements of the zoning ordinance or has been granted a variance from those requirements by the Board of Adjustment.
2. The applicant shall meet with a member of the SRC (or Town staff, as delegated) to determine utility hookups to each proposal lot or parcel, sidewalk, and other infrastructure requirements for the minor subdivision.
3. For subdivision applications for which this exception applies, an applicant may submit to the Town - in place of a plat - both:
 - a. A record of survey map that illustrates the boundaries of the parcels; and
 - b. A legal metes-and-bounds description that describes the parcels illustrated by the survey map.

4. If the Town approves a subdivision application based on a record of survey map and metes-and-bounds description, the applicant shall record the map and description, signed by the Town, with the County Recorder's Office. This shall be done in the same manner as is done for a plat under Sections 11 and 12 of this Chapter, except that the Town shall also provide the notice required in Utah Code §10-9a-61(1).
5. A document which does not meet the requirements of this Section may be corrected to comply with this Section by recording an affidavit with the County Recorder's Office.

8. Subdivisions (10 or More Lots). The applicant for a subdivision shall submit an application to the Land Use Authority. The applicant must comply with Chapters 6-12 for design standards and with the most currently adopted infrastructure master plans.

A. To be considered complete, a subdivision application must include at least the following elements:

1. An approved land use application that describes how the property will be used after it is subdivided.
 - a. If the intended use is permitted by right under Town ordinances, the land use application must include citations to the specific ordinance(s) that the applicant believes authorizes the intended use.
 - b. If the intended use requires a conditional use permit or is otherwise conditioned on Town approval, the land use application must include an approved, Town-issued permit authorizing the intended use. Should an applicant seek a use permit concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the use permit is issued.
 - c. If the intended use is prohibited under Town ordinances and requires a variance, the land use application must include an approved, Town-issued variance authorizing the intended use. Should an applicant seek a variance concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the variance is issued.
2. An improvement plan, created in accordance with applicable portions of Chapter 11 of this Title, for all public improvements proposed by the applicant or required by Town ordinances.
 - a. In addition to the requirements in Chapter 11, the improvement plan must contain an engineer's estimate of the cost of completing the required improvements.
 - b. Subdivision improvements must be completed within two years of recordation of the subdivision plat, unless such time as extended by the Town.
3. A plat. The plat must be drawn to scale, in detail, and in accordance with generally accepted surveying standards and the acceptable filing standards of the County Recorder's Office. The plat must include:
 - a. A minimum scale of 1"=50';
 - b. The lot or unit reference; block or building reference; street or site address; street name or coordinate address; acreage or square footage for all parcels, units, or lots; and length and width of the blocks and lots intended for sale.

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- c. Existing rights-of-way and easement grants for record for streets, underground utilities and other public purposes;
 - d. The acreage or square footage for all parcels or lots and the length and width of the blocks and lots intended for sale;
 - e. A legend of symbols;
 - f. A north arrow facing the top of right margin;
 - g. A date on each sheet;
 - h. The boundary dimensions and legal description of all proposed parcels;
 - i. The location, width, and other dimensions of all existing or platted streets and other important features within a 200-foot perimeter of the subdivision, such as utility lines and exceptional topography and structures.
 - j. The proposed subdivision name, which must be distinct from any subdivision name on a plat recorded in the County Recorder's Office;
 - k. Any known and unrecorded water conveyance facility located, entirely or partially, within the plat.
 - l. The proposed streets, alleys, parks, open spaces and other offers of public dedications, showing widths and pertinent dimensions as well as points of intersections of each;
 - m. All survey monuments and proposed hydrant locations;
 - n. The location, width, centerline bearing and curve data (including delta angle, radius, length, tangent and the long cord on curves) and other dimensions of all existing proposed or platted streets and easements;
 - o. The streets, lots, and properties within two hundred feet (200') surrounding the subdivision shown in ghost lines;
 - p. If any portion of the proposed subdivision is within 300 feet of an Agriculture Protection Area, the notice language found in Utah Code §17-41-403(4).
 - q. If any portion of the proposed subdivision is within 1,000 feet of an Industrial Protection Area, the notice language found in Utah Code §17-41-403(4).
 - r. If any portion of the proposed subdivision is within 1,000 feet of a Critical Infrastructure Materials Protection Area, the notice language found in Utah Code §17-41-403(4).
 - s. If any portion of the proposed subdivision is within 1,000 feet of a Mining Protection Area, the notice language found in Utah Code §17-41-403(4).
 - t. If any portion of the proposed subdivision is within 1,000 feet of a Vested Critical Infrastructure Materials Operation (extracting, excavating, processing, or reprocessing sand, gravel, or rock aggregate where that use is not permitted by Town ordinances), the notice language found in Utah Code §10-9a-904.
 - u. If the subdivision includes a condominium, the requirements found in Utah Code §57-8-13, as amended.
4. Reports and Studies, including:

