

**ORDINANCE ECO 09-03  
(AMENDING ECO 06-03)**

***AN ORDINANCE AMENDING THE CITY CODE OF EPHRAIM CITY, UTAH,  
TITLE 11, ENTITLED “SUBDIVISION REGULATIONS.”***

**WHEREAS:** Ephraim City has determined a need to amend the Subdivision Ordinance of Ephraim City to provide better definition of requirements, and more clearly define responsibilities

**AND WHEREAS:** Ephraim City would like to streamline the process in areas of the City in conjunction with existing infrastructure,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EPHRAIM CITY AS FOLLOWS:** That the City Code of Ephraim City, Utah is amended to state as follows:

***PART ONE: TITLE 11: Subdivision Regulations;***

<b>Subject</b>	<b>Chapter</b>
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**CHAPTER 1**  
**INTRODUCTION**

**SECTION:**

- 11-1-1. Short Title**
- 11-1-2. Purpose**
- 11-1-3. Burden of Proof**
- 11-1-4. Funding Public Facilities**
- 11-1-5. Assumption of Validity**
- 11-1-6. Interpretation**
- 11-1-7. Conflict**
- 11-1-8. Severability**
- 11-1-9. Definitions**

**11-1-1. Short Title:** This Title is known as the “Subdivision Ordinance Of Ephraim City, Utah.”

**11-1-2. Purpose:** The purpose of this Title is to provide policies, standards, requirements and procedures to regulate and control the design and improvement of all subdivisions; ensure that all proposed subdivisions are consistent with the General Plan and applicable specific plans; and to ensure that land is subdivided in a manner that will promote public health, safety, convenience, general welfare and the physical, social and economic development of the area.

**11-1-3. Burden of Proof:** For all proceedings in regard to development approval under this Title or amendments to this Title, the burden of proof showing satisfaction of all requirements shall rest with the applicant or authorized agent of the proposed development or amendment.

**11-1-4. Funding Public Facilities:** The developer is responsible to fund and construct those public facilities which are necessary to service the proposed development to the extent those public facilities are related and roughly proportional to the need created by the proposed development regardless of whether the facilities are on-site or off-site.

**11-1-5. Assumption of Validity:** The City will assume that all information provided is accurate and valid. If any information provided to the City is found to be outdated, false, or in any way misleading, the application for development approval may be denied or revoked by the City Council regardless of previous approvals.

**11-1-6. Interpretation:** In interpreting and applying the provision of this section, the requirements contained herein are declared to be the minimum acceptable standards for development within Ephraim City.

**11-1-7. Conflict:** This chapter shall not nullify the more restrictive provisions of covenants, agreements, other ordinances, or laws, but shall prevail notwithstanding such provisions which are less restrictive.

**11-1-8. Severability:** Should any article, section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance or any part thereof other than the part so declared to be invalid.

**11-1-9. Third Party Review:** If the design or engineering review of any application or proposed development is beyond the expertise of the City Staff, the City may require third party review by an engineer selected or approved by the City prior to the preliminary approval of the application. The applicant shall pay all costs associated with the third party review.

## CHAPTER 2

### DEFINITIONS

#### SECTION:

#### 11-2-1. Definitions.

**11-2-1. Definitions:** The words and terms defined in this ordinance shall have the meanings indicated. The particular controls the general. The word “shall” is always mandatory and not directory; the word “may” is permissive. Words used in the present tense include the future unless the context clearly indicates the contrary. Words used in the singular number include the plural, and words used in the plural number include the singular unless the context clearly indicates the contrary.

**City** - Ephraim City Corporation; also refers to the geographic area that falls within the incorporated bounds thereof.

**City Engineer** - The Engineer of Ephraim City or any individual or firm retained or designated by Ephraim City for the purpose of performing engineering duties.

**Collector Street** - A street which carries traffic from minor streets to the major street system, including the principal entrance streets of residential development and the primary circulating streets within such a development.

**Concept Plat** - A map, chart, or drawing showing proposed lots and streets within a potential subdivision including the relationship to existing land and streets in the surrounding area containing all the information in the Concept Plat section of this ordinance.

**County** - Sanpete County; also refers to the geographic area that falls within the bounds thereof; sometimes specifically refers to the unincorporated lands within Sanpete County

**Cul-De-Sac** - A minor or local street having one end open and the other end terminated by a vehicular turnabout.

**Developer** - Any person, including a corporate person, who undertakes to develop land, including subdividers.

**Development Review Committee** - a committee consisting of the City Manager, City Planning Director, Public Works Director, Fire Chief, Power Superintendent, and others as deemed appropriate.

**Development** - The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement

of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

**Easements** - That portion of a lot or lots reserved or granted for present or future use by a person or agency other than the legal owner or owners of said property or properties. The easement may be for use under, on the surface, or above said lot or lots.

**Exactions** - Contributions or payments required as an authorized precondition for receiving a development permit. Exactions may be in the form of physical infrastructure and/or property required as part of the development, and/or as monetary payments (cash in lieu) to the City.

**Final Plat** - A final map or plat of the land division prepared for filing with the Sanpete County Recorder and in compliance with all the requirements set forth in this ordinance and the Ephraim City Land Use Ordinance. This plat shall have been accurately surveyed and such survey marked on the ground so that streets, alleys, blocks, lots, and other divisions thereof can be identified.

**Front, or frontage** - The boundary of a subdivision which abuts an existing City street or one identified in the General Plan, and where individual lots exit directly onto the City street or where internal streets either enter or exit onto the City street.

**General Plan** - An official City document that sets forth general guidelines for proposed future development of the land within the City, as set forth in Sections 10-9-301 and 10-9-302 UCA. "General Plan" includes what is also commonly referred to as a "Master Plan."

**Intervening Property** - Property that is located between the proposed development and existing City infrastructure.

**Infrastructure** - Services needed to sustain industry, residential, commercial, and all other land use activities. Infrastructure includes water lines, sewer lines, curb, gutter, sidewalks, storm drain, power, pressurized irrigation, streets and roads, communications, and other miscellaneous public facilities.

**Land Use Authority** – A person, board, commission, agency, or other body designated by the legislative body to act upon a land use application. (2006)

**Legislative Body** - The Ephraim City Council.

**Lot** - A parcel of real property with a separate and distinct number or other designation shown on a plat or a parcel of real property delineated on an approved plat as filed in the office of the County Recorder and intended as a unit for building development or transfer of ownership.

**Lot Line Adjustment** - The relocation of the property boundary line between two adjoining lots, resulting in no new lot, with the consent of the owners of record and in compliance with the Land Use Ordinance.

**Major Street or Minor Arterial** – A street, existing or proposed, which serves or is intended to serve as a major traffic way and which is designated as such in the General Plan.

**Minor or Local Street** – A street intended to provide direct access to abutting property, which carries only local residential traffic. Through traffic access to other neighborhoods or areas may be possible but is generally discouraged.

**Off-Site** - Property outside of the boundaries of the subdivision.

**On-Site** - Within or on the perimeter of the subdivision.

**Phase** - A portion of a subdivision, drawn as one plat, wherein the number of lots shown is fewer than the total number of lots contained in the complete subdivision.

**Planning Director** - The Planner of Ephraim City or any individual or firm retained or designated by Ephraim City for the purpose of performing planning duties.

**Preliminary Plat** - A drawing prepared by a licensed engineer or licensed land surveyor, to scale, representing a proposal to subdivide a tract, lot, or parcel of land and meeting the preliminary plat requirements of this ordinance, including acreage.