- a. A traffic study, if one is required by an applicable UDOT Access Management Plan (such as by virtue of the plat touching a road built or maintained by UDOT) or requested by the Land Use Authority.
 - b. Any other study or report reasonably necessary to ensure compliance with Town design standards and improvement requirements.
5. Certifications, including:
- a. An affidavit from the applicant certifying that the submitted information is true and accurate.
 - b. The signature of each owner of record of land described on the plat, signifying their consent to the subdivision application and their intent to dedicate portions of the plat to the public as described in the application.
 - c. Certification that the surveyor who prepared the plat:
 - i. Holds a license in accordance with Utah Code 58-22; and
 - ii. Either
 1. Has completed a survey of the property described on the plat in accordance with state requirements and has verified all measurements; or
 2. Has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and
 - iii. Has placed monuments as represented on the plat.
 - d. A Title Report or Title Insurance Policy for the land to be subdivided verifying property ownership.
 - e. A Tax Clearance Certificate from the state indicating that all taxes, interest, and penalties owing on the land have been paid.
 - f. Owner's Certificate of Dedication.
 - g. Proof of approval by the Culinary Water Authority, the Sanitary Sewer Authority, the Health Department, the Local Fire Department, and the Local Public Safety Answering Point.
6. The approved signatures for:
- a. Owner's dedication and acknowledgment;
 - b. Surveyor's stamped certificate with subdivision boundary legal description;
 - c. Town Engineer's/Building Inspector's approval;
 - d. Public utilities acceptance;
 - e. Public Health Department approval if it is determined that the property is not served by the public sewer system;
 - f. County Recorder's certificate.
7. Required Copies of Plans:

- a. One electronic copy of the final plat in AutoCAD format (DWG or DXF), Geodatabase format (GDB), or Shapefile format (SHP), with a projection assigned to the file(s) and with the proper metadata that describes what coordinate system/projection the data is assigned to.
 - b. An electronic copy of all plans in PDF format.
 - c. Six (6) printed copies of the application.
 - d. Two (2) printed copies of all full-scale drawings, application and plat. The full-scale drawings should be twenty-four by thirty-six (24"x36").
 - e. One copy of each drawing on eleven inch by seventeen-inch (11" x 17") sheets or eight and one-half by eleven (8 1/2 x 11) if the project is small and the plans are legible at that size.
8. Payment of any application-processing fees required by the Town. In addition to any fees listed on the Town's Fee Schedule, the applicant shall be liable for any reasonable costs the Town incurs in obtaining engineering, legal, or consulting review of the application.
- B. The Subdivision Review Committee (or Town staff, as delegated) shall produce, maintain, and make available to the public a list of the specific items that comprise complete subdivision applications and a breakdown of any fees due upon submission or approval of the applications.
- C. The Subdivision Review Committee may require, and the applicant shall provide, additional information beyond the requirements of this Section or those published by the Town relating to an applicant's plans to ensure compliance with Town ordinances and approved standards and specifications for construction of public improvements and to protect the health and safety of Town residents.
- D. Notwithstanding this Section, the Subdivision Review Committee may, in its sole discretion, waive any of the specific requirements found in this Section on a case-by-case basis.

9. Notice to Affected Entities.

- A. Within 15 calendar days after receiving a complete subdivision application under this Part, Town staff shall provide written notice of the proposed subdivision to the facility owner of any known water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat.
1. To determine whether any water conveyance facility is located within 100 feet of a proposed subdivision, Town staff shall review information:
 - a. From the facility owner under Utah Code §10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;
 - b. From the State Engineer's inventory of canals; or
 - c. From a licensed surveyor who has consulted with a representative of an existing water conveyance facility that services an area near the land the application concerns.
- B. To give water conveyance facilities time to provide feedback on subdivision applications, the Land Use Authority shall not approve a subdivision application under this Chapter sooner than 20

calendar days after the applicant submits a complete application. This waiting period does not apply to revised applications the applicant may submit during the application review process.

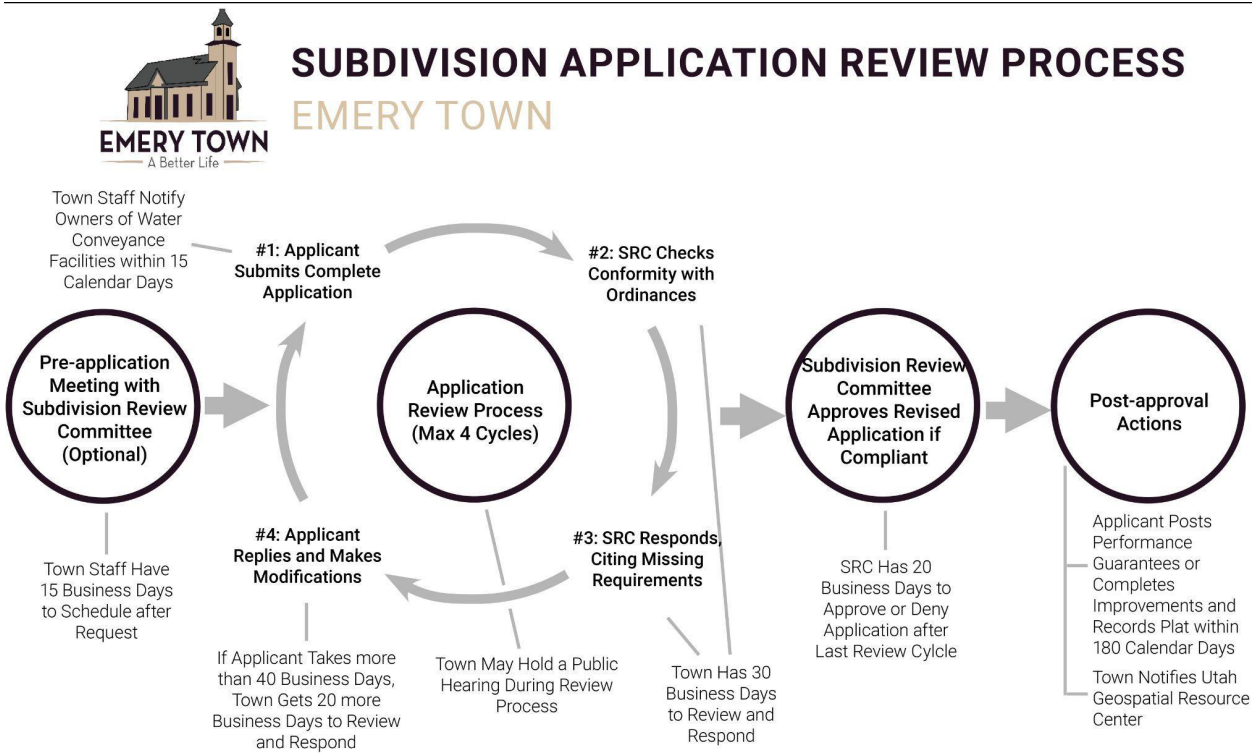
1. A water conveyance facility owner's failure to provide comments to the Land Use Authority about a subdivision application does not affect or impair the Land Use Authority's authority to approve the subdivision application.