**Public Works Director** – The director of Public Works for the City of Ephraim, who in conjunction with his/her other responsibilities carries the responsibility to review and approve the feasibility of sanitary sewer services, culinary water, streets, storm drainage and other utilities as assigned. (2006)

**Street** - Public or private rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, trails, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

**Subdivider** - See developer.

**Subdivision** - Any land that is divided, re-subdivided or proposed to be divided into two 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 the installment plan or upon any and all other plans, terms, and conditions.

1. "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument
2. "Subdivision" does not include:

- 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 recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
  - (i) No new lot is created and the adjustment does not result in a violation of applicable Land Use ordinances; or
  - (ii) 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.
  - (iii) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision".

**CHAPTER 3**

**SUBDIVIDER AGREEMENT**

**SECTION:**

**11-3-1. Subdivider Agreement**

**11-3-1. Subdivider Agreement:** Prior to any preliminary approval of a subdivision, the subdivider shall submit an agreement with Ephraim City stating compliance with all Construction Standards, Subdivision Ordinances, and other applicable City Ordinances as stated below. The agreement shall be in substantially the following form: (2006)

**A. Subdivider Agreement Form**

**AGREEMENT**

This Agreement is made by and between \_\_\_\_\_, hereafter called “Subdivider” and Ephraim City, a municipal corporation of the State of Utah.

Subdivider hereby acknowledges receipt of a copy of the Ephraim City Subdivision Ordinance, Construction Standards, and General Plan. Subdivider hereby acknowledges that he or she has read the Subdivision Ordinance (or that an agent of subdivider has), and that he or she understands the provisions of the subdivision ordinance, the Construction Standards, and that he or she will fully and completely comply with the provisions and requirements therein contained.

The form of a corporate or partnership signature shall include a provision for a notary in which the subdivider represents that the person signing for the corporation or partnership has the authority to execute the agreement for the corporation or partnership.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Name:

Signed:\_\_\_\_\_

## CHAPTER 4

### GENERAL PROVISIONS

#### SECTION:

- 11-4-1.        **Exceptions**
- 11-4-2.        **Subdivision Types**
- 11-4-3.        **Planned Unit Development**
- 11-4-4.        **Phased Development**

**11-4-1. Exceptions:** The following subdivisions may be exempted from the provisions of this ordinance.

- A. The division, re-subdivision, or proposed division of a parcel into two and only two parcels shall be exempted from the provisions of this ordinance if it can be demonstrated that such division, re-subdivision, or proposed division cannot subsequently be re-divided to create additional residential building lot(s) and when no off-site infrastructure or improvements are required.
- B. A subdivision which is located entirely within the established block system of Ephraim City, not requiring any dedication of property for public use, not requiring off-site infrastructure or improvements and having no more than 4 lots or more than 400 feet of undeveloped lot frontage may be exempted from the provisions of this ordinance. The established block system is loosely bound as extending from 400 East to 200 West and from 300 North to 700 South. Extension of the block system area may be granted by recommendation of the Planning Commission and approval of the City Council.
- C. Subject to Subsection (A).
  - 1. A lot or parcel resulting from a division of agricultural land is exempt from the provisions of this ordinance; if the lot or parcel
    - a. qualifies as land in agricultural use as defined by State code (Title 59 Chap 2, Par 5, Farmland Assessment Act);
    - b. meets the minimum size requirement of applicable land use ordinances; and
    - c. is not used and will not be used for any nonagricultural purpose.
  - 2. If a lot or parcel exempted is used for nonagricultural purposes, Ephraim City may require the lot or parcel to comply with the normal subdivision requirements.  
(2006)
- D. To qualify for these exemptions under paragraph A or B of this section, the following must apply:
  - 1. The Planning Director or his designee must certify in writing that: the municipality has provided notice as required (see notice matrix) and

- a. the proposed subdivision:
  - (i) 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;
  - (ii) has been approved by the Ephraim City Public Works Department with regard to water and sewer;
  - (iii) is located in a zoned area; and
  - (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.
- 2. Comply with provisions of the General Plan, and
- 3. The developer shall provide proof of ownership and clear title to the property, and submit three (3) copies of a scaled drawing showing the proposed lots to The Planning Director at least 10 business days prior to the Planning commission meeting. The drawing shall include ownership information and a metes and bounds description, prepared by a licensed professional, for the original property and for the newly created lots. All lots shall meet the land use requirements wherein they are located.
- 4. The developer must financially guarantee and install curb/gutter, sidewalk, and asphalt (at least 24' of asphalt if none present) along all frontage, even if adjoining properties are lacking same, in accordance with sidewalk policy of City.
- 5. All Utility Companies, including natural gas, telephone and any other Utility Companies in the area of the proposed subdivision must sign off on the plat or official document stating that they have reviewed the subdivision and find it to be acceptable as proposed, in relation to their specific utilities. (2006)
- 6. Once a recommendation for approval by the Planning Commission is received, a certificate of approval will be prepared by the Planning Director and presented to the City Council for approval and subsequent recording.
- 7. A document recorded in the County Recorder's office that divides property by A metes and bounds description does not create an approved subdivision allowed by this part unless accompanied by written proof of approval by Ephraim City. (2006)

**11-4-2. Subdivision Types:**

- A. Standard Subdivision: All sub-divisions not qualifying for an exemption and not meeting the requirements of a Large Lot Subdivision or a Planned Development.
- B. Large Lot Subdivision: A subdivision where the proposed lots are 2/3 of an acre in size or greater, and where large animals are restricted only by the Ephraim City Land Use Ordinance. The Planning Commission, because of the unique nature of the terrain or other unique qualities of a proposed large lot subdivision, may approve up to 25% of the lots less than 2/3 acre, but a lot shall never be smaller than 1/2 of an acre. A large-lot subdivision shall be required to meet all the requirements of a standard subdivision, except the developer, at the discretion of the Planning

Commission, may not be required to construct concrete sidewalks and concrete curb and gutter on streets within the subdivision, but shall be required to accommodate street drainage. Curb, gutter and sidewalk may be required on sides that abut a city street.

### **11-4-3. Planned Unit Development:**

A. A Planned Development is:

1. Any residential development seeking modification under the usual applicable standards.
2. A master planned community being presented with mixed uses; or
3. Commercial or industrial development or land divisions.

B. Subdivisions requiring a rezone may file one application for both a rezone and the subdivision approval by applying as a Planned Development. Rezone recommendations shall be forwarded to the City Council at completion of the concept phase.

C. A Planned Development is a distinct category of conditional use. As efficient use of land and resources, promote greater efficiency in public and utility services, preservation of open space, efficient use of alternative transportation and encouraging innovation in the planning and building of all types of development. Through the flexibility of the Planned Development application, the City seeks to achieve the following specific objectives.

1. Creation of a more desirable environment than would be possible through strict application of other City land use ordinances and regulations;
2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities;
3. Coordination of architectural styles, building forms and building relationships;
4. Creation, landscaping and preservation of open space and recreational facilities;
5. Preservation and enhancement of desirable site characteristics such as natural topography, vegetation and geologic features, and the prevention of soil erosion.
6. Use of design, landscape or architectural features to create a pleasing environment;
7. Preservation of buildings which are architecturally or historically significant or otherwise contribute to the character of the City;
8. Establishment of inter-connecting paths and trails leading to common and popular destinations and interfacing with automobile traffic at few and specific points;

9. Provide a variety of housing, in accordance with the City's general or specific plans;
10. Inclusion of special development features;
11. Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation, and
12. Allow for center of block development, or development of property not directly adjoining the street.
13. Provide some acceptable tangible benefit to Ephraim City or its citizens in exchange for modification to the normal requirements as provided in this ordinance.(2006)

D. Authority to Modify Regulations

1. The Planning Commission shall have the authority in approving any Planned Development to change, alter, modify or waive any provisions of this title as they apply to the proposed Planned Development. No such change, alteration, modification or waiver shall be approved unless the applicant demonstrates by providing substantial evidence to the Planning Commission that the proposed planned unit development:
  - a. Will achieve the purposes for which a Planned Development may be approved pursuant to these requirements; or
  - b. Will not violate the general purposes, goals and objectives of this Chapter or of any plans adopted by the Planning Commission or the City Council, including the General Plan.
2. No change, alteration, modification or waiver authorized by this chapter shall authorize a change in the uses permitted in any district, a modification with respect to any standard established by this chapter, or a modification with respect to Planned Developments, unless such regulations expressly authorize such a change, alteration, modification or waiver.
3. In no case may the total average density of the proposed development exceed 30% of the density of the underlying zone in which the development is located. (2006)

E. Approval Process: A planned development shall be processed in the same stages as a standard subdivision with the following modifications:

1. Prior to submitting a concept plan, the applicant shall schedule a pre-application meeting with the Planning Director to present the proposal and to discuss the procedures and standards for Planned Development approvals.
2. In approving a preliminary plan for a planned unit development, the Planning Commission may:
  - a. Approve the preliminary plan;
  - b. Approve the preliminary plan with modifications or conditions; or
  - c. Deny the preliminary plan.
3. Planned Developments may be excused from the statutory time limits imposed on standard subdivisions if the Planning Commission agrees to receive progress updates from the developer every six (6) months.

**11-4-4. Phased Development:** The platting of subdivisions may be done in phases. When off-site improvements are complete and their installation approved by the City Engineer, the developer may submit the next phase for final approval.

- A. Development shall be performed so that the phases will be contiguous and the required improvements will be continuous.
- B. Where it is prudent to engineer roads, storm drain systems, or utility lines that extend into the next phase, such work may be done when it is shown as such in the design plans of earlier phases.
- C. The subdivision shall be designed to ensure adequate infrastructure for each phase. All infrastructure shall be reviewed and approved by the City Engineer before final approval may be given for any phase. This infrastructure includes, but is not limited to:
  - 1. The water system shall be interconnected (looped). When a line dead ends at a phase line, a fire hydrant or other approved means shall be provided to allow flushing of the dead end line.
  - 2. For any street that dead ends at a phase line, a turn around shall be provided in accordance with Chapter 4, Part 4.3, Item C. Turning Area and be shown on the final plat.
- D. A tentative final plat and any accompanying construction documents shall be submitted and a recommendation for approval given by the Planning Commission and approval by the City Council for each phase of the subdivision regardless of any approval given for previous phases.
  - 1. A financial guarantee meeting the requirements of this ordinance is required for each phase of the subdivision.
  - 2. The Planning Commission may not give final recommendation for approval for any phase unless the Development Review Committee and City Engineer have reviewed the necessary documents and construction plans for that phase.

## CHAPTER 5

### SUBDIVISION STANDARDS

#### SECTION:

- 11-5-1. Adequate Off-Site Public Facility Requirement
- 11-5-2. On-Site Improvements
- 11-5-3. Streets
- 11-5-4. Blocks
- 11-5-5. Lots
- 11-5-6. Easements

#### 11-5-1: Exactions:

- A. The City may impose an exaction or exactions on proposed land use development if:
  - 1. An essential nexus (or connection) exists between a legitimate governmental interest and each exaction; and
  - 2. Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
    - a. If an exaction is required that exceeds the rough proportionality of the impact of the proposed subdivision, the City may compensate the developer by one or more of the following means:
      - (i) Direct monetary compensation
      - (ii) Density bonus to the subdivision (in accordance with other sections of this ordinance)
      - (iii) Waiving or reducing impact fees or other fees, or
      - (iv) Other equitable means mutually agreeable to both the City and the developer.

#### 11-5-2. Adequate Off-Site Public Improvement Requirements:

- A. Approval of a preliminary subdivision plat shall not be granted until such time as the Development Review Committee has established that adequate off site public facilities exist in the areas affected by the development sufficient to accommodate the development.
- B. The public facilities to which the preceding paragraph applies shall include the following:
  - 1. The City culinary water system, including quantity, quality, treatment, storage capacity, and distribution capacity;
  - 2. The City sanitary sewer system, including treatment, overall capacity, outfall lines, laterals, and collector lines;
  - 3. The City electric power system, including generation, transformation, transmission, and distribution;

4. Streets and roads, including arterial collector, and local roads, sidewalks, curb and gutter, and related transportation facilities and meeting the requirements of the Ephraim City Construction Standards;
- C. The adequacy of public facilities shall be determined by the City Engineer and the Development Review Committee in accordance with the Ephraim City Construction Standards and the various master plans and the General Plan. In the event that it is determined that adequate public facilities are not available and will not be available by the time of final plat approval, the following alternatives may be elected, at the discretion of the City Council:
1. Allowing the developer to voluntarily construct those public facilities which are necessary to service the proposed development and provide adequate facilities as determined by the City Engineer and by entering into an appropriate form of development agreement, which may include, as deemed appropriate by the City Council, provisions for recoupment of any expenses incurred for extending those off-site public facilities, and the method and conditions upon which recoupment is to be obtained. Any agreement authorized by this paragraph shall be executed within 30 days of the completion and acceptance by City of the improvements.
  2. Requiring the timing sequencing and phasing of the proposed development consistent with the availability of adequate public facilities;
  2. Deferring final plat approval until all necessary public facilities are adequate and available; or
  3. Denying plat approval and allowing the applicant to reapply when adequate public facilities are available.

**11-5-2. On-Site Improvements:** Costs of Improvements covered under the provisions of this section are to be paid by the developer and are subject to the approval of city.

- A. The owner of any land located in or platted as a subdivision shall install the following improvements in compliance with the specifications contained in the Construction Standards of Ephraim City and to the requirements contained herein:
1. Sewer
  2. Storm Drainage
  3. Culinary water and fire hydrants
  4. Roads
  5. Power
  6. Street lights and signs
  7. Sidewalk and curb/gutter
  8. Other utilities as needed for the subdivision
  9. Other improvements, such as parks, trails, open space or other amenities, fencing, etc. as may required on a case by case basis for each subdivision.
- B. Sewage collection: The subdivider shall connect to the City sanitary sewer and provide adequate lateral lines to the property line of each lot. Such sewer connections

and subdivision sewer systems shall comply with the regulations and specifications of the Construction Standards, and shall be approved, by the City. A lateral shall typically placed 10 feet from the center of the lot frontage (at least 10 feet horizontally) on the downhill side of and at least 18 inches underneath the water lateral. Septic tanks or other means of sewerage collection are not allowed unless exempted by the City Council after recommendation from staff and the Planning Commission due to unusual circumstances or terrain. In no case shall septic tanks be allowed on more than 1 lot per 5 acres. Lateral line locations shall be permanently marked and clearly identified either by marking an “S” on the curb, or by another means approved by the City Engineer. The locations shall be clearly shown on the as-built drawings.