10. Review.

- A. The Land Use Authority shall review all subdivision applications in accordance with the requirements of this Section before approving or denying those applications.
- B. The review process begins when an applicant submits a complete application.
 1. The Land Use Authority shall not review an incomplete subdivision application, except to determine whether the application is complete.
 2. If the Land Use Authority determines that an application is incomplete, it shall notify the applicant of the incompleteness, highlighting any insufficiencies and explaining that the application will not be reviewed until it is complete.
- C. After the applicant submits a complete application, the Land Use Authority shall review and provide feedback to the applicant in a series of "review cycles."
 1. A review cycle consists of the following phases:
 - a. Phase #1: The applicant submits a complete application (or, if after the first cycle, submits a revised version of the complete application).
 - b. Phase #2: The Land Use Authority reviews the application in detail and assesses whether the application conforms to local ordinances.
 - c. Phase #3: The Land Use Authority responds to the applicant, citing any missing requirements or areas of noncompliance and providing a detailed list of necessary revisions to the applicant. For any required modification or addition to the application or request for more information, the Land Use Authority shall be specific and include citations to ordinances, standards, or specifications that require the modification or addition and shall provide the applicant with an index of all requested modifications or additions.
 - d. Phase #4: The applicant revises the application, addressing each comment or requirement the Land Use Authority made. The applicant must submit both revised plans and a written explanation in response to the Town's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any. This written explanation must be comprehensive and specific, including citations to applicable standards and ordinances and an index of requested revisions or additions for each required correction. If the applicant fails to respond to a comment made by the Land Use Authority in its review, the review cycle is not complete and will remain open until the applicant addresses all comments.

Use Type	Max Review Phases	Max Public Hearings	Town Turnaround Deadline*	Applicant Turnaround Deadline*
All Uses	4	1	30 Business Days	180 Business Days

*Describes the total time (per review cycle) the Town may take to complete both Phase #2 and Phase #3.



- D. A Land Use Authority (and other Town representatives or agents) shall adhere to the maximum number of review cycles and the review deadlines described in Table 10.10, except as described below. If no further revisions are needed, the Land Use Authority may end the review process early and approve or deny the application.
1. This provision notwithstanding, for any subdivision application that affects property within an identified geological hazard area, the Town is exempt from limits on the number of permitted review cycles and the Town’s deadlines for reviewing and responding (Phases #2 and #3).
 2. If the applicant makes a material change to the application not requested by the Town at any point in the review process, the Land Use Authority may restart the review process, but only with respect to the portion of the application that the material change substantively affects.

3. If an applicant takes longer than 40 business days to submit a revised subdivision improvement plan responding to the Town's requests for modifications and additions (in Phases #1 and #4), the Town shall have an additional 20 business days to review and respond to the revised application (Phases #2 and #3 of the next review cycle or issuing an approval decision).
 4. If an applicant takes longer than 180 calendar days to submit a revised application and respond to the Town's requests for modifications and additions (Phases #1 and #4), the application shall, at the option of the Land Use Authority, expire. If an application expires, the applicant must restart the subdivision application process.
- E. After the fourth or final review cycle is complete, the Land Use Authority shall approve or deny the application within 20 business days.
1. If the Land Use Authority has not approved or denied the application within 20 business days after the allotted review cycles are complete, the applicant may request a decision. After such a request, the Town shall, within 10 business days:
 - a. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Utah Code §10-9a-508(5)(d) to review and approve or deny the revised set of plans; or
 - b. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to the designated Appeal Authority.
- F. After the Land Use Authority provides comments in the fourth or final review cycle, the Town shall not require further modifications or corrections to the application unless those modifications or corrections are necessary to protect public health and safety or to enforce state or federal law or unless the review cycle reset due to the applicant making a material change that the Land Use Authority did not request.
1. With the exception of modifications or corrections that are needed to protect public health and safety, that are needed to enforce state or federal law, or that arise from the review cycle being reset, the municipality waives noncompliant subdivision-related requirements that the Land Use Authority does not identify during the review process.
 2. The applicant shall make reasonable changes, unless prohibited otherwise by a contract or deed, to the subdivision application to accommodate the water conveyance facility to the extent required by Utah Code §73-1-15.5.
- G. The Land Use Authority or other Town body may conduct one or more public hearings (up to the number described in Table 10.10) during the review period for a subdivision application.
1. The purpose of these public hearings is to ask questions of the applicant and receive commentary on the technical aspects of the application from affected entities, interested parties, and the public.
 2. If the Land Use Authority elects to hold a public hearing, the hearing must occur before the end of the Land Use Authority's review period in the fourth or final review cycle. Scheduling issues shall not extend the review and approval deadlines in this Chapter.
- H. Other Chapters of this Title notwithstanding, the Land Use Authority shall approve or deny a subdivision application under this Part after reviewing a complete subdivision application as described in this Section. This singular application and review process includes the combined

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

11. Approval

- A. The Land Use Authority shall approve any complete subdivision applications made under this Section that comply with applicable Town ordinances.
- B. A subdivision application is approved when the Land Use Authority certifies the approved plat, either by signing the plat directly or by attaching a signed certification to the plat.