C. Drainage:

1. The subdivider shall provide adequate surface drainage for the development, including primary on-site drainage adequate to handle a twenty-four (24) hour, ten (10) year storm event. Design calculations shall be submitted along with the construction plans. Inlets shall be provided so that surface water is not carried across intersections, or for a distance of more than six hundred (600) feet in the gutter. Underground seepage sumps may be approved only after receipt of acceptable engineering calculations. Sumps shall meet the design standards shown in the Ephraim City Construction Standards unless otherwise approved by the City Engineer.
2. If a storm retention or detention basin is used, it shall meet the requirements as shown in the Ephraim City Construction Standards, or as approved by the City Engineer. The applicant shall completely landscape the facility. A landscaping plan shall be submitted and approved by the Planning Commission. Written approval from Ephraim Irrigation Company is required before altering or tying into a ditch or canal. Drainage in cul-de-sacs shall drain away from the turn-around unless otherwise approved by the City Engineer. All storm drainage designs shall be certified by a licensed professional engineer.

D. Culinary Water:

1. The subdivider shall install water lines to make the water supply available to each lot within the subdivision, including laterals and meter sets according to the specifications of the City. The City Engineer shall approve the location and size of water mains. Water mains shall be interconnected to provide a loop unless otherwise approved by the City Engineer. Lateral line locations shall be clearly identified either by marking on the curb, measuring to a permanent structure, or by another means approved by the City Engineer. The locations shall be clearly shown on the as-built drawings. Water laterals must be at least 3 feet below finished grade, but not more than 5 feet below finished grade.
2. Meters shall be placed in the middle of the lot along the right of way as close to the property line as possible and shall not be located in the sidewalk or

driveway entrances unless specifically permitted by the development review committee. Without such approval, meters may be required to be moved at the developer's expense if they are found to be in the sidewalk or driveways. Meter boxes will be required to be adjusted to match finished grade once the finished grade is established by the sidewalk and curb elevations. The meters must be set at least 3 feet below finished grade, but not more than 5 feet below finished grade.

E. Fire Hydrants: Fire hydrants shall be of the type, size, and number as adopted by the City and installed in such locations as approved by the City and shall meet fire flow requirements as established by the International Fire Code latest edition. Fire hydrants will be required to match finished grade as established by the sidewalk and curb elevations. Those hydrants not matching finished grade will be required to be made to match finished grade at the developer's expense.

F. Sidewalks: Unless exempted as a Large Lot Subdivision, sidewalks shall be installed by the subdivider on both sides of all streets dedicated for public use as part of the proposed subdivision. Sidewalks shall be installed by the subdivider on the development side of all existing streets upon which the subdivision fronts. Sidewalks shall be installed according to the specifications shown in the Ephraim City Construction Standards. (Note: for curb and gutter requirements see Chapter 4.3-B-3)

G. Electric Power System:

1. The subdivider shall pay the cost of electric system extensions and street lights, installed by the City, to service the subdivision. Street lights shall be installed in quantity and spacing according to the specifications in the Ephraim City Construction Standards.
2. The subdivider shall be responsible to facilitate the extension of electrical distribution lines by:
  - a. Planning the installation of utilities to each lot or site to be served to preclude conflict between other utilities and the electrical distribution lines.
  - b. Scheduling and coordinating the actual installation of improvements to allow adequate time for construction of electrical distribution lines.
  - c. Notifying the Ephraim City Power Superintendent upon completion of adequate site preparation to allow installation of electrical distribution lines.
3. The subdivider shall prepare the site for electrical distribution line installation before notifying Ephraim City to install said lines. Site preparation shall include but not be limited to:
  - a. Markers indicating property lines are in place.
  - b. The area extending from property side of sidewalk away from the street for ten (12) feet leveled to final grade.
4. The subdivider shall provide the trenching and excavations for installation of underground facilities unless waived by the City.

5. The subdivider shall back-fill, compact, test, and guarantee the back fill of excavations for underground facilities installed unless waived by the City.
6. The subdivider shall pay the cost of traffic control, street identification, and other street signs, installed by the City, in accordance with City standards. The financial assurance for improvements in the subdivision will not be released until after payment of the costs incurred to install the necessary street signs has been made.
7. Utilities including but not limited to gas, telephone, and cable TV shall be located underground when such underground service does not violate safety standards nor impose any additional maintenance burden on City personnel.
8. Survey stakes shall be placed at both front and back lot corners to completely identify the lot boundaries on the ground. Back lot corners shall be marked with a metal pipe or rod driven into the ground, and front lot corners shall be identified with permanent plugs in the sidewalk or back of the curb or with a metal pipe or rod driven into the ground if sidewalks or curbs have not been provided. All stakes shall be in place prior to the issuance of building permits and after the completion of all subdivision improvements. Missing stakes will be replaced at the expense of the developer. The City is not responsible to replace survey stakes or markers
9. All lots will be left free from construction materials and debris and shall create no traffic hazards or other nuisances.

**11-5-3. Streets:** All existing and proposed roads within, adjacent to, or directly impacted by the proposed development shall meet existing Construction Standards or be upgraded to meet these standards unless otherwise approved by the City Council due to unusual circumstances or terrain.

- A. Major Streets: Arterial, collector, and local streets shall conform to the width designated in the Ephraim City Construction Standards. Half streets along the boundary of land proposed for subdivision or within any part of a subdivision will not be permitted. (See also section 11-5-3, B.2 below).
- B. Grading and Surfacing: All on-site streets dedicated to the public shall be graded and surfaced, from curb to curb, in accordance with the standards and specifications of Ephraim City.
  1. In subdivisions within the established block system of Ephraim City, with previously-surfaced streets, the developer shall surface the area from the existing oiled surface to the curb and gutter with asphalt pavement in accordance with Ephraim City Construction Standards.
  2. For subdivisions where existing streets are not presently surfaced to City standards, the developer shall surface with pavement to the greater of :
    - a. the portion from the curb on the subdivision side of the street to and including the traveled portion of the street, or
    - b. to a minimum pavement width of 24 feet.(2006)

3. Curbs and Gutters – Concrete curbs and gutters shall be installed by the subdivider on the development side of all existing streets upon which the subdivision abuts unless waived by the Planning Committee and the City Council due to unusual circumstances or terrain. Concrete curbs and gutters shall be installed by the subdivider on both sides of all streets dedicated to the public use in accordance with the specifications of Ephraim City. (Note: for sidewalk requirements see Chapter 4-2-E)
- C. Turning Area – Where a street longer than one lot is designed to remain, even temporarily, as a dead-end street, an adequate turning area shall be provided as follows:
1. Where the street dead-ends into a subsequent phase of the same subdivision, a temporary, graveled, 100-foot diameter turnaround and a permanent easement of right-of-way on the subsequent phase property shall be provided. However, if the subsequent subdivision phase is not recorded at the time of roadway paving in the preceding phase, a 100-foot diameter asphalt-surfaced turnaround or other hard surfaced turnaround as approved by the City Engineer shall be placed at the subsequent phase property. If parking is allowed on the street side of the curb within the cul-de-sac the radius shall not be less than 120 feet. Other turn around methods as shown in the Ephraim City Construction Standards may be substituted for that described above.
  2. Where the street dead-ends against property which is not part of a subsequent subdivision phase, an all weather turnaround shall be placed, as approved by the Fire Chief and meeting the diameter requirements for cul-de-sacs below. Other turn around methods as shown in the Ephraim City Construction Standards may be substituted for that described above.
- D. Cul-de-sac Streets:
1. Cul-de-sacs shall not be longer than six hundred fifty (650) feet from the centerline of the adjoining street to the center of the cul-de-sac, (see also second access requirements, (4.3.0) Any street over 650 feet requires a second access to a different location. (2006)
  2. Each cul-de-sac shall be terminated by a turnaround of not less than 100 feet in diameter. If parking is allowed on the street side of the curb within the cul-de-sac the diameter shall not be less than 120 feet.
  3. Cul-de-sacs should be graded such that storm water will not drain towards the turnaround, where possible. If special conditions make it impractical or impossible to drain water away from the turnaround, the City Engineer may require additional measures to mitigate potential flood water/damage. These may include, but are not limited to: requiring storm drains, additional catch basins, and easements, grading lots such that water will flow to the outside edge of the lot, requiring minimum floor elevations for the house/building, and other measures as deemed necessary by the City Engineer.
  4. If the street slopes towards the turnaround, the maximum slope shall be less than 4% to allow for snow removal. If slopes exceed 4%, space at the bottom

of the cul-de-sac shall be provided for piling of snow, and cu-de-sac diameter shall be increased to 130 feet. (2006)

- F. Intersections – The intersection of more than two streets at one point shall not be allowed. Streets shall intersect at a substantially ninety degree (90°) angle. Street intersections shall have a corner radius as shown in the Ephraim City Construction Standards.
- G. Standard Street Sections – All proposed streets to be dedicated to the City shall conform to the City street standards as adopted by the City.
- H. Whenever possible, streets shall bear the names of existing aligned streets. There shall be no duplication of street names. All street names shall be approved by the City.
- I. Street Grades – Street grades, except for cul-de-sacs which are defined above, shall not exceed the following percentages: on arterial streets eight percent (8%); on local and collector streets ten percent (10%). Street grades near intersections shall be designed for adequate stopping and starting by adjusting grade on both sides of the intersection. Street grades, cross slopes and grade changes shall be designed in accordance with Ephraim City Construction Standards. Any difference in curb elevations shall be approved by the City Engineer; however, in no case shall the difference exceed one foot (1’).
- J. Subdivisions on the Canyon Road shall be designed such that individual driveways access internal road networks and not exit directly onto Canyon Road, except as provided in the City Access Management Plan.
- K. Alleys - Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the Planning Commission. Alley widths shall be consistent with applicable fire and safety access codes.
- L. Bridges – Design and construction of new bridges, whether essential for the overall circulation plan of the City or required only to serve a subdivision, shall be approved in advance by the City.
- M. Protection Strips – Where subdivision streets parallel contiguous property of other owners, the subdivider may retain a protection strip of not less than one foot (1’) in width between the street and adjacent property. Protection strips will be allowed only at the discretion of the legislative body, after recommendation of the Planning Commission, and in accordance with all City ordinances. An agreement with the City, approved by the City attorney, shall be made by the subdivider, contracting to dedicate the one foot or larger protection strip free of charge to the City for street purposes upon payment by the present owners of the contiguous property to the subdivider of a consideration named in the agreement. Such consideration is to be

equal to the cost, at the time of the agreement, of the street improvements properly chargeable to the contiguous property, plus the value of the land from the right-of-way line to the centerline of the street at the time of the agreement, together with interest at a fair rate from the time of agreement until the time of subdivision of such contiguous property. All charges to be associated with the protection strip, as well as the interest rate, shall be recorded as part of the aforementioned agreement. All property owned by the subdivider shall be included on both the preliminary and final plat.

- N. Stubbed Streets – Any road or street to be built or improved as part of the proposed subdivision shall provide for connection to future streets as identified in the General Plan. The connection to the future street shall be provided by the developer at the location of the future street and shall extend to the (developer’s) property line, the street, curb, gutter, sidewalk, and other utilities/improvements as deemed necessary by the City Engineer. Additional stubbed streets may be required to facilitate connectivity between present and possible future developments. (2006)
- O. Relation to Adjoining Street System – The arrangement of streets in new subdivisions shall comply with the General Plan and shall connect the fully improved streets to the adjoining property line along with any other improvements required by the City Engineer. Where appropriate to the design and terrain, proposed streets shall be continuous and in alignment with existing planned or platted streets, or, if offset, streets shall be offset a minimum of 100 feet between center lines of intersecting residential streets and a minimum of 400 feet between center lines of intersecting major streets. The street arrangement shall not landlock or cause unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Half streets along the boundary of land proposed for subdivision or within any part of a subdivision will not be permitted. (2006)
- P. Second Access Requirements. No street, or series of connecting streets shall exceed 650’ in length, as measured from the center line of intersecting streets to the center of a cul-de-sac, without providing a second access. The second access must exit to a different location, providing for traffic circulation and flow. The second access must be a fully improved road, meeting construction standards for an asphalt paved road, including curb/gutter/sidewalk and other requirements as deemed necessary, unless waived by City Council after a recommendation by City Staff and Planning Commission. (2006)

**11-5-4. Blocks:**

- A. The maximum length of blocks shall be 1300 feet, as measured from center of street to center of street. Block lengths over 660 feet require a recommendation for approval from the Planning Commission.

- B. The width of blocks shall be sufficient to allow at least two tiers of lots, or as otherwise approved by the Planning Commission because of terrain or other unusual conditions.
- C. Blocks intended for business or industrial use shall be designed specifically for such purposes, with adequate space set aside for off-street parking and delivery facilities.

**11-5-5. Lots:**

- A. All lots shown on the subdivision plat shall conform to the minimum area and width requirements of the Land Use ordinance for the zone in which the subdivision is located.
- B. Lots fronting on major streets or collector streets shall be designed to allow for driveway spacing requirements as shown in the Ephraim City Access Management Plan.
- C. Corner lots shall be large enough to ensure sufficient buildable space to accommodate sight triangle and building setbacks.
- D. Each lot shall abut a paved street. Interior lots having frontage on two streets shall be prohibited, except on corner lots or where unusual conditions make any other design undesirable.
- E. Wedge shaped lots must have a minimum frontage of thirty (30) feet. (2006)
- F. Whenever the rear of lots abuts a City street, the developer shall install a uniform fence along the entire perimeter of the subdivision where the abutment occurs, except where intersected by streets, trails, or walkways. The fence shall be located inside the property line of the development. The design and style of the fence shall be approved by the Planning Commission.
- G. Side lines of lots shall be at approximately right angles to the street line, or radial to the street line.
- H. Remnants of lots less than the minimum size required by the Land Use ordinance after the subdividing of a larger tract shall be added to adjacent lots rather than allowed to remain as unusable parcels. In no event shall the subdivision of land create a lot which does not conform to the Ephraim City Land Use Ordinance.
- I. Cluster Lots may be approved by the City in exchange for improvements and/or other elements beneficial to the development and/or surrounding area, which are related to the development but are not normally required as part of the development in accordance with this and other City ordinances. Density may be increased by reducing the normal lot size requirements for minimum lot size and minimum

frontage for the underlying zone by up to 20%, so long as sufficient space remains to maintain standard building setbacks and landscaping requirements and still make the property useable as a building lot. In certain cases, the City may approve additional density in the form of additional units per lot, etc, but in such cases the application must be reviewed as a Planned Unit Development.

The monetary benefit or value from cluster lots or additional density must be roughly proportional to the benefit or value derived by the additional improvements, and must be described in detail in the development agreement between the City and the developer.