12. Post-Approval Actions

- A. The applicant shall record the approved subdivision plat with the County Recorder’s Office within 180 calendar days after the Land Use Authority approves the subdivision application, provided that the applicant has completed any improvements or posted any performance guarantee required by Town ordinances or described in the approved improvement plan. The applicant shall not record the approved subdivision plat until such improvements are completed or guaranteed in compliance with Town ordinances and the approved improvement plan.
 - 1. An approved plat not properly recorded within the timeline specified in this Provision is void, unless the Subdivision Review Committee approves an extension. If the timeline specified lapses and the plat is void, the applicant must commence the subdivision process anew.
- B. Town staff shall submit to the Utah Geospatial Resource Center (so the subdivision can be included in the 911 database), within 30 calendar days after the application is approved, either:
 - 1. An electronic copy of the approved plat; or
 - 2. Preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

13. Subdivision Lot Line Adjustment.

Applicants, as the owners of record of adjacent parcels that are described by either a metes-and-bounds description or a recorded plat, may exchange title to portions of the parcels.

- A. The SRC shall approve an exchange of title if the following conditions are met:
 - 1. No new dwelling lot or housing unit will result from the exchange of title;
 - 2. The adjustment does not result in violations of applicable zoning requirements.
- B. If an exchange of title is approved, a notice of approval shall be recorded in the office of the Emery County Recorder by the SRC. This notice must:
 - 1. Be executed by each owner included in the exchange and the SRC;
 - 2. Contain an acknowledgement for each party executing the notice;
 - 3. Recite the descriptions of both the original parcels and the parcels created by the exchange of title.

- C. A notice of approval does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

14. Vacating or Changing a Subdivision Plat.

- A. The Town Council by ordinance may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision at a public hearing.
- B. If a petition is filed, the Town Council shall hold the public hearing within 45 days if:
 - 1. The plat changes include the vacation of a public street or alley;
 - 2. Any owner of property included in the plat notifies the municipality of their objection in writing within 10 days of mailed notification; or
 - 3. A public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- C. Before the Town Council may consider a proposed vacation, alteration or amendment under Subsection A, D, or G, the Town Council shall refer the proposal to the Planning Commission for its recommendation.
 - 1. The Planning Commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred as in this Section.
- D. Any fee owner, as shown on the last County assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition the legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this Section.
- E. Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat, including a change of a subdivision name, shall include:
 - 1. The name and address of all owners of record of the land contained in the entire plat;
 - 2. The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
 - 3. The signature of each of these owners who consents to the petition.
- F. A petition that lacks the consent of all owners referred to in Subsection (E) may not be scheduled for consideration at a public hearing before the Town Council until the notice required by Section 15 is given.
 - 1. The petitioner shall pay the cost of the notice.
- G. If the Town Council proposes to vacate, alter or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by Section 15 of this Chapter.

15. Notice of Hearing for Plat Change.

- A. The Town Council shall give notice of the proposed plat change by mailing the notice to each owner of property located within 300 feet of the property that is the subject of the proposed plat

change, addressed to the owner's mailing address appearing on the rolls of the Emery County Assessor.

- B. The Town Council shall ensure that the notice includes:
 - 1. A statement that anyone objecting to the proposed plat change must file a written objection to the change within 10 days of the date of the notice;
 - 2. A statement that if no written objections are received by the Emery Town Council within the time limit, no public hearing will be held; and
 - 3. The date, place and time when a hearing will be held, if one is required, to consider a vacation, alteration, or amendment without a petition when written objections are received or to consider any petition that does not include the consent of all land owners as required by Section 14 of this Chapter.
- C. If the proposed change involves the vacation, alteration, or amendment of a street, the Emery Town Council shall give notice of the date, place, and time of the hearing by:
 - 1. Mailing notice as required in Subsection A above; and
 - 2. Publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the Emery Town area.

16. Grounds for Vacating or Changing a Plat. Within 30 days after the public hearing, the Town Council shall consider the petition.

- A. The Town Council shall approve a petition to vacate or change a plat if it finds:
 - 1. Neither the public nor any person will be materially injured by the proposed vacation, alteration or amendment; and
 - 2. There is good cause for the vacation, alteration or amendment.
- B. The Town Council, by ordinance, may vacate, alter, or amend the plat, any portion of the plat, or any street or lot;
- C. The Town Council may approve the vacation, alteration, or amendment by ordinance, amended plat, administrative order, or deed containing a stamp or mark indicating approval by the Town Council;
- D. The Town Council shall ensure that the vacation, alteration, or amendment is recorded in the office of the Emery County Recorder;
- E. An aggrieved party may appeal the Town Council's decision to the Appeal Authority.

17. Record of Condominium Plat. Each application for a condominium shall comply with the provisions of the Condominium Act as set forth in U.C.A. or any successor statute enacted in its place.