- J. Where the land included in a subdivision includes two or more parcels in separate ownership, and the lot arrangement is such that a property ownership lines divides one or more lots, the land in each lot so divided shall be transferred by deed to either single or joint ownership before approval of the final plat, and such transfer certified to the Planning Commission by the Sanpete County Recorder.
- K. Lots deemed by the City to be unbuildable due to unusual hazards or terrain shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, but such land within the plat shall be set aside for such uses as shall not produce unsatisfactory living conditions.

**11-5-6. Easements:**

A. Easements for culinary water, sewer, natural gas, power, irrigation water, storm water drainage, and other utilities shall be provided by the subdivider and designated on the plat as required to accommodate the utility systems in the subdivision. As a minimum, each lot in a subdivision shall include a twelve (12) foot utility easement adjacent to any public road and maintain a seven (7) foot utility easement around the remaining perimeter of the lot. Additional easements may be required by the City Engineer if warranted by site conditions

B. Where natural drainage channels, ditches, interceptor systems, or flood hazard zones cross the subdivision, the subdivider shall obtain the necessary permits to modify such drainage facilities, and preserve and designate the natural channels, ditches, systems, or flood hazard zones, and any associated restrictions, on the plat. In such cases, trails and other open space amenities are encouraged to be incorporated into these areas. No utilities or infrastructure may be installed until final plat approval is given by the City council, and after the specific location and construction sequences are approved by Ephraim City in a preconstruction meeting. See also section 11-7-1 for Development sequence.

## CHAPTER 6

### SUBMITTAL AND APPROVAL REQUIREMENTS

#### SECTION:

- 11-6-1. Concept Plan**
- 11-6-2. Preliminary Plat**
- 11-6-3. Final Plat**
- 11-6-4. As-Built Drawings**
- 11-6-5. Dedication of Streets and Public Improvements**

#### **11-6-1. Concept Plan:**

A. Prior to any process or procedure for subdividing land as contained in this Title, an owner of the land or an authorized agent shall submit a Concept Plan which includes a graphic representation including all lots, streets, and any future phases within the proposed subdivision and the relationship to existing land and streets in the surrounding area. The Concept Plan is not an application for development review or approval and will not be considered as any type of vesting under an existing development ordinance. The Concept Plan provides an opportunity for the applicant and staff, and if appropriate, the Planning Commission to meet and discuss the proposed project in the conceptual stage.

B. The Development Review Committee shall consider the Concept Plan within 30 business days of submittal and shall render a report to the Planning Commission. The report shall include discussion of existing infrastructure and the character and extent of required improvements and any staff reservations that may exist. Any known hazards in the area, such as flood potential, susceptibility to flooding, liquefaction, poor soil, landslides, avalanches, excessive slopes, shallow ground water, etc. shall be included in the report. Particular attention shall be given to compliance with the provisions of the General Plan, Zone Map and Streets Master Plan.

There is no approval of a Concept Plan required or given. After reviewing the Concept Plan, the Development Review Committee shall advise the applicant of any reservations and note any changes, additions, studies or reports that will be required to be included with the Preliminary Plat submittal.

The Planning Commission shall not review any Preliminary Plan prior to completion of a Concept Plan review by the Development Review Committee.

1. Any failure to submit a preliminary plat within one (1) year after review of the Concept Plan by the Development Review Committee shall terminate all proceedings and render the preliminary plat null and void.

### **11-6-2. Preliminary Plat:**

A. After review of a Concept Plat by the Development Review Committee, a preliminary plat may be presented by submitting at least three (3) copies to the Planning Director by at least 10 business days preceding the regularly scheduled Planning Commission meeting. The Preliminary Plat shall be drawn to a scale not smaller than 100 feet to the inch and shall be on standard 24" x 36" paper or approved equivalent. The plat and attached documentation shall show:

1. The proposed name of the subdivision.
  - a. It shall be the responsibility of the subdivider to coordinate with the County Recorder to verify the uniqueness of the name.
  - b. There shall be no duplicate of or very similar names of subdivisions within Ephraim City or Sanpete County.
2. The subdivision location as forming a part of a larger tract or parcel, where the plat submitted covers only a part of the subdivider's tract or only a part of a larger vacant area. In such case, a sketch of the prospective future street system of the part not submitted shall be included. The preliminary plat shall show all property owned or optioned by the subdivider pertaining to the proposed subdivision. This information may be required as a separate drawing.
3. Sufficient information to locate accurately the property shown on the plat, including a clearly-defined basis of bearing for the survey as well as the date of the survey. The nearest section corner tie(s) shall be shown.
4. The names and addresses of the subdivider, the engineer, or surveyor of the subdivision, and the names of the owners of the land immediately adjoining the land to be subdivided shall be shown on the preliminary plat.
5. The boundary lines of the tract to be subdivided, including total acreage proposed for subdivision.
6. The location, widths, and other dimensions of all existing or platted streets and other important features such as easements, water courses (including irrigation canals and ditches), exceptional topography, bridges, and buildings within or immediately adjacent to the tract to be subdivided.
7. Existing power lines, sanitary sewer, storm drains, water supply mains, and culverts within the tract and immediately adjacent thereto.
8. The locations, widths, and other dimensions of proposed public streets, private streets, utility easements, parks, other open spaces, and lots, with proper labeling of spaces dedicated to the public, or designated as private streets.
9. North point, scale, and date.
10. The proposed layout, dimension, and number of each lot.
11. Proposed utility layout including hydrant locations and street lighting locations.
12. Proposed construction and permanent fencing along appropriate subdivision boundaries as determined by the Planning Commission and as specified herein.
13. A review copy of proposed protective covenants, if applicable.
14. A statement from the developer indicating conformance with the General Plan, Construction Standards, and Land Use Ordinance.
15. A preliminary storm drainage study, with schematic solutions and the associated

calculations.

16. Plans or written statements regarding the proposed special improvements such as sidewalks, planting, and parks, and any grading of individual lots.
  17. Written approval from the Irrigation Company for alteration or use of any existing ditches.
  18. Written acknowledgement from other utility providing agencies as appropriate, including but not limited to, gas, telephone, and cable TV, stating that they are willing and able to provide acceptable service to the development. Refusal of service by any or all of the providers may constitute grounds for denial of the subdivision application. (2008)
  19. If a state highway is involved, the subdivider shall provide evidence of approval of access, curbs, gutters, and sidewalks by the Utah Department of Transportation.
  20. A preliminary geotechnical report showing any existing information about soil and groundwater conditions, flood hazards, wetlands, hillside slopes, earthquake potential, and all other hazards in the subdivision. The Development Review Committee, Planning Commission or City Council will determine what additional investigations and reports are required for approval of the final plat and plans.
  21. A preliminary title report, including a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
  22. If the design or engineering review of any application or Proposed development is beyond the expertise of the City Staff, the City may require third party review by an engineer selected or approved by the City prior to the preliminary approval of the application.
    - a. The applicant shall pay all costs associated with the third party review.
- B. Upon recommendation for approval of the preliminary plat by the Planning Commission, the preliminary plat shall be presented to the legislative body for its consideration.

### **11-6-3. Final Plat:**

- A. After approval of Preliminary Plat by the City Council, a Final Plat may be presented by submitting at least three (3) copies to the Planning Director by at least 10 business days preceding the regularly scheduled Planning Commission meeting. The Final plat must be filed within six (6) months from the time of preliminary approval by the City Council, unless the applicant can show substantial progress is being made. (2006)
- B. A final plat shall be prepared by a licensed engineer or a licensed land surveyor. At least one copy shall be on a sheet of approved tracing linen with water-proof, black, permanent ink and presented to the Planning Commission. The Planning Commission shall not act on any final plat prior to final review by the development review committee. The final plat shall include:

1. Any easements or property to be dedicated to City for roads and other public uses.
2. Appropriate signature blocks, including owner's dedication with proper acknowledgment, all utility companies involved in the subdivision , legislative approval, and planning commission chair's recommendation for approval. (2008)
3. Surveyor's certificate.
4. Addresses as approved by Ephraim City, and dimensions for each lot within the subdivision, including buildable space as shown by required setbacks, geologic hazards, or other Land Use restrictions.
5. Acreage of the subdivision and for each lot.

C. The following shall not be included on the final plat but shall be submitted with the final plat:

1. Any additional information required from concept and preliminary plat review.
2. Detailed cost estimates, prepared by the project engineer, for the improvements to be completed for the proposed phase.
3. All construction types and specifications. Cross sections and profiles of the streets and construction drawings related to all of the improvements to be constructed within the subdivision. All drawings and materials shall be in compliance with the Ephraim City Construction Standards and be signed and stamped by a registered professional engineer.
4. Drainage plan. A final storm drainage study, with schematic solutions and the associated calculations to demonstrate primary on-site drainage containment and an overflow plan. If sumps are proposed, the submittal shall include the estimated life and the engineering tests supporting the design.
5. Any proposed restrictive covenants.
6. Electronic copies of the plans and plat, in Autocad© or DXF file format, shall also be submitted.

D. Upon recommendation for approval of the final plat by the Planning Commission, the final plat shall be presented to the legislative body for its consideration. Along with the final plat, the Planning Director or his designee shall prepare and submit a letter to the developer of required conditions of the subdivision. These conditions shall be kept on file in the City office along with the plat once final approval is given. (2006)

1. Once a plat receives final recommendation for approval by the Planning Commission the plat shall remain in the custody of Ephraim City until final recording in the office of the Sanpete County Recorder. An approved plat is deemed to be voidable if not recorded within a time period of one year unless a written agreement for an extension is received by the City and approved by the City Council. A transfer of land is voidable pursuant to a void plat. (2006)

E. If approval is given, the subdivider submits the following to the City for review by the City attorney.

1. Guarantee of improvements.
2. Any agreements and conditions of approval.

F. Upon completion of legal review, the plat, along with all guarantees and agreements will be recorded by the Planning Director or his designee. (2006)

**11-6-4. As-Built Drawings:**

A. The subdivider shall provide as-built drawings, in both hard copy and an electronic copy in an approved Autocad© or DXF file format, of all completed and accepted subdivision improvements before building permits are issued. As-built drawings shall be submitted, for all improvements not constructed and accepted at the time building permits are issued, before those improvements are accepted. These as-built drawings shall show, but not be limited to, the following:

1. Location of water lines and laterals referenced to property corners.
2. Location of sewer lines and laterals referenced to property corners.
3. Location of gas lines referenced to property corners.
4. Storm drains, ground drains, drainage ditches, clean-out boxes, and other fixtures.
5. Location of irrigation water lines and laterals referenced to property corners.
6. Location of electric system facilities referenced to property corners.
7. Other items as directed by the City Engineer.

**11-6-5. Dedication of Streets and Public Improvements:**

A. The subdivider shall be deemed to have dedicated the public streets, easements, and other public improvements to Ephraim City at the time the final plat is approved by Ephraim City. This dedication constitutes an offer by the subdivider which shall be irrevocable until the final plat is recorded or one (1) year, whichever comes first. Notwithstanding the foregoing, the subdivider shall be responsible to construct and install the public improvements required by this ordinance, and to maintain and guarantee these improvements for a period of two years after completion and acceptance by the City.

B. The subdivider shall also certify and guarantee in writing that the improvements comply with the minimum requirements of this ordinance at the time of acceptance.

## CHAPTER 7

### DEVELOPMENT SEQUENCE

#### SECTION:

**11-7-1 Sequence**

**11-7-2 Enforcement and Responsibility**

#### **11-7-1. Sequence:**

A. After final approval, the applicant may choose one of the following options:

1. Before the applicant may sell any lots, the applicant must submit a financial guarantee as outlined in section 7 of this ordinance. Once the Financial guarantee has been reviewed and approved, the city will proceed to record the final subdivision plat at the county, after which the applicant may start selling the lots and proceed with the construction and installation of the subdivision infrastructure.
2. The applicant may begin construction/installation of the subdivision infrastructure before the final plat is recorded at the county only if all requirements for preconstruction meetings and inspection schedules have been satisfied. Lots may be sold after the final plat is recorded once a financial guarantee has been submitted to and approved by the City.
3. No building permit or Land Use permit shall be issued until the following improvements are installed, approved, and accepted by the City. As-built drawings shall be provided as hard copies and shall also be submitted electronically in Autocad© or DXF file format.
  - a. Sanitary sewer
  - b. Culinary water
  - c. Road base

B. No building permit or Land Use permit shall be issued until the following improvements are installed and approved and as-built drawings submitted to and approved by the City or are guaranteed as provided for in this ordinance. As-built drawing shall be provided as hard copies and shall also be submitted electronically in Autocad© or DXF file format.

1. Pressure irrigation as applicable
2. Curb, gutter, and sidewalk
3. Asphalt pavement
4. Drainage improvements
5. Other buried utilities as applicable
6. Electric Service
7. Natural Gas

C. The subdivider shall provide temporary garbage disposal facilities within a subdivision when homes are occupied and asphalt surface improvements have not been placed and approved by the City. A minimum pickup of 10 cubic feet of garbage per occupied home per week shall be provided, starting at the time the first home is occupied and continuing until the asphalt surface improvements are completed and the City agrees to provide garbage service. The garbage pickup facilities shall be located within the bounds of the subject subdivision, but not on an existing improved street.

D. The subdivider shall keep the streets within a subdivision in a well-graded condition during the time when homes are occupied but the asphalt surfacing improvements are not complete. The subdivider shall be given 48 hours (covering two weekdays) to improve the street condition after being notified by the City that the street condition is unacceptable. If the problem has not been corrected to the satisfaction of the City at the end of 48 hours, the City shall have the right to have a separate contractor perform the work, with payment for such work and administrative costs coming from the guarantee of improvements.

**11-7-2. Enforcement and Responsibility:** Ephraim City will not authorize the building inspector, nor will the City Land Use administrative officer or any administrative official of Ephraim City issue any permit for the proposed erection, construction, reconstruction, alteration, or use until proof of full compliance with all the provisions of this ordinance has been provided. No City officer shall issue any permit or license for the use of any building, structure, or land when such land is part of a subdivision, as defined herein, until such subdivision has been approved and recorded in the county recorder's office. Any license or permit issued in conflict with the provisions of this ordinance shall be null and void.