18. Definitions: The following words and phrases, as used in this Chapter, shall have the following meanings. Words and phrases not defined here have the meaning expressed elsewhere in this Title or, if not defined in this Title, the meaning defined in state code:

- A. "Improvement plan": a plan to complete permanent infrastructure on the subdivision that is essential for the public health and safety, that is required for human occupation, or that is required by applicable law and that an applicant must install in accordance with public installation and inspection specifications for public improvements and as a condition of recording a subdivision plat.
- B. "Land Use Authority": An individual, board, or commission appointed or employed by a municipality to make land use decisions. "Land Use Authority" includes any appropriately authorized designees.
- C. "Land use application": an application required by the Town and submitted by a land use applicant to obtain a land use approval; this does not mean an application to enact, amend, or repeal a land use regulation.
- D. "Plat": An instrument subdividing property into lots as depicted on a map or other graphic representation of land that a licensed professional land surveyor makes and prepares in accordance with §10-9a-603 or §57-8-13 of Utah State Code (as amended).
- E. "Metes-and-bounds": The boundaries or limits of a tract of land especially as described by reference to lines and distances between points on the land.
- F. "Subdivision": Any land that is divided, subdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
 - 1. Subdivision includes:
 - a. The division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
 - b. Except as provided below, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
 - 2. Subdivision does not include:
 - a. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
 - b. A boundary line agreement recorded with the Office of the County Recorder between owners of adjoining parcels adjusting the mutual boundary in accordance with §10-9a-524 of Utah State Code (as amended) if no new parcel is created;
 - c. A recorded document, executed by the owner of record revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels or joining a lot to parcel;
 - d. A joining of one or more lots to a parcel;
 - e. A road, street, or highway dedication plat;
 - f. A deed or easement for a road, street, or highway purpose.

- G. “Water conveyance facility” means a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. “Water conveyance facility” does not mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for culinary or industrial water, or any federal water project facility.
- H. Definition of Property Lines for Utility Requirements. For the purposes of Chapter 10 only, the following definitions shall apply:
1. The following definition shall apply for Simple and Minor Subdivisions. For purposes of water and sewer connections, the property line is defined as that property line of a lot or parcel of land that fronts on a dedicated street where water and sewer are existing in the street. Water and sewer will be considered at the property line in a simple and minor subdivision if they are within 120 feet of the property on either side of the street. All connection fees will be collected at such time as the Town Engineer/Building Inspector requires it or a building permit is issued to the property owner. The builder/property owner will bear the entire cost of installing the sewer line from the main line. The cost is in addition to the standard Emery Town sewer hook-up fee. The Emery Town water hook-up fee will normally cover the cost of installing the water line from the main line of the meter. Electricity continued to be required to be brought to the deed property line of each lot or parcel. More than one lot or parcel can be serviced from one pole based on requirements as established by the electrical contractor. A drop line must be at each lot, but a single line can feed more than one lot.
 2. The following shall apply for Subdivisions (10 or more lots). All Town required utilities, to include electric, water, and sewer shall be required to be stubbed to each lot where meter placement would occur. No connection fees will be collected until such time as a building permit is issued to the property owner.
 3. All development costs that the Town would incur shall be borne by the subdivider. All fees for publications, etc. will be covered by the applicant in all cases of subdivision development. All subdivided lots need to meet the minimum number of water shares per lot. One water-share per acreage of subdivision and/or a minimum of $\frac{1}{3}$ acre-foot of water per lot. It is recommended/advised that water be purchased and set aside for any future uses.

CHAPTER ELEVEN

General Design Standards of Platted Subdivisions

- 11.1 Governing Provisions
- 11.2 Lot Standards
- 11.3 Development Design and Layout
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- 11.23 Payment of Interest
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- 11.25 Modification of Plans
- 11.25 Phased Projects

1. Governing Provisions

- A. The regulations hereinafter set forth in this Chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this Chapter. The construction of infrastructure in Emery Town will comply with the most currently adopted infrastructure master plans. The current edition of the American Public Works Association (APWA) Manual of Standard Specifications will also govern construction of infrastructure in Emery Town.

2. Lot Standards

- A. The minimum area and dimensions of all lots shall conform to the requirements of the zone district in which the lot is located.
- B. All lots or parcels created by a subdivision shall have direct access with frontage on a dedicated street improved to standards hereinafter required.
 - 1. Private drives shall be permitted and approved by the Land Use Authority.

2. Land designated as public right-of-way shall be separate and distinct from lots adjoining such right-of-way and shall not be included in the area of such lots.
- C. All subdivisions shall result in the creation of lots that are developable and capable of being built upon. A subdivision shall not create lots and no building permit shall be issued for any lots that would make building or access impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewage or driveway grades, or other physical conditions, except where such lots are suitable and dedicated for a common open space, private utility or public purpose as determined by the Land Use Authority.
- D. The side lines of all lots, so far as possible, shall be at right angles to each street on which the lot faces, or approximately radial to the center of curvatures. Exceptions may be made to this requirement where considerations for solar orientation are involved.
- E. Corner lots for residential use shall be planned wider than interior lots in order to permit conformance with the required front setback requirements of both streets.
- F. A Town boundary line shall not divide a lot, each such boundary line shall be made on a lot line.
- G. Lot numbers shall begin with the number "1" and shall continue consecutively through the subdivision with no omissions or duplications; no block designations shall be used.
- H. Except as specifically authorized by this Chapter, not more than one dwelling unit shall occupy any one lot.
- I. No area needed to meet the minimum width, yard area, parking or other requirements of this Chapter for a lot or building may be sold or leased away from such lot or building for the purpose of installing any kind of structure.
- J. No portion of a lot may be cut off from another portion of a lot that has been created through a subdivision action.

3. Development Design and Layout

- A. The design of the development shall avoid or fully mitigate hazardous site conditions (unstable slopes, geologic faults or flood potential, etc.)
- B. Drainage from individual lots shall be coordinated with the general storm drainage pattern for the area and shall avoid conveying to adjacent lots runoff flows higher than historic patterns. Post development flows shall be based on a 10-year 24-hour design storm. If water is to be detained on site and released, it shall not be released at a rate exceeding the historic flow.
- C. Any recreation facilities should be located central to all residents of the development.
- D. All lots should have reasonable access to open spaces, trails, park land or recreation facilities that are set aside for either development use or use by the general public.
- E. Access to public trails and open space abutting the property shall be provided.
- F. Utility extensions required for future development shall be provided. All utility extensions shall be designed in conformance with the applicable Town utility master plan. Extensions of utility systems that do not have a completed master plan shall be reviewed for size and capacity by the Town.
- G. Maintenance of common facilities must be accomplished through either covenants, a separate maintenance agreement, or some other perpetual agreement.

- H. The layout of lots should provide desirable settings for structures by making use of natural contours, maintaining views, affording privacy, and protection from wind, noise, and vehicular traffic.
- I. Development design should provide for efficiency in the installation and provision of all public and private utilities and services.
- J. Common water and sanitation facilities should be located on separate lots commonly owned by the users.

4. Construction on Slopes Exceeding 25%

- A. Lots or buildings proposed on slopes exceeding 25% warrant especially close review to assure that all grading, retaining wall, cut and fill and road and driveway grade standards will be met.

5. Landscaping

- A. The design of developments and placement of buildings should preserve the natural terrain, drainage, existing topsoil, tree groupings, large individual trees and large rocks.
- B. Natural informal landscape design should be used in Emery rather than formal, geometric design.
- C. Different types of adjacent uses both within and between developments should be buffered (separated or screened), by extensive free planting.
- D. Drought resistant plants and landscapes are encouraged.

6. Buildings

- A. Fire Standpipes
 - 1. Standpipes complying with IBC shall be required for ALL commercial and multi-residential buildings, regardless of the number of stories.
- B. Fire Hydrants
 - 1. Fire hydrants shall be installed in accordance with Emery County regulations.
- C. Provisions for Handicapped
 - 1. Provisions for physically handicapped persons shall be provided in all new buildings as required by the Americans with Disabilities Act (ADA)
- D. Construction Debris Removal
 - 1. Any building construction on sites shall provide debris removal sufficient to facilitate the regular clean up and removal of construction debris from the site.
 - 2. Each site shall be cleaned and all construction debris removed on a weekly basis. Debris will be transported and disposed of in a proper manner by the contractor.
 - 3. Failure to comply with this Ordinance, by allowing debris to accumulate on the premises, may result in the suspension of building permits, fines or such other appropriate penalties as the Town Council shall direct.

7. Roads

A. **Road Layout and Geometry.** CVSSD Policy on Streets and Roads are made part of this Chapter by reference. The design and arrangement and construction of all roads, public and private, shall be in conformance with the Road Standards, the provisions of this Chapter, and any Town Design Guidelines as adopted.

1. The arrangement of roads shall provide for the continuation of major roads between adjacent properties when the continuation is necessary for the convenient movement of traffic, emergency or maintenance vehicles, or the efficient provision of utilities.
2. Proposed streets shall be continuous and in alignment with existing planned or platted streets with which they are to connect.
3. Roads shall be designed to provide emergency access and egress for residents, occupants, and emergency equipment providing width, curve radii and strength for emergency and maintenance vehicles used by or available to the Town.
4. Where the potential traffic impacts on the existing street systems are considered to be great, or in the case of unique circumstances concerning topography or neat layout, or at the request of the Town, the subdivider may be required to prepare a detailed engineering traffic study of the road system.
5. Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit. 'T' intersections rather than "cross" intersections shall be used wherever possible for local streets.
6. Where a road does not extend to the boundary of the development and its continuation is not required, its terminus should be no closer than 50 feet from the boundary.
7. Strips of land reserved to control or restrict access to perimeter or stubbed roads shall be utilized only where the reserve strip is deeded to and accepted by the Town.
8. Lawful right of vehicular access must be demonstrated before the Town will give permission for the County to issue a building permit,
 - a. The installation of curbs, gutters, and sidewalks shall be constructed according to the APWA standards and as designated in each zoning district, and may be required on any existing or proposed street adjoining a lot on which a building is to be constructed or remodeled, or on which a new use is to be established. Such curbs, gutters, and sidewalks may be required as conditions of building use permit approval.
 - b. Every permanent dead-end street shall comply with the following requirements:
 - i. Not to exceed 650 feet in total length.
 - ii. End at a turnaround area having a radius no less than 50 feet and an asphalt surface.
 - iii. Temporarily dead-end streets, intended as access to future development parcels, shall be a minimum of one lot depth in length (or as determined by the Land Use Authority) and shall meet all of the other requirements for permanent dead-end streets set forth above.
 - iv. Driveways, mailboxes, fire hydrants and all other obstructions at such turnaround areas shall be designated in such a way as to provide an area for piling snow.

8. Road Grades

- A. Intersections and switchbacks shall not exceed a 10% grade.
- B. No public or private roadway or street shall exceed a 10% grade, except that grades up to 12% for public or private roadways and streets may be allowed by the Land Use Authority upon review and finding that all of the following conditions are met:
 - 1. No more than 10 residential units are served by the over 10% section or the lots have separate, emergency access that does not exceed 10%.
 - 2. For roadways of 10% or greater grade, the applicant shall stake the centerline and both edges in the field for the inspection of the County Building Inspector to assure full compliance with this Section.
 - 3. Roadways and streets exceeding a 12% grade shall not be permitted.

9. Private Road Maintenance

- A. A means of perpetual maintenance must be demonstrated to the satisfaction of the Land Use Authority before a private road may be approved.

10. Street Names

- A. Each street that is a continuation of, or an appropriate continuation of, any existing dedicated street shall be given the name of such existing street. When any street forms a portion of a proposed street it shall be surveyed, opened, widened or improved and given the same name.
- B. The names of newly created streets shall not duplicate or nearly duplicate the names of any streets in the Town or in adjacent areas of Emery County.
- C. Any named street shall also have the proper compass direction coordinate as approved by the Land Use Authority.
- D. Subdividers shall be required to attach a numerical address to all residences and streets.

11. Driveways

- A. No driveway shall exceed 150 feet in length and/or 15% grade.
- B. Driveways serving single residential dwellings shall be a minimum of 12 feet wide. Driveways serving two residential dwellings shall be a minimum of 15 feet wide. No driveway shall serve more than two residences.

12. Cuts, Fills, and Retaining Walls

- A. Because of the dramatic visual impact of cuts, fills and retaining walls in a desert environment such as Emery, and the public safety factors that may arise with significant cuts and fills in unsuitable soils, design plans for cuts, fills and retaining walls shall conform to the following criteria and other applicable Sections of this Chapter.

- B. No cuts or fills will be allowed on slopes with grades exceeding 40%.
- C. Unretained cuts that exceed 2:1 slope shall not exceed 3 feet in height.
- D. Unretained fills may not exceed 12 feet in height pursuant to Section 13.
- E. No single retaining wall or retaining system may exceed 12 feet in height and/or 40 feet in length; retaining systems less than 12 feet may exceed 40 feet.
- F. Up to three terraced cuts may be created under a terraced cut retaining system, so long as each wall is separated by a minimum of 6-foot setback (measured from face to face) for visual relief and re-vegetation. The total maximum height for cuts retained under a terraced retaining system shall not exceed 18 feet.

13. Measuring Cuts and Fill Heights

- A. Cuts and/or fills shall be measured vertically from the natural grade at the lowest point of disturbance to natural grade at the highest point of disturbance.

14. Maximum Slope Grades

- A. Un-retained cut and fill slopes shall be no steeper than 2 feet horizontal to 1 foot vertical, except cuts in bedrock materials, the stability of which is verified by a geologist and/or soils engineer with demonstrated expertise, may be steeper as approved by the County Building Inspector.

15. Retaining Walls

- A. All retaining walls and/or approved retaining systems shall be constructed of decorative materials (i.e. textured surfaces, colored or tinted materials) and should be designed to blend into and enhance the natural desert environment and must be approved by the County Building Inspector before excavation permits shall be granted.

16. Engineering/Geologic Analysis

- A. An engineering geological report shall be prepared by a registered geologist or engineer at the application stage of the Subdivision Ordinance to demonstrate that the hillside above any proposed cut will remain stable after the proposed cut/fill and retaining system, if any, has been completed.

17. Re-Vegetation

- A. All un-retained cut and fill slopes must be naturalized and re-vegetated within 1 year after the start of construction.
- B. Un-retained cuts and fills should be naturalized by rounding edges, placing boulders in natural fashion, and planting native plants including trees, brush, and ground cover to match surrounding areas. A landscape/re-vegetation plan shall be submitted to the Land Use Authority for review with cut/fill design plans.
- C. All retaining systems shall incorporate planter spaces and shall require native vegetation.

18. Building Setbacks from Waterways and Flood Hazard Areas

- A. No building, either residential or commercial, shall be permitted with six (6) vertical feet and one hundred and twenty-five (125) horizontal feet, whichever is greater, of the existing flow line of any creek, stream, or other waterway, measured at right angles to the center line of the drainage course or within any discernible floodplain, except upon the granting of a conditional use permit for such development. The vertical calculation specified herein shall be applied to the elevation of the top of a building's foundation wall.
- B. Show the location of the 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA).

19. Utilities

- A. Construction.
 - 1. All utility connections and lines shall be installed underground. Before any installations are covered, material and service must be inspected and approved by the County Building Inspector. During the construction period, temporary power poles and lines shall be allowed within the boundaries of the construction project; however, such poles and lines must be broken down within thirty 30 days after the final certificate of occupancy for the project is granted.
 - 2. Proof of Blue Stakes contact and presence before any disturbance at site.
- B. Easements.
 - 1. All utilities shall be placed within public road rights-of-way or specific rights-of-way or easements free of legal encumbrances. Multiple-use of given easements is encouraged. The final approved plat shall note all easements.

20. Completion of On and Off-Site Improvements Prior to the Approval of Plats or Issuance of Certificates of Occupancy

- A. Policy
 - 1. In order to protect buyers of buildings and property in the Town of Emery against purchasing property on which the site improvement work is incomplete and may not be completed, and to protect the public at large from dangerous and undesirable conditions that result from unfinished site improvements such as erosion, flooding, and blowing dust it is the policy of the Town of Emery that no plat will be approved (when a plat is required) and that no certificate of occupancy will be issued (when plats are not required) on any building project within the Town limits unless and until the site improvement work is completed or the developer of the property has provided adequate security to assure timely completion of the improvements when weather permits.
- B. Detailed Improvement Plans
 - 1. A detailed improvement plan showing the location and nature of drainage work, grade changes, retaining walls, and landscaping, together with any trails, paths, or walkways shall be submitted to the Building Inspector prior to issuance of an occupancy permit. Site improvements shall be completed pursuant to this Chapter and as shown in the detailed improvement plan. First it will need to be presented to the Land Use Authority

and approved as part of the subdivision application. After obtaining approval, it shall be sent to the Building Inspector.

C. Construction According To Approved Plans

1. No plat will be approved and no certificate of occupancy will be issued unless that project and all required site improvements have been constructed in accordance with the plans approved by the Building Inspector and on which the building permit is issued, except as specified in Section 21.

21. Subdivision Improvements

A. Required Improvements.

1. The following improvements are required for all subdivisions, except those that qualify under the Agricultural Land exemption of Section 7:
 - a. Utilities, including water, sewer, telephone, cable, gas, and electricity.
 - b. Streets, curbs, gutters, and sidewalks.
 - c. Street grading and surfacing.
 - d. Storm water drainage.
 - e. Fire hydrants.
 - f. Street lights, signs, and monuments.
 - g. Any other infrastructure (or infrastructure improvement) that is reasonably necessary to meet the needs of the proposed development.
2. Subdivision improvements must be completed within one year of recordation of the approved subdivision plat, unless such time as extended by the Emery Town Council.

B. Completion of Improvements.

1. The Zoning Administrator/County Building Inspector shall inspect the subdivision during construction through its completion.

C. Improvement Guarantees, Completion Assurances, and Warranties.

1. If an applicant elects to guarantee any required improvement, the applicant shall provide completion assurance for 110% of the estimated cost of the improvement, guaranteeing that the improvements will be completed within one year after the date of the guarantee.
 - a. For the purpose of posting an improvement guarantee, the estimated cost of the improvement shall be determined by an engineer's or building inspector's estimate.
 - b. In the event that the developer disputes the cost estimate of the engineer or inspector, the developer may prove lower construction cost by providing binding contracts between the developer contractor or subcontractor appropriate to perform the required work at a stated, fixed price. A full performance bond, ensuring performance by the subcontractor or contractor, must support these contracts. Bid proposals are not satisfactory for this purpose. If the contracts submitted are acceptable in form, the amount of the security required shall be one hundred (100%) of the total contract covered by the contracts.

Specifications in such contracts shall be sufficiently clear to identify the reasonable estimated cost of construction of any retainage and drainage and the estimated cost of landscaping to the extent necessary to hold soil in place.

2. A security arrangement shall be one of the following types as dictated by the Town:
 - a. A bond with a surety company licensed to do business in the State of Utah;
 - b. An irrevocable letter of credit with a federally insured financial institution;
 - c. A cashier's check made payable only to the Town;
 - d. A trust or escrow account with a federally insured financial institution designating the Town as beneficiary.
 - i. Any interest accruing on escrowed funds shall, unless expended for completion of site improvements required, inure to the benefit of the developer and not to the Town. The Town shall not be required to pay interest to the developer on any non-interest-bearing escrow account for this purpose.
 3. The Town shall not require improvement guarantees for any of the prohibited uses listed in Utah Code §10-9a-604.5(3)(d), including improvements the Town has previously inspected and accepted, private improvements that are not essential to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation.
 4. Upon acceptance of all required improvements, the applicant shall warrant that said improvements shall remain free from defects in material and workmanship for a period of 12 months after the date of acceptance by the Town. The subdivider shall be solely responsible for all repairs and maintenance required to keep the improvements in good working condition for this 12-month period.
- D. In the event that buildings on the property are completed before other required on-site improvements are completed, and the site improvements cannot be completed simultaneously with the completion of the building due to weather or other conditions beyond the control of the developer (excluding financial inability to perform); or as it relates to subdivisions, in order to record an approved plat prior to completion of off-site improvements, the Town may grant plat approval or issue the certificate of occupancy for all or part of the project prior to the completion of site improvements provided that all of the following conditions are met:
1. The buildings or buildings, or portions thereof, on the property to be platted or occupied have been constructed in accordance with the approved plans for those buildings, and are in full compliance with applicable building and fire codes, and are completed to the extent that only occupancy of the buildings, or portions thereof, prior to completion of required on and off-site improvements, is safe, and that access for emergency vehicles is adequate with the site improvements unfinished.
- E. In regard to subdivisions, the building inspector approves all final construction plans, a development agreement has been approved by the Attorney and executed by the owner/developer and the developer posts adequate security for the benefit of the Town of Emery and the public to insure completion of the site improvements in full compliance with the approved plans within two years from the date of plat approval (if required) or one year from the date of issuance of the certificate of occupancy, whichever comes first.

22. Term of Security/Proof of Licensing

- A. All public improvements required under this Chapter shall be installed by a contractor or subcontractors licensed by the State of Utah. Such license is for the work to be performed, and the contractor and subcontractors must provide copies of their licenses.

23. Payment of Interest

- A. Any interest accruing on escrowed funds shall, unless expended for completion of site improvements required, inure to the benefit of the developer and not the Town. The Town shall not be required to pay interest to the developer on any escrow for this purpose.

24. Release of Funds

- A. The Town of Emery shall relinquish funds held or security posted for the purpose of paying for site improvement work performed according to the plans as that work is completed. The Town shall release funds equal to the actual cost of performing the work as the work progresses minus 10% percent. Upon satisfactory completion of all required site improvement work as determined by the County Building Inspector and the Town, all funds shall be immediately released to the developer.

25. Modification of Plans

- A. A developer may request modifications to plans covering site improvement work by submitting revised plans to the Town for review and action and final action. If the modification of the plans increases the cost of required site improvements, the developer, to cover the increased costs, must provide additional security.

26. Phased Projects

- A. Site improvements applicable to each phase of a phased project or development shall be completed or security for completion provided as each phase is constructed and either platted or occupied. Site improvements or other phases of the project shall be completed or security offered as those phases are completed.