## CHAPTER 8

### GUARANTEE OF IMPROVEMENTS

#### SECTION:

- 11-8-1.        **Guarantee of Improvements**
- 11-8-2.        **Bond**
- 11-8-3.        **Escrow**
- 11-8-4.        **Deposit With City**
- 1-8-5.         **Irrevocable Letter Of Credit**
- 11-8-6.        **Fees**
- 11-8-6.        **Legal Remedies for Violation**

**11-8-1. Guarantee of Improvements:** In lieu of the actual completion and acceptance by the legislative body of the improvements required by this ordinance and before approval of the final plat by the legislative body the developer shall guarantee, by written agreement and by one or more of the following methods, the installation and construction of the required improvements within two years from the date of approval of the final plat unless granted an extension by the City Council. Said agreement and guarantee must state "In favor of Ephraim City." In addition the developer shall guarantee by one or more of the following methods that the improvements shall be maintained in a state of good repair free from defective material or workmanship for a period of two years from the date of final approval of the improvements. (2006)

#### **11-8-2. Bond:**

- A. The developer shall furnish and file with the City recorder a bond with corporate surety in an amount equal to 125% of the cost of the improvements not previously installed and accepted plus 15% of the cost of previously installed improvements within a period of two years immediately following the approval of the subdivision plat by the legislative body and that the improvements shall be maintained in a state of good repair free from defects of material or workmanship for a period of two years following the date of final approval for the improvements, which bond shall be approved by the legislative body and City attorney.
- B. Upon completion of the improvements for which a surety or cash bond has been filed, the developer shall call for inspection by the City Engineer, such inspection to be made within five days from the date of request. If inspection shows City standards and specifications have been met in completion of such improvements, the portion of the bond corresponding to the completion to the improvements shall be released within seven days from the time of inspection. The portion of the bond corresponding to the warranty improvements will be released following inspection and verification of the condition of the improvements after 24 months following final approval.

**11-8-3. Escrow:** The developer shall deposit with a City insurance company, bank, or savings and loan institution in an escrow account an amount of money equal to at least 125% of the costs of the improvements required by this ordinance not previously accepted by the City and 15% of the cost of the improvements already installed and approved. The costs of the improvements shall be determined by the City Engineer. The escrow agreement shall be subject to approval by the City attorney and shall be signed by the developer, the City, and the escrow holder, and shall contain substantially the following language:

### **AGREEMENT**

The undersigned hereby promises and warrants that it has on deposit in an escrow account for the benefit of Ephraim City, the sum of \$ \_\_\_\_\_ which represents at least 125% of the estimated costs of the improvements not constructed or installed by the developer of the subdivision and accepted by the City plus 15% of the cost of the improvements already installed and approved.

The undersigned hereby agrees that the foregoing sum of money shall be used exclusively for the purpose of paying for the costs of materials and construction and installation or repair of the improvements required by the City's subdivision ordinances. The undersigned further agrees that the money held in an escrow account shall be paid out to the contractors installing and constructing the required improvements only upon an order executed by the developer and by an authorized officer of the City except in the case of repair of defects, when the process below will be followed.

The developer shall not withdraw from the escrow account any amount in excess of 110% of the estimated cost of the improvements but shall pay from other sources any costs for such improvements which exceed 110% of the costs estimated by the engineer. A sum equal to 15% of the estimated costs of improvements shall remain with the escrow holder for a period of two years following acceptance of the improvements of the City.

If after two years from approval of the final plat by the City, all or any part of the required improvements are not installed, constructed and accepted by the City, and if for a period of 2 years following acceptance of the improvements by the City the improvements are not maintained according to the standards required in the City's subdivision ordinance, the City shall notify in writing the developer and the escrow holder of the defects and charge to the escrow holder the costs of correcting the defects.

The escrow holder shall, on receiving reasonable proof from the City of the defect and that the City has incurred the costs of correcting the defect pay to the City from the escrow account the cost of correcting the defect, and the escrow holder shall be held harmless by the parties by reason of the payment to the City.

If, after two years after the legislative body has accepted the improvements required by its subdivision ordinance, the required improvements remain substantially free from latent defects, the City shall certify such fact to the escrow holder and the escrow holder shall release to the developer any money still held in the escrow account, and the escrow holder shall be discharged of its obligation to the City.

The escrow agreement may contain such additional provisions as the parties deem necessary.

**11-8-4. Deposit with City:** The developer shall deposit with the City a sum equal to 125% of the costs of the required improvements not installed, constructed, and accepted by the City and 15% of the cost of the improvements previously constructed and accepted. The developer shall have the right to draw against the account with the City all sums to 110% of the cost of the improvements not installed which shall be paid to the order of persons installing, constructing, or maintaining the improvements. The City shall hold the additional 15% to guarantee that the improvements are maintained in a state of good repair free from defects of material or workmanship for a period of two years following approval of the improvements. The City may, after making written demand on the developer in the manner required in Section 7.3 above, install, construct, or repair the improvements and pay such costs from the developer's account. The City shall refund any sums remaining in the developer's account after the legislative body accepts the improvements and the two-year warranty period expires.

**11-8-5. Irrevocable Letter Of Credit:** The developer shall file with Ephraim City an irrevocable letter of credit from a duly-chartered state or national bank or savings and loan institution, which shall contain provisions similar to those required in the escrow agreement. The form of the irrevocable letter of credit shall be approved by Ephraim City.

**11-8-6. Fees:** Subdivision approval within Ephraim City shall be subject to the following fees established by the legislative body.

- A. Preliminary Plat Application Fee. At the time of filing the preliminary plat, the subdivider shall deposit with the City a non-refundable fee made payable to Ephraim City. The legislative body shall by resolution from time to time prescribe the amount of such fee, which shall be for the purpose of reimbursing the City for the expense of checking and reviewing such preliminary subdivision plats.
- B. Final Plat Application Fee. At the time of filing the final plat, the subdivider shall deposit with the City a non-refundable fee made payable to Ephraim City. The legislative body shall by resolution from time to time prescribe the amount of such fee, which shall be for the purpose of reimbursing the City for the expense of checking and reviewing such final subdivision plats. The subdivider shall also pay to the City an amount equal to the normal fee for recording a subdivision in Sanpete County as established by the Sanpete County Recorder.

- C. Inspection Fee. At the time of filing the final plat, the subdivider will deposit with Ephraim City an inspection fee consisting of 7% of the estimated cost of improvements, as approved by Ephraim City. Ephraim City will draw on this deposit to pay the costs of inspection services for the subdivision. After final approval of all subdivision improvements, Ephraim City will return to the subdivider any unused portion of the inspection fee. In the event that inspection costs exceed the subdivision fee deposit, subdivider will pay to Ephraim City the additional inspection costs.

**11-8-7. Legal Remedies for Violation:** In accordance with 10-9-1003 of the Utah Code, any applicant that violates this Title may be charged with a Class C misdemeanor and subject to all fines and imprisonment associated with such penalty.

Because it is impractical to expect that all grading, infrastructure, and other improvements can be adequately inspected by Ephraim City, Ephraim City expects applicants to complete all development improvements in accordance with the approved plans. If an applicant installs improvements that are inconsistent with the development approval granted by the City Council, the improvements will be corrected to satisfy the approval granted by the City Council at the applicant's expense even if discovery of the inconsistency occurs after an initial acceptance of the development improvements. Failure to correct the inconsistencies may result in any legal action necessary to correct the inconsistencies.

**PART TWO: Repealer:** All former Codes or parts thereof conflicting or inconsistent with provisions of this Ordinance or of the Code hereby adopted are hereby repealed.

**PART THREE: Severability:** The provisions of this Code shall be severable, and if any provision thereof, of the application of such provision under any circumstance is held invalid, it shall not affect any other provision of this Code or the application in a different circumstance.

**PART FOUR: Effective Date:** July 1, 2009.

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Mayor Cliff Birrell

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Attest: