

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council and the Redevelopment Agency (RDA) of Tooele City will meet in a Work Meeting, on Wednesday, December 20, 2023, at 6:30 p.m. The meeting will be held in the Tooele City Hall Council Chambers, located at 90 North Main Street, Tooele, Utah. The complete public notice is posted on the Utah Public Notice Website www.utah.gov, the Tooele City Website www.tooelecity.gov, and at Tooele City Hall. To request a copy of the public notice or for additional inquiries please contact Michelle Pitt, City Recorder at (435)843-2111 or michellep@tooelecity.org.

We encourage you to join the City Council meeting electronically by visiting the **Tooele City YouTube Channel**, at <https://www.youtube.com/@tooelecity> or by going to YouTube.com and searching "Tooele City Channel".

AGENDA

1. **Open City Council Meeting**
2. **Roll Call**
3. **Mayor's Report**
4. **Council Members' Report**
5. **Discussion Items**
 - a. **Ordinance 2023-43** An Ordinance of Tooele City Amending Tooele City Code Chapter 7-19 Regarding Subdivisions
Presented by Roger Baker, City Attorney
 - b. **Resolution 2023-104** A Resolution of the Tooele City Council Authorizing Payment of a Fee in Lieu of Water Rights Conveyance for Holiday Oil
Presented by Jared Stewart, Economic Development Director
6. **Closed Meeting**
~ Litigation, Property Acquisition, and/or Personnel
7. **Adjourn**

Michelle Y. Pitt, Tooele City Recorder

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations should notify Michelle Y. Pitt, Tooele City Recorder, at 435-843-2111 or Michellep@Tooelecity.gov, prior to the meeting.

TOOELE CITY CORPORATION

ORDINANCE 2023-43

AN ORDINANCE OF TOOELE CITY AMENDING TOOELE CITY CODE CHAPTER 7-19 REGARDING SUBDIVISIONS.

WHEREAS, Utah Constitution, Article XI, Section 5 directly confers upon Utah's charter cities, including Tooele City, "the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law"; and,

WHEREAS, Utah Code Section 10-8-84 enables Tooele City to "pass all ordinances and rules, and make all regulations . . . as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city"; and,

WHEREAS, Utah Code Section 10-9a-601 enables Tooele City to "enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances" before a plat can be recorded and lots sold; and,

WHEREAS, Tooele City Code Chapter 7-19 is Tooele City's land use regulation (also known as ordinances) governing the subdivision of land in Tooele City; and,

WHEREAS, Tooele City's subdivision ordinances historically have provided for a preliminary plan approval process and a final plat approval process, in which the Tooele City Planning Commission provides non-binding recommendations on subdivision applications, and the City Council approves the subdivision applications, with the appeal authority being the City's administrative hearing officer (under TCC Chapter 1-28); and,

WHEREAS, the 2023 session of the Utah Legislature produced Senate Bill 174, effective May 3, 2023, under which legislative bodies were removed from the subdivision approval process, and requiring new municipal land use regulations regarding the subdivision of land, land use authorities, and appeal authorities (see Senate Bill 174 attached as Exhibit C); and,

WHEREAS, the City Administration formed a study committee consisting of the Community Development Director, City Planner, City Engineer, Public Works Director, and City Attorney to implement Senate Bill 174 through the preparation of proposed City Code amendments to TCC Chapter 7-19; and,

WHEREAS, the study committee met regularly over the course of six months to prepare the proposed amendments attached as Exhibit B, summarized in Exhibit A; and,

WHEREAS, as proposed, the land use authority for preliminary subdivisions will be the Planning Commission, and the appeal authority will be a committee of three qualified non-city employees selected by City administrative departments; and,

WHEREAS, as proposed, the land use authority for final subdivisions will be a committee comprised of the Community Development Director, Public Works Director, and City Engineer, with the signature of at least two required for approval, and the appeal authority will be as provided in Senate Bill 174, namely, an engineering group comprised of one engineer selected by the City, one engineer selected by the subdivider, and a third engineer selected by the former two; and,

WHEREAS, as proposed, the land use authority and appeal authority for minor subdivisions will be the same as for final subdivisions; and,

WHEREAS, the proposed amendments to Chapter 7-19 reflect the policy shift embodied in Senate Bill 174, where preliminary subdivisions will address planning-related concepts, such as, land use, development density, and site configuration, while final subdivisions will address detailed site engineering and design necessary for the subdivision; and,

WHEREAS, through the process of preparing the amendments to the subdivision review and approval process which is the subject of Senate Bill 174, the City Administration has modernized the formatting and language of Chapter 7-19; and,

WHEREAS, the City Administration presented Exhibit A and a summary of Exhibit B to the City Council during its November 1, 2023, public work meeting, and to the Planning Commission during its November 8, 2023, public business meeting; and,

WHEREAS, on December 13, 2023, the Planning Commission convened a duly-noticed public hearing, accepted public comment, and voted to provide its recommendation to the City Council; and,

WHEREAS, on December 20, 2023, the City Council convened a public hearing, considered the Planning Commission recommendation, and accepted public comment:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE CITY COUNCIL that:

- 1) TCC Chapter 7-19 is hereby amended as shown in Exhibit B, attached and incorporated; and,
- 2) the City Administration is instructed to prepare preliminary and final subdivision application checklists for use by subdividers, consistent with this Ordinance; and,
- 3) this Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses; and,

4) this Ordinance shall take effect on February 1, 2024, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is approved by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

(If the mayor approves this ordinance, the City Council passes this ordinance with the Mayor's approval. If the Mayor disapproves this ordinance, the City Council passes the ordinance over the Mayor's disapproval by a super-majority vote (at least 4). If the Mayor neither approves nor disapproves of this ordinance by signature, this ordinance becomes effective without the Mayor's approval or disapproval. UCA 10-3-704(11).)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Summary of Proposed Subdivision Approval and Appeal Amendments

	Current			Proposed		
Subdivision Application Type	Recommending Authority	Land Use Authority	Appeal Authority	Recommending Authority	Land Use Authority	Appeal Authority
Preliminary Plan	Planning Commission	City Council	Administrative Hearing Officer	NA	Planning Commission	Committee of 3: Chosen by CD Director and PW Director
Final Plat	CD Director PW Director City Engineer	City Council	Administrative Hearing Officer	NA	CD Director PW Director City Engineer	3 Engineers: Developer's City's Neutral
Minor Subdivision	CD Director PW Director City Engineer	City Council	Administrative Hearing Officer	NA	CD Director PW Director City Engineer	3 Engineers: Developer's City's Neutral

Exhibit B

Proposed Amendments to TCC Chapter 7-19

Exhibit C

Excerpts from Senate Bill 174

Tooele City	Current			Proposed		
Subdivision Application Type	Recommending Authority	Land Use Authority	Appeal Authority	Recommending Authority	Land Use Authority	Appeal Authority
Preliminary Plan	Planning Commission	City Council	Administrative Hearing Officer	NA	Planning Commission	Committee of 3: Chosen by CD Director and PW Director
Final Plat	CD Director PW Director City Engineer	City Council	Administrative Hearing Officer	NA	CD Director PW Director City Engineer	3 Engineers: Developer's City's Neutral
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CHAPTER 19. SUBDIVISIONS

- 7-19-1. Application of Chapter.
- 7-19-2. General provisions.
- 7-19-3. Interpretation.
- 7-19-4. Severability.
- 7-19-5. Rules of interpretation.
- 7-19-6. Property line adjustments.
- 7-19-6.1. Property Combinations.
- 7-19-7. Dedications.
- 7-19-8. Procedure for approval of preliminary subdivision.
- 7-19-9. Plats and data for approval of preliminary plan. (Repealed.)
- 7-19-10. Procedure for approval of the final subdivision.
- 7-19-11. Plats, plans, and data for final approval. (Repealed.)
- 7-19-12. Public Improvements – bonds and bond agreements – warranty.
- 7-19-13. Applications for Reimbursement.
- 7-19-14. Failure to act – effect.
- 7-19-15. Phased development.
- 7-19-16. Design standards. (Repealed.)
- 7-19-17. Streets.
- 7-19-17.1. Double-frontage lots – definitions – design – maintenance.
- 7-19-18. Easements.
- 7-19-19. Blocks.
- 7-19-20. Lots.
- 7-19-20.1. Flag Lots.
- 7-19-21. Required land improvements. (Repealed.)
- 7-19-22. Street signs. (Repealed.)
- 7-19-23. Monuments and markers.
- 7-19-24. Public utilities.
- 7-19-25. Sidewalks required – specifications. (Repealed.)
- 7-19-26. Park Strip Landscaping in Commercial and Industrial Subdivisions.
- 7-19-27. Sanitary sewers.
- 7-19-28. Engineering specifications.
- 7-19-29. Water service.
- 7-19-30. Trench backfill.
- 7-19-31. Filing of engineering plans.
- 7-19-32. Acceptance of public improvements.
- 7-19-33. Building permits.
- 7-19-34. Final Plat execution, delivery, and recordation. (Repealed.)
- 7-19-35. Minor Subdivision - Exemptions from preliminary subdivision process.
- 7-19-36. Effect of revocation and voiding.

7-19-1. Application of Chapter.

No person shall subdivide any tract of land which is located within the City of Tooele, whether for residential or non-residential purposes, except in conformity with the provisions of this Chapter. The subdivision plans and plats, proposed improvements to be installed, and all procedures relating thereto, shall in all respects be in full compliance with the regulations of this Chapter. (Ord. 1977-18, 10-19-1977)

7-19-2. General provisions.

(1) Wherever any subdivision of land is proposed within the incorporated limits of the City, the owner or subdivider shall submit both a preliminary subdivision application and a final subdivision application to the City for approval.

(2) Until a preliminary subdivision is approved:

(a) No land shall be subdivided, nor any street laid out, nor any improvements made to the natural land.

(b) No lot, tract, or parcel of land within any subdivision shall be offered for sale, nor shall any sale, contract for sale, or option be made or given.

(c) No improvements – such as sidewalks, water supply, storm water drainage, sanitary sewage facilities, gas service, electric service, and lighting, grading, paving, or surfacing of streets – may be made by any person or utility.

(d) Land subject to flooding or within any area designated as subject to a 100-year flood by the Floodplain Administrator, and areas subject to poor drainage, will not be permitted to be subdivided unless the flooding or drainage problems are properly dealt with in the subdivision in compliance with state and federal regulations and with Chapter 4-13 of this Code.

(3) Where a tract of land proposed for subdivision is part of a larger, logical subdivision unit in relation to the City as a whole, the land use authority may cause to be prepared, before subdivision approval, a plan for the entire unit, the plan to be used by the land use authority to determine compliance of a subdivision application with City regulations.

(4) Amendments to the City Code enacted by the City Council after the approval of a preliminary subdivision, but prior to the approval of a final subdivision, shall apply to that final subdivision to the extent they do not alter the preliminary subdivision's use, density, or configuration. For purposes of this Chapter, the words “use, density, and configuration” shall refer to the following:

(a) use: the uses allowed by the Tooele City General Plan Land Use Element and the Tooele City land use regulations in effect at the time of complete preliminary subdivision application submission;

(b) density: the number of lots contained in a preliminary subdivision approved by the Planning Commission;

(c) configuration: the general manner in which the density is laid out in a preliminary subdivision approved by the Planning Commission.

(5) Amendments to the City Code enacted by the City Council shall apply to the use, density, and configuration of an approved preliminary subdivision and to a final subdivision application if the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by the subdivision's use, density, and/or configuration.

(6) Lots and parcels created and divided as allowed under state law without City land use approval pursuant to this Chapter shall not enjoy the rights otherwise vested by compliance with this Chapter. Owners of such lots or parcels may acquire vested rights by obtaining approval of a preliminary subdivision and final subdivision, or a minor subdivision. Such lots or parcels shall be subject to all City regulations concerning the development of subdivided land.

(Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1977-18, 10-19-1977)

7-19-3. Interpretation.

(1) In interpretation and applications, the provisions of this Chapter shall be held to be the minimum requirements.

(2) Where the conditions imposed by any provision of this Chapter upon the use of land are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Chapter or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

(3) This Chapter shall not abrogate any easement, covenant, or any other private agreement, provided that where the regulations of this Chapter are more restrictive or impose higher standards or requirements than such easements, covenants, or private agreements, this Chapter shall govern.

(Ord. 1977-18, 10-19-1977)

7-19-4. Severability.

If any Section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such a holding shall not affect the validity of the remaining portions of the Chapter.

(Ord. 1977-18, 10-19-1977)

7-19-5. Rules or interpretation.

Words used in the present tense shall include the future. Words used in the singular shall include the plural, and the plural the singular.

(1) "May" is permissive.

(2) "May not" is prohibitive.

(3) "Must" indicates a mandatory requirement.

(4) "Shall" is mandatory and not discretionary.

(5) "Used for" shall include the phrases "arranged for, designed for, designated for, intended for, maintained for, occupied for, and similar phrases."

(Ord. 2013-16, 11-06-2013) (Ord. 1977-18, 10-19-1977)

7-19-6. Property line adjustments.

(1) Staff Authority. The Zoning Administrator or designee shall have the authority to approve or deny a property line adjustment in accordance with the regulations outlined in this Section. Alternatively, the Zoning Administrator may direct that the application follow the standard procedures for subdivision approval, as provided elsewhere in this Chapter. The applicant may appeal the decision of the Zoning Administrator to deny a property line adjustment, as outlined in Chapter 1-27 of the Tooele City Code.

(2) Property Line Adjustments. Applications to adjust property lines between adjacent properties:

(a) where one or more of the affected properties is included within a prior recorded subdivision plat, property line adjustment may only be accomplished upon the recordation of an amended plat that conforms to the standards outlined in this Section and following approval of an amended plat according to the standard plat approval process outlined elsewhere within this Chapter; or,

(b) where all of the affected properties are parcels of record, may be accomplished upon approval, execution, and recordation of appropriate deeds describing the resulting properties, upon compliance with the standards outlined in this Section, and following approval according to the terms of this Section prior to recordation.

(3) Standards. Owners of adjacent properties desiring to adjust common property lines between those properties shall comply with the following standards:

(a) no new lot, parcel, or property results from the property line adjustment;

(b) the adjoining property owners consent to the property line adjustment;

(c) the property line adjustment does not result in remnant land that did not previously exist (a remnant parcel is land that does not comply with the land use regulations of the zoning district where it is located);

(d) the property line adjustment does not result in a land-locked property, and all properties affected by the adjustment have access to a public or private street or right-of-way;

(e) the adjustment does not result in, create, or perpetuate any violation of applicable dimensional zoning requirements of this Title for any parcel involved in the adjustment; and,

(f) the adjustment does not adversely affect

any easement or right-of-way on, through, within, or adjacent to the properties involved in the adjustment.

(4) Application. The owners shall file an application requesting a property line adjustment, together with all required information and documents.

(a) Application procedures and required documents for property line adjustments involving one or more subdivision lots shall be as outlined elsewhere in this Chapter for subdivision approval.

(b) An application for a property line adjustment involving parcels of record shall include at least the following forms and documentation:

(i) a completed application form for a property line adjustment;

(ii) a copy of all deeds and recorded documents establishing each parcel of record in its current state, including property descriptions for each parcel;

(iii) a scaled drawing showing the current state of all parcels involved in the proposed property line adjustment graphically with their respective property descriptions;

(iv) a proposed and recordable deed document, including a legal description, for each parcel involved in the proposed property line adjustment detailing the proposed layout for the parcel, including its proposed property description, which has been signed by all involved property owners, and notarized; and,

(v) a scaled drawing showing the proposed layout of all parcels involved in the proposed property line adjustment graphically with their respective property legal descriptions.

(5) Zoning Administrator Review for Property Line Adjustments Involving Only Parcels of Record. The Zoning Administrator shall review all information and documents to determine if they are complete, accurate, and that they comply with the requirements set forth in this Section. If the Zoning Administrator determines that the documents are complete and the proposed property line adjustment complies with the standards set forth in this Section, the Zoning Administrator shall approve the property line adjustment. If the Zoning Administrator determines that the documents are not complete or the proposed property line adjustment does not comply with all of the standards set forth in this Section, the Zoning Administrator shall not approve the property line adjustment.

(6) Notice of Approval and Conveyance of Title. After approval by the Zoning Administrator, the applicant shall:

(a) record the appropriate deeds which convey title as approved by the Zoning Administrator; and,

(b) record a Notice of Approval with the deed for each parcel within the property line adjustment application that:

(i) is prepared, signed, and executed by the Zoning Administrator;

(ii) contains the notarized signature of each property owner involved in the property line adjustment; and,

(iii) recites the legal description and parcel number of both of the original parcels and of the parcels created by the property line adjustment.

(7) Inclusion of a property in a property line adjustment shall not grant entitlements or vesting of any kind that did not already exist for the property.

(8) All property line adjustment shall preserve existing easements and provide for new easements for public improvements and other utilities serving the affected parcels.

(9) In the alternative to this Section, property owners may accomplish a lot line adjustment following the procedures established by State of Utah statute.

(Ord. 2015-07, 03-18-2015) (Ord. 2013-16, 11-06-2013)

7-19-6.1. Property combinations.

Property combinations or consolidations may be reviewed and approved in the same manner, by the same standards, and by the same process outlined for property line adjustments in Section 7-19-6 of the Tooele City Code. Property combinations or consolidations may be approved only for a reduction in the number of properties through inclusion of one or more properties into another property and shall be applied for, reviewed, and approved separately from any other land use application. (Ord. 2013-16, 11-06-2013)

7-19-7. Dedications.

Every person who must dedicate any right-of-way, street, alley, or other land interest for public use, as part of a land use approval, may do so by way of a recorded final subdivision plat or by conveyance of a deed of dedication acceptable to the City.

(Ord. 2010-05, 06-02-2010) (Ord. 1981-24, 06-11-1981)

7-19-8. Procedure for approval of preliminary subdivision.

(1) Purpose and Scope. The purpose of the preliminary subdivision application and review is to verify the proposed subdivision complies with all City regulations for the subdivision of land. The scope of the preliminary subdivision shall include primarily the uses of land, and the density and configuration of those uses. All application requirements are intended to address that scope.

(2) Pre-application Review. For all proposed subdivisions, except for minor residential subdivisions, a subdivider shall schedule a pre-application meeting with the Community Development Department. The purpose of the meeting is to assist the subdivider by discussing in general terms the City's requirements for a proposed

subdivision, and to identify any major impediments to the subdivision's approval as proposed. A conceptual illustration and narrative shall be submitted to the City prior to the meeting. This submission is not a land use application. The City makes no commitments, grants no approvals, makes no appealable decisions, and vests no rights during this review.

(3) Land Use Application.

(a) The subdivider seeking preliminary subdivision approval shall submit a preliminary subdivision application. The application shall comply with all City land use, density, and configuration requirements of the General Plan and this Code.

(b) A complete preliminary subdivision land use application shall include the following:

(i) an application on an approved City preliminary subdivision application form;

(ii) all data and information listed on the City preliminary subdivision application checklist;

(iii) a preliminary subdivision plat, not to be recorded, containing the information and formatting required by this Chapter and by the preliminary subdivision checklist;

(iv) payment of the preliminary subdivision review fee, water modeling fee, and sewer modeling fee; and,

(v) evidence that the subdivider owns or has the ability to acquire municipal water rights sufficient for the development and construction of the subdivision.

(4) Land Use Authority.

(a) The land use authority for a preliminary subdivision application shall be the Tooele City Planning Commission.

(b) Prior to Planning Commission review, the applicant shall deliver copies of the proposed preliminary subdivision plat to the Community Development Department that demonstrates a signed review by, and any comments from, the Tooele Post Office, Tooele County School District, County Surveyor, County Recorder, Health Department, and all non-City utilities anticipated to provide utility service to the subdivision.

(c) A preliminary subdivision application complying with all Tooele City regulations shall be approved. Any application not complying with all City regulations may not be approved.

(d) The Planning Commission chair shall sign the approved preliminary subdivision plat, except that if the chair voted against approval, the senior approving member shall sign the plat.

(5) Duration of approval – extension – phasing.

(a) Approval of the preliminary subdivision shall be effective for a maximum period of one year unless, prior to the one-year period lapsing, the Planning Commission grants an extension in a public meeting, not to exceed six months, upon written request and payment of an extension review fee by the subdivider. If a

complete application for final subdivision approval is not submitted to the Community Development Department prior to the expiration of the one-year period, plus any extension, which begins to run from the date that the preliminary subdivision is approved by the Planning Commission, the approval of the preliminary subdivision shall lapse automatically and shall be void and of no further force or effect. Thereafter, the subdivider must submit a new preliminary subdivision application, including the payment of all fees.

(b) Where a preliminary subdivision contemplates more than one final subdivision phase, the subdivider shall submit a completed final subdivision application for a second or subsequent phase within the scope of the same preliminary subdivision within two years of acceptance of public improvements from the previous final subdivision phase. Prior to the two years expiring, the land use authority may grant an extension in a public meeting, not to exceed six months, upon written request of the subdivider and payment of the extension review fee. Failure to timely submit the second or subsequent final subdivision application shall cause the approval for all un-platted portions of the preliminary subdivision to automatically lapse and expire and become of no further force or effect. Thereafter, the subdivider must submit a new preliminary subdivision land use application, including the payment of all fees.

(6) Appeal Authority. The appeal authority for the preliminary subdivision decisions of the Planning Commission shall be a three-person committee selected by the Community Development Director and Public Works Director, with committee members possessing qualifications relevant to the preliminary subdivision purpose and scope identified in this Section. A unanimous decision is not required. Approval requires the signatures of any two of the three committee members. Appeal procedures shall be those contained in Chapter 1-28 of this Code.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 1998-35, 10-07-1998) (Ord. 1998-17, 07-01-1998) (Ord. 1977-18, 10-19-1977)

7-19-9. Plats and data for approval of preliminary plan. (Repealed.)

(Ord. 2021-03, 01-20-2021) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 1998-35, 10-07-1998)

7-19-10. Procedure for approval of the final subdivision.

(1) Purpose and Scope. The purpose of the final subdivision application and review is to verify that the application complies with all City regulations for the subdivision of land. The scope of the final subdivision review shall include all those technical, engineering,

design, construction, and other details necessary for recordation of the final subdivision plat and construction of the platted subdivision. All application requirements are intended to address that scope.

(2) Conformity to preliminary subdivision. The final subdivision shall conform substantially to the uses, densities, and configurations of the approved preliminary subdivision. Substantial nonconformity shall include increases in density of five percent or more, changes in use requiring a change of zoning, and any substantial reconfiguration of public streets.

(3) Phasing. The final subdivision may constitute only that portion of the approved preliminary subdivision which the subdivider proposes to record and construct as a single development project. For purposes of this Section, the word “construct” shall refer to the construction of public improvements and not of structures for occupancy.

(4) Land Use Application.

(a) The subdivider seeking final subdivision approval shall submit a final subdivision application. The application shall comply with all City requirements of this Code for the subdivision and development of land.

(b) A complete final subdivision application shall include the following:

(i) an application on an approved City final subdivision application form;

(ii) all data and information listed on the City final subdivision application checklist;

(iii) the payment of final subdivision review fees; and,

(iv) evidence that the subdivider owns municipal water rights sufficient for the development and construction of the subdivision.

(5) Land Use Authority.

(a) The land use authority for approval of a final subdivision shall be a three-person committee consisting of the Community Development Director, the Public Works Director, and the City Engineer. The approving signatures of at least two members of the land use authority shall be required to approve a final subdivision.

(b) Any final subdivision application complying with all Tooele City regulations shall be approved. Any application not complying with all City regulations may not be approved.

(6) Duration of approval – extension. Each approved final subdivision shall have the durations of approval described in Section 7-19-8 (Procedure for approval of the preliminary subdivision).

(7) Plat signatures. Upon approval of the final subdivision by the land use authority, and delivery of the final subdivision plat mylar to the Community Development Department, the Department shall secure the final subdivision plat mylar signatures of the land use authority.

(8) Plat Recordation – deadline – revocation – costs.

(a) The subdivider shall deliver to the City the fully executed final subdivision plat mylar within 90 days of final subdivision approval. Failure of the subdivider to fully execute the final plat mylar, or to deliver the fully executed final plat mylar to the City, within the specified 90 days, shall result in the automatic revocation of, and shall void, the final subdivision approval.

(b) No changes to the approved final subdivision plat mylar may be made without the written approval of the City.

(c) Tooele City shall promptly record an approved, fully-executed final subdivision plat mylar with the Tooele County Recorder upon the occurrence of the following:

(i) a statement from the subdivider of desired timing for recording the plat;

(ii) execution of a bond agreement, as applicable, pursuant to Section 7-19-12, above;

(iii) payment of all fees associated with the recordation of the final subdivision plat mylar;

(iv) conveyance of water rights pursuant to Chapter 7-26; and,

(v) all City signatures on the final subdivision plat mylar.

(9) Appeal Authority. The appeal authority for appeals from final subdivision decisions shall be a three-person committee consisting of a licensed Utah engineer selected by the City, a licensed Utah engineer selected by the subdivider, and a third licensed Utah engineer selected by the first two. A unanimous decision is not required. Approval requires the signatures of any two of the three committee engineers. Appeal procedures shall be those contained in Chapter 1-28 of this Code.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 2004-02, 01-07-04) (Ord. 1998-35, 10-07-1998) (Ord. 1998-16, 07-01-1998) (Ord. 1978-28, 11-21-1978) (Ord. 1977-18, 10-19-1977)

7-19-11. Plats, plans, and data for final approval. ~~(Repealed.)~~

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 1998-35, 10-07-1998) (Ord. 1993-04, 05-04-1993)

7-19-12. Public Improvements – bonds and bond agreements – warranty.

Public improvements shall be completed pursuant to the following procedure:

(1) As part of the final subdivision application review, the subdivider shall submit plans and

specifications for all public improvements to the Community Development Department.

(2) No public improvements may be constructed prior to final subdivision approval.

(3) All public improvements shall be completed within one year from the date of final subdivision approval. The final subdivision land use authority may grant a maximum of two six-month extensions upon receipt of a written petition and payment of an extension review fee, and upon a finding of unusual circumstances. Petitions for extension must be filed with the Community Development Department prior to expiration of the one-year period, if no extension has been approved, or of an approved six-month extension. If the public improvements are not completed with the time allowed under this Section, further final subdivisions may not be approved within the preliminary subdivision in which the public improvements are incomplete. When the public improvements have been 100% completed and accepted within the final subdivision, another final subdivision for another phase within the same preliminary subdivision may be requested.

(4) (a) Except as provided below, all public improvements associated with a final subdivision must be completed, inspected, and accepted pursuant to Section 7-19-32 prior to the recordation of that final subdivision plat.

(b) A final subdivision plat mylar may be recorded prior to the completion, inspection, and acceptance of the final subdivision's public improvements where the subdivider submits a bond and executes a bond agreement compliant with this Section. The purpose of the bond and bond agreement is to insure timely and correct construction of all public improvements required in the subdivision, and to warrant their construction.

(c) Where public improvements are constructed prior to plat recordation, without a bond and bond agreement, under no circumstances may they be connected to the City's existing water distribution, sewer collection, storm drain collection, and streets systems located within City rights-of-way or easements without bonding under this Section for the connections.

(5) Bond agreements shall be in the form and contain the provisions approved by the City Attorney. The agreement must be signed by the Mayor and the City Attorney. The agreement must include, without limitation, the following:

(a) Incorporation by reference of the final subdivision documents, including the final subdivision plat, public improvements plans and specifications, and all data required by this Chapter which are used by the City Engineer to review the cost estimate for the public improvements construction.

(b) Incorporation by exhibit of the City Engineer's approved estimate of the cost of the public improvements construction.

(c) Completion of the public improvements within the period of time described in this Section.

(d) Completion of the public improvements in accordance with the final subdivision approval, City standards and specifications, and the approved engineering plans and specifications associated with the final subdivision.

(e) Establishment of the bond amount. The bond amount shall include the following:

(i) the subdivider design engineer's estimated cost of the public improvements to be constructed, as reviewed and approved by the City Engineer or designee; and,

(ii) a reasonable contingency of 20% of the estimated cost, intended to cover the costs of inflation and unforeseen conditions or other circumstances should the City need to complete the public improvements under the terms of the bond agreement.

(f) The City shall have exclusive control over the bond proceeds, which may be released to the subdivider only upon written approval of the City Attorney.

(g) The bond proceeds may be reduced upon written request of the subdivider as whole systems of improvements (e.g., sidewalks) are installed and upon approval by City inspectors on a Certificate of System Completion for Bond Reduction with a City inspection report form. The amount of the reduction shall be determined by reference to the cost estimate attached to the bond agreement, with assistance from the City Engineer, as necessary. Such requests may be made only once every 30 days. All reductions shall be by the written authorization of the City Attorney.

(h) Bond proceeds may be reduced by no more than 90% of the total bond amount, the remaining 10% being retained to guarantee the warranty and maintenance of the improvements as provided in this Section and Section 7-19-32. Any bond amount reduction shall not be deemed an indication of public improvement acceptance.

(i) If the bond proceeds are inadequate to pay the cost of the completion of the public improvements, for whatever reason, including previous bond reductions, the subdivider shall be responsible for the deficiency. Until the public improvements are completed or, with City Attorney approval, a new bond and bond agreement have been executed to insure completion of the remaining improvements:

(i) no further final subdivisions may be approved within the preliminary subdivision or project area in which the improvements are to be located; and,

(ii) no further building permits shall be approved in the subdivision.

(j) If the bond proceeds are not transferred to the City within 30 days of the City's written demand, the City's costs of obtaining the proceeds, including the City

Attorney's Office costs and any outside attorney's fees and costs, shall be deducted from the bond proceeds.

(k) The subdivider agrees to indemnify and hold the City harmless from any and all liability and defense costs which may arise as a result of those public improvements which are installed until such time as the City accepts the public improvements as provided in Section 7-19-32.

(6) Bond agreements shall be one of the following types:

(a) An irrevocable letter of credit with a financial institution federally or state insured, upon a current standard letter of credit form, or including all information contained in the current standard letter of credit form.

(b) A cashier's check or a money market certificate made payable only to Tooele City Corporation.

(c) A guaranteed escrow account from a federally or state insured financial institution, containing an institution guarantee.

(7) Warranty.

(a) The subdivider shall warrant and be responsible for the maintenance of all improvements for one year following their acceptance, and shall guarantee such warranty and maintenance in the above-described bond agreements. The City may extend the warranty period upon a determination of good cause that the one-year period is either inadequate to reveal public improvement deficiencies anticipated based on known substandard materials or construction, or inadequate to protect the public health and safety.

(b) The one-year warranty period shall commence on the date of a Certificate of Completion and Acceptance signed by the following:

- (i) Mayor;
- (ii) Director of Public Works or designee;
- (iii) Director of Community Development or designee; and,

(iv) City inspector responsible for inspecting the warranted public improvements.

(c) A Certificate of Completion and Acceptance shall not be deemed an acceptance of defects in materials or workmanship that are determined to exist in the public improvements before the end of the one-year warranty period. Written notice to the subdivider of the defects, delivered prior to the end of the warranty period, shall operate to extend the warranty period until the defects are corrected or resolved.

(d) The one-year warranty period will be considered successfully concluded only upon the occurrence of the following:

(i) an end-of-warranty inspection signed by a City inspector indicating that the public improvements are free of defects in materials and workmanship; and,

(ii) the signature of the Public Works

Director on an End-of-Warranty Certificate.

(8) The final subdivision applications for two or more final subdivision phases may be approved, and the entirety of the property within those phases developed, simultaneously where all public improvements associated with the subdivisions are bonded for and constructed as if they were one phase. An application for final subdivision approval of multiple phases shown on the approved preliminary subdivision may also be approved under a single application when the final subdivision reflects all requested phases as a single phase in the overall configuration of the approved preliminary subdivision.

(9) The subdivider's bond in no way excuses or replaces the obligation to complete public improvement construction as required in this Section. Nothing in this Section shall require the City to liquidate bonds, spend bond proceeds, or complete public improvements. Any undertaking on the part of the City to liquidate a bond, spend bond proceeds, or complete public improvements shall not relieve the subdivider of the consequences of non-completion of public improvements.

(10) The City Attorney may sign the final subdivision plat mylar upon 100% of the public improvements being completed and/or bonded in accordance with this Section, and with the warranty bond amount received.

(Ord. 2021-11, 05-05-2021) (Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2014-10, 01-07-2015) (Ord. 2013-10, 06-05-2013) (Ord. 2010-05, 06-02-2010) (Ord. 2004-02, 01-07-2004) (Ord. 2000-24, 12-06-2000) (Ord. 1998-21, 07-01-1998) (Ord. 1996-26, 12-04-1996) (Ord. 1977-18, 10-19-1977)

7-19-13. Applications for Reimbursement.

(1) Definitions. All words and phrases in this Section beginning in capital letters shall have the meanings given them in Tooele City Code Section 7-1-5.

(2) Application for Reimbursement. Developers required to install Eligible Public Improvements may be entitled to reimbursement pursuant to this Section, provided that:

(a) the Construction Costs of the Eligible Public Improvements required by the City as a condition of development approval exceeds the Construction Cost of the City's required minimum standards and specifications for the Eligible Public Improvements by 10% or more; and,

(b) the Cost Differential exceeds \$5,000; and

(c) the Eligible Public Improvements are constructed within the Tooele City Corporate Limit; and

(d) the Subsequent Developer's development receives City approval within eight years from the date of City approval of the development for which the Eligible Public Improvements were required; and,

(e) the Prior Developer files an Application for Reimbursement in the office of the Director of Public

Works or City Engineer.

(3) Application for Reimbursement.

(a) Developers satisfying the above criteria may apply for reimbursement for recovery of a pro-rata share of the Cost Differential, minus the Depreciation Value, from a Subsequent Developer to the extent that the Subsequent Developer did not share in the Construction Cost of the Eligible Public Improvements.

(b) Notwithstanding other provisions of this Section to the contrary, subdivisions of ten lots or less, or single-lot developments, that are required by the City to fully improve a road right-of-way (i.e. road base, road surface, curb, gutter) are eligible to apply for and receive reimbursement for the Construction Cost of that portion of the road improvements that directly benefit subsequent development located adjacent to the road improvements, minus the Depreciation Value.

(4) The Application for Reimbursement shall be made on a form approved by the City Attorney, and shall include the following information:

(a) a brief description of the Eligible Public Improvements which may directly benefit future development; and,

(b) an engineer's written estimate of the Construction Cost of the Eligible Public Improvements, or an affidavit of the actual Construction Cost of the Eligible Public Improvements plus copies of receipts and paid invoices. Both the estimated and /or actual Construction Cost must be approved by the Director of Public Works or City Engineer.

(5) An Application for Reimbursement is not retroactive and may not seek reimbursement for uses or land development activities which exist as of, or have been approved by the City Council prior to, the effective date of the Application for Reimbursement.

(6) After an Application for Reimbursement is filed, the Prior Developer shall be under an affirmative duty to deliver to the City written notice of the identity of any development which the Prior Developer has knowledge or reason to believe will benefit from Public Improvements installed by the Prior Developer, and whether and to what extent the Subsequent Developer should share in the Cost Differential. The notice must be delivered to the Public Works Director or City Engineer prior to or with the benefitting development's final subdivision plat application or, in the case of a site plan, prior to the issuance of a building permit.

(7) When the Prior Developer has complied with the provisions of this Section, the City will make a reasonable effort to collect the Subsequent Developer's pro-rata share of the Cost Differential, minus the Depreciation Value, on behalf of the Prior Developer.

(8) Before making any payments to the Prior Developer pursuant to this Section, the City shall retain from amounts collected from a Subsequent Developer an administrative fee in the amount of 10% of said amounts

collected, with a minimum administrative fee of \$100.

(9) Before making any payments to the Prior Developer pursuant to this Section, the City shall make a determination whether the Prior Developer has any outstanding financial obligations towards, or debts owing to, the City. Any such obligations or debts, adequately documented, shall be satisfied prior to making payment to the Prior Developer, and may be satisfied utilizing amounts collected by the City on behalf of the Prior Developer pursuant to a Reimbursement Application.

(10) The City reserves the right to refuse any incomplete Application for Reimbursement. All completed Applications for Reimbursement shall be made on the basis that the Prior Developer releases and waives any claims against the City in connection with establishing and enforcing reimbursement procedures and collections.

(11) The City shall not be responsible for locating any beneficiary, survivor, assign, or other successor in interest entitled to reimbursement. Any collected funds unclaimed after one year from the expiration of the Application for Reimbursement shall be returned to the Subsequent Developer from which the funds were collected minus the City administration fee. Any funds undeliverable to a Prior Developer, or to a Subsequent Developer from which the funds were collected, whichever the case, shall be credited to the City enterprise fund corresponding to the Eligible Public Improvements for which the funds were collected, as determined by the Finance Director.

(12) Political subdivisions of the state of Utah (e.g. Tooele City Corporation) that construct Eligible Public Improvements shall be considered Prior Developers for purposes of this title, and may file Reimbursement Applications and receive reimbursement under the provisions of this Chapter.

(13) Public Improvements required as a condition of annexation are not eligible for reimbursement pursuant to this Section.

(14) All City development approvals, including, but not limited to, subdivisions and site plans, shall be conditioned upon and subject to the payment of appropriate reimbursement amounts as determined in accordance with this Section.

(15) A Subsequent Developer may protest in writing the assertion of a Prior Developer that the Subsequent Developer will benefit from Eligible Public Improvements constructed by the Prior Developer. Protests should be delivered to the Public Works Director or City Engineer, and must include documentation sufficient to demonstrate that the Subsequent Developer's development will derive no benefit, or a lesser benefit than asserted, from the Prior Developer's Eligible Public Improvements. The Public Works Director or City Engineer will decide the matter, whose decision shall be final.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2005-06, 05-18-2005) (Ord. 1999-35, 12-01-1999) (Ord. 1998-35, 10-07-1998) (Ord. 1997-13, 04-02-1997)

7-19-14. Failure to act – effect.

(1) City. Should the land use authority fail to act upon any preliminary or final subdivision application within the time periods established by State law, the application shall be deemed denied.

(2) Application. Should the applicant for any preliminary or final subdivision application fail to resubmit corrected plans or application materials from any City review of the application within 180 calendar days from the return of that City review, the application shall be deemed abandoned and lapsed for lack of diligence. Prior to an application being deemed abandoned, the Community Development Department shall provide to the applicant a notice of potential abandonment at least 30 calendar days prior to abandonment. Following abandonment, the City shall determine the expended portion of fees paid through all efforts involved with the application up to and including the process of abandonment. All unexpended application fees will be refunded to the applicant. For the purpose of entitlements by this Chapter, abandoned applications shall be considered as if having never been submitted for review. An abandoned application may be resubmitted as a new application at any time following abandonment, including the payment of new application fees and a complete new package of application materials, and shall be subject to all regulations and requirements applicable on the date of the new application submission.

(Ord. 2021-02, 01-20-2021) (Ord. 2020-05, 04-01-2020) (Ord. 2010-05, 06-02-2010) (Ord. 1977-18, 10-19-1977)

7-19-15. Phased development.

Each final subdivision within a preliminary subdivision or project area shall be considered a phase of the preliminary subdivision and shall be developed in a logical and orderly manner based on the subdivision's uses, densities, configuration, and utility systems. All phases shall be contiguous, so that all public improvements shall be contiguous and continuous from their point of beginning in the development throughout the balance of the development.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1998-33-B, 10-07-1998) (Ord. 1977-18, 10-19-1977)

7-19-16. Design standards. (Repealed.)

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-17. Streets.

(1) The arrangement of streets in a new development shall provide for the continuation of existing streets in adjoining areas at the same or greater widths, unless altered by the Planning Commission, as the preliminary subdivision land use authority, upon the positive recommendation of the Directors of the Community Development and Public Works Departments. All streets shall comply with this Section and with the provisions of Title 4 Chapter 8 of the Tooele City Code and the current Tooele City Transportation Master Plan, including the Tooele City Transportation Right-of-Way Master Plan.

(2) An exception to the general rule for road cross sections or right-of-way improvements required by Title 4 Chapter 8 of the Tooele City Code may be granted by the Planning Commission, as the preliminary subdivision land use authority, for major collector or arterial streets adjacent to the proposed subdivision. Streets of lesser classification, and streets interior to a subdivision or between phases of a subdivision, may not be excepted. In no case may the pavement width of an excepted street be less than 30 feet. Exception requests must be submitted in writing to the Directors of the Community Development and Public Works Departments prior to the Planning Commission's review of the preliminary subdivision. The Directors shall provide a written recommendation on the exception request to the Planning Commission for its review with the preliminary subdivision application. The recommendation may be based on a professional traffic study. Any exception shall be based on the following factors:

(a) the overall safety of the area for transit, vehicular, bicycle, and pedestrian traffic, including crossings of the road or right-of-way;

(b) existing transit, vehicular, bicycle, and pedestrian traffic in the area;

(c) anticipated transit, vehicular, bicycle, and pedestrian traffic impacts from the proposed subdivision on the existing traffic loads of the area;

(d) the ability for existing right-of-way improvements to accommodate anticipated transit, vehicular, bicycle, and pedestrian traffic loads;

(e) the degree to which the exception would prevent completion or connection to other right-of-way improvements in the area;

(f) existing right-of-way improvements in the area;

(g) the degree to which the rights-of-way leading to and from the area requested for exception have been developed and completed;

(h) the mechanisms, proposals submitted, and timing by which the excepted improvements will be completed in the future;

(i) the degree to which the entirety of the rights-of-way have been dedicated and improved outside of the area requested for an exception;

(j) land uses in the area, including but not limited to schools, recreational opportunities, and public facilities, that may have the potential to affect the existing improvements' ability to accommodate all anticipated transit, vehicular, bicycle, and pedestrian traffic loads;

(k) phasing and a phasing schedule for the proposed subdivision;

(l) any development agreement with terms affecting right-of-way improvements duly executed by the Mayor for the exception-requesting subdivision or other developments in the area; and,

(m) documented history of vehicle-vehicle, vehicle-bicycle, and vehicle-pedestrian conflicts and accidents.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2008-13, 11-05-08) (Am. Ord. 1998-32, 10-07-1998) (Ord. 1998-25, 08-05-1998) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-17.1. Double-frontage lots – definitions – design – maintenance.

(1) Definitions. For purposes of this Section, the following terms shall be defined as follows.

(a) Double-frontage lot: a residential lot that abuts more than one public right-of-way or private road on opposite sides of the lot. "Double-frontage lot" includes corner lots adjacent to other double-frontage lots. "Double-frontage lot" does not include lots whose secondary frontages are on roads that are designated as alleys that do not require sidewalk access and that serve primarily as private access to the rear of lots.

(b) Primary frontage: the portion of a residential lot abutting a public right-of-way or private road that contains the main pedestrian entry to a residence.

(c) Secondary frontage: the portion of a residential lot abutting a public right-of-way or private street that is not the principle frontage.

(2) Design Standards. The secondary frontage of any double-frontage lot shall include the following design elements located within the public right-of-way or private street.

(a) Park strip. The park strip located between the curb and the sidewalk shall be of colored, texture-stamped concrete, which shall differ in color and texture from the adjacent sidewalk.

(i) The concrete color shall be of earth-tones, to include tan, light brown, beige, and similar colors, but shall not include yellow, pink, blue, green, and similar bright colors.

(ii) The concrete texture shall simulate cobblestone, variegated slate squares and rectangles, brick, or similar pattern.

(iii) The park strip concrete thickness shall be a minimum of four inches.

(iv) The park strip shall contain a

decorative metal grate around each park strip tree. The grate shall be chosen from a list of City-approved grate types, the list being on file with the Public Works Department.

(b) Park strip trees. Trees shall be planted in the park strip as follows.

(i) Park strip trees shall be chosen from the Tooele City Street Tree Selection Guide.

(ii) Park strip trees shall be spaced not more than 40 feet apart and not less than 30 feet apart, or as called for in the Tooele City Street Tree Selection Guide.

(iii) Park strip tree size, bonding, and other details not address in this Section shall be as provided in Tooele City Code Sections 4-11a-2 and 7-19-26, as amended.

(iv) The park strip shall include an irrigation system for park strip tree irrigation. The underground piping shall be placed within conduit located beneath the park strip. The irrigation system shall include meters, meter vaults, power, valve boxes, irrigation heads, and other necessary components to provide a fully functioning irrigation system. Irrigation to park strip trees shall be a drip-style irrigation system.

(c) Sidewalk. Sidewalk shall be as required by Tooele City Code and Policy.

(d) Fencing wall. The secondary frontage shall be fenced and screened with a masonry wall possessing the following design elements.

(i) The wall shall be six feet in height except as required under Tooele City Code Section 7-2-11 Clear vision area at intersecting streets.

(ii) The wall materials shall be masonry block or prefabricated decorative masonry panels chosen from a list of City-approved wall material types, the list being on file with the Public Works Department. The wall shall be uniform within each subdivision phase.

(iii) The wall shall include capped pillars spaced at even intervals, not to exceed 20 feet. The pillar materials shall be similar to those comprising the wall.

(iv) No portion of the wall shall contain cinderblock, smooth-faced block, or cast-in-place concrete.

(v) All fencing walls shall receive a City-approved anti-graffiti seal coat upon their construction and prior to acceptance by the City.

(e) Gates. Gates in the fencing wall or otherwise accessing the secondary frontage shall not be allowed.

(f) Special Service District Standards. Where a double-frontage lot is included in an existing special service district that imposes its own design standards for double frontage lots, the district design standards shall apply.

(g) The final determination of whether an application complies with the design standards of this

Section shall be made by the City Planner. The determination is appealable to the Community Development Director.

(3) Bonding. Park strips, park strip trees, park strip irrigation systems, and fencing walls discussed in this Section shall be included in the definition of public improvements. As such, they shall be bonded for in the manner provided in Tooele City Code Section 7-19-12, as amended, except that park strip trees shall be bonded for in the manner provided in Tooele City Code Chapter 4-11a, as amended.

(4) Maintenance. Because of the added burdens upon the City caused by double-frontage lots, and because residents are disinclined to maintain the secondary frontage, the portions of the public right-of-way located behind the curb and gutter and abutting the secondary frontage shall be maintained as follows.

(a) Home Owners Association. As a condition of final subdivision plat approval, every subdivision with double-frontage lots shall be required to form and fund a home owners association (HOA). At a minimum, the HOA shall maintain and perform at its cost, for the life of the HOA, the following items: park strip, park strip trees and grates, park strip irrigation system, park strip water bill, fencing wall, sidewalk, and sidewalk snow removal. The HOA articles shall provide for a minimum HOA existence of 30 years.

(b) Covenants, Conditions, and Restrictions. As a condition of final subdivision plat approval, every subdivision with double-frontage lots shall be required to record against all lots within the subdivision covenants, conditions, and restriction (CCRs). A copy of the recorded CCRs will be provided to the City. At a minimum, the CCRs shall provide for the perpetual maintenance and maintenance funding of the following items: park strip, park strip trees and grates, park strip irrigation system, park strip water bill, fencing wall, sidewalk, and sidewalk snow removal.

(c) If the HOA fails to enforce the CCRs pertaining to maintenance and maintenance funding for a period of three months or more, the City may bring an action in court to compel the HOA to fund and perform its maintenance obligations.

(d) Special Service District Maintenance. Where a double-frontage lot is included in an existing special service district that maintains some or all of the public improvements adjacent to a secondary frontage, the portions of the public right-of-way located behind the curb and gutter and abutting the secondary frontage shall be maintained in perpetuity by the district.

(Ord. 2023-22, 06-07-2023) (Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2008-04, 11-05-2008)

7-19-18. Easements.

(1) Easements across lots or centered on rear or side

lot lines shall be provided for utilities, except where deemed unnecessary, and shall be at least ten feet wide.

(2) Easements shall be designed to provide continuity from block to block.

(3) Where subdivisions and/or parcels abut a watercourse, drainage way, channel, or stream, storm water easements or drainage rights-of-way shall be provided.

(4) Obtaining new easements or preserving existing easements shall be a requirement of all boundary line adjustments under this Chapter.

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-19. Blocks.

Subdividers shall adhere to the provisions of Title 4 Chapter 8 of the Tooele City Code regarding blocks.

(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-20. Lots.

(1) The lot dimensions and layouts shall conform to the requirements of this Title.

(2) Lots abutting a watercourse, drainage way, channel or stream shall have a minimum width or depth, as required, to provide an adequate building site and to afford the minimum usable area required by ordinance for front, side, and rear yards.

(3) All corner lots shall be sufficiently larger than others so as to allow for building set-back lines on both streets as provided in Section 7-6-6 of the Tooele City Code.

(4) All lots shall abut on an adequate public or private access, as approved by the City Engineer, Public Works Director, or Community Development Director.

(5) Double frontage and reverse frontage lots shall be avoided except where essential to provide separation or residential development from highways or primary thoroughfares or to overcome specific disadvantages of topography and orientation.

(6) Side lot lines shall be substantially at right angles or radial to street lines.

(7) See also the lot standards contained in Chapter 7-2 of this Code.

(Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2003-05, 06-04-2003) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-20.1. Flag Lots.

(1) Flag or L-shaped lots (hereinafter "flag lots") may be allowed in certain locations to accommodate the development of property that otherwise could not reasonably be developed under the regulations contained in this Title or other ordinances adopted by the City. The primary purpose of this Chapter is not to make development of property easier. Rather, it is to serve as a

“last resort” for property for which there is no other reasonable way to develop.

(2) Flag Lots. In order to encourage the more efficient use of land, flag lots are allowed subject to the following conditions:

(a) A flag lot shall be comprised of a staff portion contiguous with the flag portion thereof (hereinafter the “staff” and “flag”, respectively).

(b) The staff shall intersect with and be contiguous to a dedicated public street. The minimum paved width of the staff portion of flag lots shall be 20 feet where the maximum staff length is less than 150 feet, and 26 feet where the staff length is greater than 150 feet but less than 220 feet maximum, unless otherwise approved by the Planning Commission and fire department upon a showing of unusual circumstances.

(c) The staff shall be improved with concrete or asphalt surface capable of supporting the weight of the City’s fire fighting apparatus.

(d) No structures, trees, parked vehicles or stored materials shall be allowed within the Fire Access Restricted Area, and the staff shall be marked with “No Parking” signs.

(e) The front side of the flag shall be deemed to be that side nearest to the dedicated public street upon which the staff portion intersects.

(f) The staff shall be deemed to end and the flag shall be deemed to commence at the extension of the front lot line across the staff.

(g) The flag square footage shall be the same or greater than the minimum square footage as required in the underlying zone, exclusive of the staff.

(h) The minimum front setback for all building shall be 30 feet, excluding the staff, from the front lot line of the flag. All other setbacks shall be those of the underlying zone.

(i) The building setbacks shall provide 20-foot minimum vehicle parking in front of the garage, exclusive of the Fire Access Restricted Area.

(j) No more than two flag lots may be served by one staff.

(k) Except in In-Fill Geographic Areas A and B, no more than two flag lots may be contiguous to each other where the common or separate staffs connect to the same public street.

(l) No staff may be contiguous to another staff.

(m) Figures 1 and 2 are examples of “flag lot” requirements and are included herein for illustration purposes.

(n) A fire hydrant shall be installed at the public ROW portion of the staff, unless otherwise approved by the Fire Department.

(o) A turn-around must be provided at the flag portion of the lot where the staff length exceeds 150 feet. Hammerheads are acceptable with a minimum width of 20 feet, without parking within 60 feet of the staff. The

turning radius on any hammerhead shall not be less than 28 feet. Figure 3 is included to illustrate the hammerhead requirements.

(p) A maximum slope of 10% shall be allowed within the staff portion of the flag lot and 4% within the turn-around portion of the Fire Access Restricted Area.

(q) All provisions of the currently applicable fire code shall be met, particularly those regarding the distance a primary structure can be located from a fire hydrant, and fire apparatus access ways and turnarounds. (Ord. 2015-07, 03-18-2015) (Ord. 2009-07, 04-01-2009)

FIGURE 1
(Staff Length < 150')

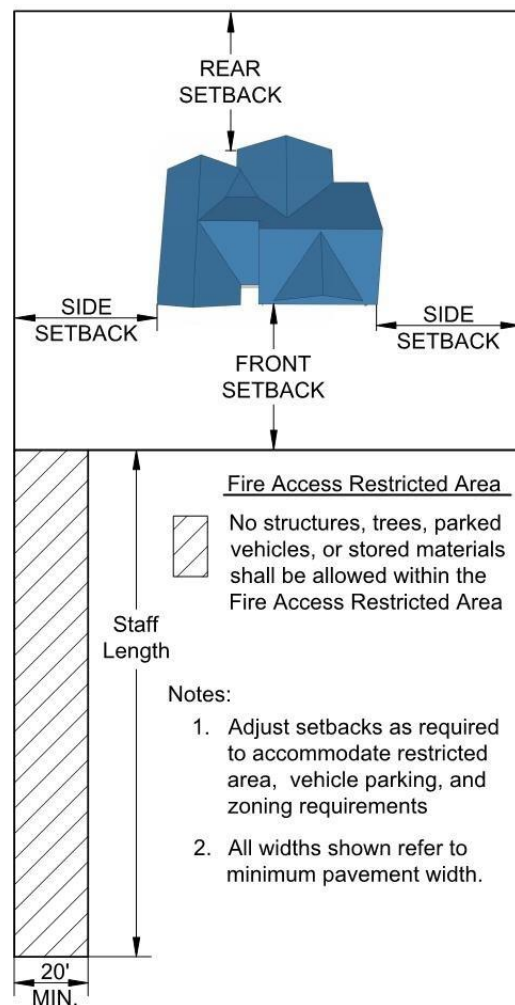


FIGURE 2
(150' < Staff Length < 220' max.)

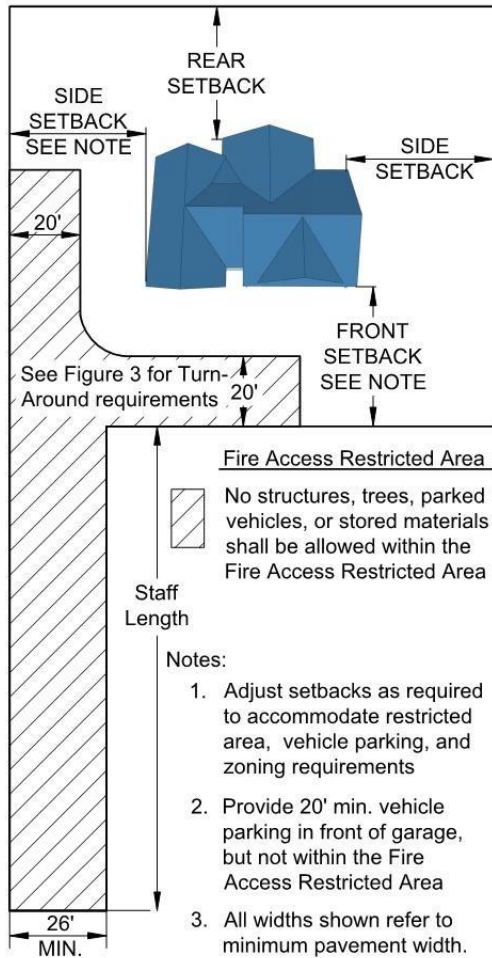
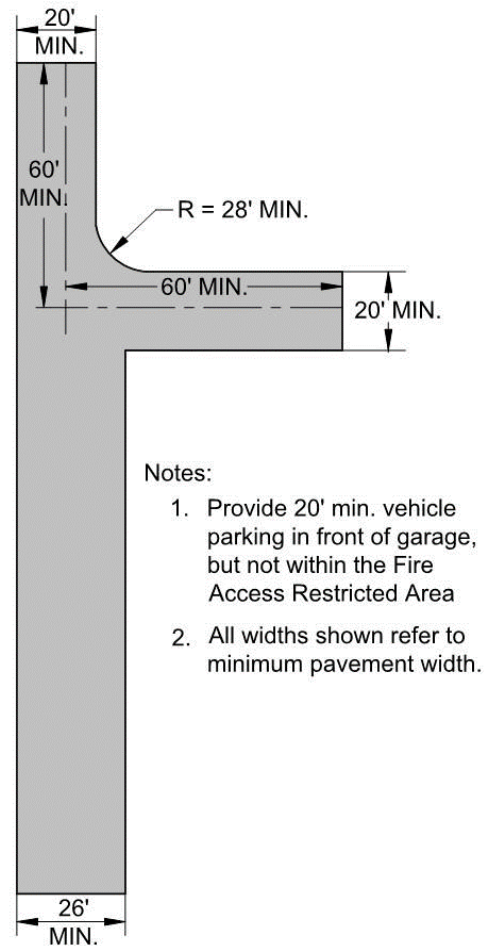


FIGURE 3
Flag Lot Turn-Around Dimensions



7-19-21. Required land improvements. (Repealed.)
 (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1998-33-B, 10-07-1998) (Ord. 1977-18, 10-19-1977)

7-19-22. Street signs. (Repealed.)
 (Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-23. Monuments and markers.
 Monuments shall be placed at all corners and angle points of the outside boundary but not farther than one-quarter mile apart. The monuments shall be of concrete, not copper dowel, three inches long cast in place. Iron pipe or steel bars not less than one-half inch in diameter and 24 inches long shall be set at the intersection of street center lines and at all corners of lots not marked by monuments. The monuments and markers shall be set level with the finished grade.

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-24. Public utilities.
(1) All subdividers shall provide detailed utility plans showing all existing and proposed utilities within and serving the subdivision.
(2) All utility facilities for telephone, electricity, cable television, natural gas service, street lights, and other utilities shall be placed entirely underground throughout areas of existing, proposed, or anticipated subdivision.
(3) All transformer boxes and pumping facilities shall be located so as to minimize harm to the public.
(4) Utility lines shall be parallel to and not less than 12 inches from the property lines.
 (Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-25. Sidewalks required - Specifications.
(Repealed.)
(Ord. 2015-07, 03-18-2015) (Ord. 2006-05, 01-18-2006) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-26. Park Strip Landscaping in Commercial and Industrial Subdivisions.

(1) All park strip areas in commercial and industrial subdivisions, with the exception of paved drive approaches and sidewalks as approved in the site plan, shall be landscaped and perpetually maintained by the owner of the appurtenant property with low or no water use materials and plantings with drip-style irrigation systems for trees and where irrigation is necessary. The use of seeded or sodded lawn grasses in park strips areas of non-residential subdivisions shall be prohibited. The decorative aesthetic or appearance of lawn grass may be accomplished through the use of artificial turf.

(2) (a) The commercial or industrial subdivision developer shall be responsible for the cost of purchasing and planting trees on both sides of all proposed subdivision streets within all park strip areas, except where there are existing trees acceptable to the Director of the Parks and Recreation Department. Newly planted trees shall not be farther apart than 35 feet. Trees planted in park strip areas shall be of a type listed in the Tooele City Street Tree Selection Guide. Newly planted trees shall not be less than two inches in caliper, measured one foot from the ground, and shall not be shorter than eight feet in height. Trees shall be planted during a season of the year when it reasonably can be expected that they will survive. In no case shall trees be planted sooner than seven days prior to the issuance of an occupancy permit for any structure on the property appurtenant to the park strip.

(b) Commercial or industrial subdivision developers shall do one of the following to ensure compliance with the park strip tree requirement:

(i) post a bond in accordance with the provisions of Section 7-19-12 of the Tooele City Code, in the amount of \$200 per required park strip tree; or

(ii) make a non-refundable payment to Tooele City in the amount of \$200 per required tree, which shall be used by the Director of the Parks and Recreation Department to plant trees within the park strips of the subdivision.

(3) Protective screen planting may be required to secure a reasonably effective physical barrier between residential properties and adjoining uses which minimizes adverse visual, auditory, and other conditions. The screen planting plan shall be approved by the land use authority upon the recommendation of the Community Development and Parks and Recreation Departments.
(Ord. 2023-22, 06-07-2023) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-10) (Ord. 2005-03, 02-02-

05) (Ord. 2000-10, 06-21-2000) (Ord. 1998-26, 08-05-1998) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-27. Sanitary sewers.

Sanitary sewers and service laterals shall be installed to serve all properties and lots in the subdivision, including properties reserved for public use or purchase. The provisions of Title 8 of the Tooele City Code, shall apply to the installation design and construction of all sanitary sewers and service laterals in subdivisions.
(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-28. Engineering specifications.

The owner or subdivider shall install sanitary sewers, water supply system, right-of-way improvements, crosswalks, public utilities, and street lighting in accordance with applicable ordinances, standards, and specifications for construction in the City.
(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-29. Water service.

(1) The provisions of Title 9 Chapter 4 of the Tooele City Code, shall apply regarding all pipes, service laterals and appurtenances provided in a subdivision.

(2) All lots and properties including property reserved for public use or purchase shall be supplied with water service sufficient to meet the future anticipated uses of said property.
(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-01-1988) (Ord. 1977-18, 10-19-1977)

7-19-30. Trench backfill.

All trench work shall conform to the provisions of Title 4 Chapter 9 of the Tooele City Code.
(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-19, 10-19-1977)

7-19-31. Filing of engineering plans.

One complete set of engineering plans and specifications, as well as an AutoCAD copy, for required land improvements together with an estimate of the cost of the improvements, said plans and specifications to bear the seal of a Utah registered professional engineer along with a signed statement to the effect that such plans and specifications have been prepared in compliance with this Chapter and pursuant to good engineering practices shall be submitted to the Community Development Department prior to the approval of the final subdivision. Said plans shall be drawn to a minimum horizontal scale of five feet to the inch. Plans shall show profiles of all utility and street improvements with elevations referring to the U.S.G.S. Datum.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1977-18, 10-19-1977)

7-19-32. Acceptance of public improvements.

(1) Public improvements shall be deemed completed and accepted only upon the occurrence of all of the following:

(a) the completion of the construction of all required public improvements, in accordance with the land use approval, City standards and specifications, and the approved engineering plans and specifications ;

(b) the submission to the City Engineer or Public Works Director by the design engineer engaged by the subdivider, builder, or land developer of three certified sets of as-built plans, as well as an AutoCAD copy of such as-built plans associated with the land use application;

(c) a start-of-warranty inspection by a City inspector indicating that the public improvements have been satisfactorily completed in accordance with the land use approval, City standards and specifications, and the approved engineering plans and specifications; and,

(d) a fully signed Certificate of Completion and Acceptance referencing the completed public improvements.

(2) Completed and accepted public improvements shall not be deemed dedicated or conveyed to the City prior to recordation of the approved final subdivision plat mylar in the office of the Tooele County Recorder.

(Ord. 2021-11, 05-05-2021) (Ord. 2015-07, 03-18-2015) (Ord. 2014-10, 01-07-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2004-02, 01-07-2004) (Ord. 1977-18, 10-19-1977)

7-19-33. Building permits.

(1) Except as required by Utah statute, no building permit shall be approved for the construction of any residential building, structure, or improvement to land or to any lot within a residential subdivision as defined herein, which has been approved for platting, until all requirements of this Chapter have been complied with.

(2) The Building Official may approve building permits for noncombustible residential construction when a justification is entered into the City address file. Permits may be issued after the finished street, curb and gutter, and all public improvements and utilities under the street are constructed and have been approved by a qualified City inspector.

(3) A building permit may be issued for noncombustible commercial construction prior to all requirements of this Chapter being completed after all of the following conditions are met:

(a) all public utilities required to be within the road right-of-way have been completed, compacted, tested, inspected, and certified;

(b) the complete width and depth of required

road base has been installed, compacted, tested, inspected, and certified to grade, with all test results turned into the Public Works Department;

(c) the developer shall make available tire cleaning areas where the road is accessed; and,

(d) a road width of not less than 28 feet shall be maintained throughout the project until the finished road surface is in place.

(4) Prior to the finished surface being added to the road, a certified geotechnical report shall be obtained from a qualified engineer and turned in to the Public Works Department. The report shall stipulate that the minimum road base is in place, is compacted, is free of contamination, and will support the load for which it was designed.

(5) Notwithstanding Chapter 7-22, herein, under no circumstances will any Certificate of Occupancy be issued for any building, structure, or improvement until all requirements of this Chapter have been complied with, including expressly the requirement to complete all public improvements.

(6) The issuance of a building permit or an occupancy permit within a subdivision shall not be deemed an indication that the public improvements within the subdivision are completed or accepted by the City.

(Ord. 2021-11, 05-05-2021) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-17, 06-15-2005) (Ord. 1977-18, 10-19-1977)

7-19-34. Final plat execution, delivery, and recordation. (Repealed)

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2014-10, 01-07-2015) (Ord. 2004-02, 01-07-2004) (Ord. 1977-18, 10-19-1977)

7-19-35. Minor Residential Subdivision.

(1) A minor residential subdivision may combine the preliminary subdivision and final subdivision requirements for approval of the subdivision into a single application and review process. A subdivision is considered a minor residential subdivision and exempt from a separate preliminary subdivision review process if:

(a) it contains no more than six residential lots;

(b) it does not contain a public right-of-way dedication ; and,

(c) it does not involve off-site water or sewer utilities.

(2) Information normally required as part of the preliminary and final subdivision applications may be required by the Community Development Department as part of a minor subdivision application.

(3) Land use authority. The land use authority for a minor subdivision shall be the same as for a final subdivision.

(4) Appeal authority. The appeal authority for appeals from land use authority decisions on minor

subdivisions shall be the same as for a final subdivision.
(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010)

7-19-36. Effect of revocation and voiding.

Any preliminary or final subdivision approval revoked or rendered void pursuant to the provisions of this Chapter shall cause any new application of approval to be subject to the laws, ordinance, fees, and policies of Tooele City current as of the date of the completed new application.

(Ord. 2015-07, 03-18-2015) (Ord. 2004-02, 01-07-2004)

CHAPTER 19. SUBDIVISIONS

- 7-19-1. Application of ~~e~~Chapter.
- 7-19-2. General provisions.
- 7-19-3. Interpretation.
- 7-19-4. Severability.
- 7-19-5. Rules of interpretation.
- 7-19-6. Property line adjustments.
- 7-19-6.1. Property Combinations.
- 7-19-7. ~~Dedications. Applicability of this Chapter.~~
- 7-19-8. Procedure for approval of preliminary ~~subdivision plan.~~
- 7-19-9. Plats and data for approval of preliminary plan. ~~(Repealed.)~~
- 7-19-10. Procedure for approval of the final ~~subdivision plat.~~
- 7-19-11. Plats, plans, and data for final approval. ~~_____ (Repealed.)~~
- 7-19-12. Public Improvements – bonds and bond agreements – warranty.
- 7-19-13. Applications for Reimbursement.
- 7-19-14. Failure to act – effect.
- 7-19-15. Phased development.
- 7-19-16. Design standards. ~~(Repealed.)~~
- 7-19-17. Streets.
- 7-19-17.1. Double-frontage lots – definitions – design – maintenance.
- 7-19-18. Easements.
- 7-19-19. Blocks.
- 7-19-20. Lots.
- 7-19-20.1. Flag Lots.
- 7-19-21. Required land improvements. ~~(Repealed.)~~
- 7-19-22. Street signs. ~~(Repealed.)~~
- 7-19-23. Monuments and markers.
- 7-19-24. Public utilities.
- 7-19-25. Sidewalks required – specifications. ~~_____ (Repealed.)~~
- 7-19-26. Park Strip Landscaping in Commercial and Industrial Subdivisions.
- 7-19-27. Sanitary sewers.
- 7-19-28. Engineering specifications.
- 7-19-29. Water service.
- 7-19-30. Trench backfill.
- 7-19-31. Filing of engineering plans.
- 7-19-32. Acceptance of public improvements.
- 7-19-33. Building permits.
- 7-19-34. Final Plat execution, delivery, and recordation. ~~(Repealed.)~~
- 7-19-35. Minor Subdivision - Exemptions from preliminary ~~subdivision plan~~ process.
- 7-19-36. Effect of revocation and voiding.

- 7-19-1. Application of ~~e~~Chapter.

No person shall subdivide any tract of land which is located within the City of Tooele, ~~whether for residential or non-residential purposes,~~ except in conformity with the provisions of this ~~Chapter ordinance.~~ The subdivision plans and plats, proposed improvements to be installed, and all procedures relating thereto, shall in all respects be in full compliance with the regulations of this Chapter. (Ord. 1977-18, 10-19-1977)

7-19-2. General provisions.

(1) Wherever any subdivision of land ~~is proposed shall hereafter be laid out~~ within the incorporated limits of the City, the ~~owner or~~ subdivider ~~thereof or his agent~~ shall submit both a preliminary ~~subdivision application plan~~ and a final subdivision ~~application plat~~ to the City for ~~its~~ approval. ~~The subdivision plats and all procedures relating thereto shall in all respects be in full compliance with these regulations.~~

(2) Until a preliminary ~~plans for the~~ subdivision ~~is~~ ~~are~~ approved:

(a) No land shall be subdivided, nor any street laid out, nor any improvements made to the natural land.

(b) No lot, tract, or parcel of land within any subdivision shall be offered for sale, nor shall any sale, contract for sale, or option be made or given.

(c) No improvements ~~—~~ such as sidewalks, water supply, storm water drainage, sanitary sewage facilities, gas service, electric service, ~~and~~ lighting, grading, paving, or surfacing of streets ~~— may shall hereafter~~ be made by any ~~person or utility owner or owners or his or their agent or by any public service corporation at the request of such owner or owners or his or their agent.~~

(d) Land subject to flooding or within any area designated as subject to a 100-year flood by the ~~Federal Flood plain Insurance Program~~ Administrator, and areas subject to poor drainage, will not be permitted to be subdivided unless the flooding or drainage problems are properly dealt with in the subdivision ~~in compliance with state and federal regulations and with Chapter 4-13 of this Code plan to the satisfaction of the City.~~

(3) Where a tract of land proposed for subdivision is part of a larger, logical subdivision unit in relation to the City as a whole, the ~~land use authority~~ ~~Planning Commission~~ may, ~~before approval,~~ cause to be prepared, ~~before subdivision approval,~~ a plan for the entire unit, ~~such the~~ plan to be used by the ~~land use authority to determine compliance of a subdivision application with City regulations.~~ ~~Planning Commission as an aid in judging the merits of the proposed plat.~~

(4) Amendments to the City Code enacted by the City Council after the approval of a preliminary ~~subdivision, plan~~ but prior to the approval of a final subdivision, ~~plat~~ shall apply to that ~~final subdivision plat~~ to the extent ~~that~~ they do not alter the ~~preliminary subdivision's plat's~~ use, density, or configuration. For

purposes of this Chapter, the words “use, density, and configuration” shall refer to the following:

(a) use: the uses allowed by the Tooele City General Plan Land Use Element and the Tooele City land use regulations in effect zoning ordinance at the time of complete preliminary subdivision application plan submission;

(b) density: the number of lots contained in a preliminary subdivision plan approved by the Planning Commission City Council;

(c) configuration: the general manner in which the density is laid out in a preliminary subdivision plan approved by the Planning Commission City Council.

(5) Amendments to the City Code enacted by the City Council shall apply to the use, density, and configuration of an approved preliminary subdivision plan and/or to a final subdivision application plat if the land use authority City Council, on the record, finds that a compelling, countervailing public interest would be jeopardized by the subdivision’s plan’s or plat’s use, density, and/or configuration.

(6) Lots and parcels created and divided as allowed under state law without City land use approval pursuant to this Chapter shall not enjoy the rights otherwise vested by compliance with this Chapter. Owners of such lots or parcels may acquire vested rights by obtaining approval of a preliminary subdivision and final subdivision, or a minor subdivision. Such lots or parcels shall be subject to all City regulations concerning the development of subdivided land.

(Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1977-18, 10-19-1977)

7-19-3. Interpretation.

(1) In interpretation and applications, the provisions of this Chapter shall be held to be the minimum requirements.

(2) Where the conditions imposed by any provision of this Chapter upon the use of land are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Chapter ordinance or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

(3) This Chapter shall not abrogate any easement, covenant, or any other private agreement, provided that where the regulations of this Chapter ordinance are more restrictive or impose higher standards or requirements than such easements, covenants, or ~~other~~ private agreements, ~~than~~ this Chapter shall govern.
(Ord. 1977-18, 10-19-1977)

7-19-4. Severability.

If any ~~s~~Section, subsection, sentence, clause, phrase, or portion of this Chapter ordinance is for any reason held

invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such a holding shall not affect the validity of the remaining portions of the Chapter thereof.

(Ord. 1977-18, 10-19-1977)

7-19-5. Rules or interpretation.

~~(1)~~ Words used in the present tense shall include the future, ~~;~~ and ~~w~~Words used in the singular shall include the plural ~~number~~, and the plural the singular.

~~(1) “Lot” shall include the words “plot, piece, and parcel” when referencing a parcel of land within a subdivision.~~

(1) “May” is permissive.

~~(2) “May not” is prohibitive.~~

~~(3) “Must” indicates a mandatory requirement.~~

(4) “Shall” is mandatory and not discretionary.

(5) “Used for” shall include the phrases “arranged for, designed for, designated for, intended for, maintained for, and occupied for, and similar phrases.”

~~(6) For purposes of this Chapter, “remnant” shall mean a parcel of land that does not comply with the regulations of the applicable zoning district.~~

(Ord. 2013-16, 11-06-2013) (Ord. 1977-18, 10-19-1977)

7-19-6. Property line adjustments.

(1) Staff Authority. The Zoning Administrator or designee shall have the authority to approve or deny a property line adjustment in accordance with the regulations outlined in this Section. Alternatively, the Zoning Administrator may direct that the application follow the standard procedures for subdivision approval, as provided elsewhere in this Chapter. The applicant may appeal the decision of the Zoning Administrator to deny a property line adjustment, as outlined in Chapter 1-27 of the Tooele City Code.

(2) Property Line Adjustments. Applications to adjust property lines between adjacent properties:

(a) where one or more of the affected properties is included within a prior recorded subdivision plat, property line adjustment may only be accomplished upon the recordation of an amended plat that conforms to the standards outlined in this Section and following approval of an amended plat according to the standard plat approval process outlined elsewhere within this Chapter; or,

(b) where all of the affected properties are parcels of record, may be accomplished upon approval, execution, and recordation of appropriate deeds describing the resulting properties, upon compliance with the standards outlined in this Section, and following approval according to the terms of this Section prior to recordation.

(3) Standards. Owners of adjacent properties

desiring to adjust common property lines between those properties shall comply with the following standards:

(a) no new lot, parcel, or property results from the property line adjustment;

(b) the adjoining property owners consent to the property line adjustment;

(c) the property line adjustment does not result in remnant land that did not previously exist (a remnant parcel is land that does not comply with the land use regulations of the zoning district where it is located);

(d) the property line adjustment does not result in a land-locked property, and all properties affected by the adjustment have access to a public or private street or right-of-way;

(e) the adjustment does not result in, create, or perpetuate any violation of applicable dimensional zoning requirements of this Title for any parcel involved in the adjustment; and,

(f) the adjustment does not adversely affect any easement or right-of-way on, through, within, or adjacent to the properties involved in the adjustment.

(4) Application. The owners shall file an application requesting a property line adjustment, together with all required information and documents.

(a) Application procedures and required documents for property line adjustments involving one or more subdivision lots shall be as outlined elsewhere in this Chapter for subdivision plat approval.

(b) An application for a property line adjustment involving parcels of record shall include at least the following forms and documentation:

(i) a completed application form for a property line adjustment;

(ii) a copy of all deeds and recorded documents establishing each parcel of record in its current state, including property descriptions for each parcel;

(iii) a scaled drawing showing the current state of all parcels involved in the proposed property line adjustment graphically with their respective property descriptions;

(iv) a proposed and recordable deed document, including a legal description, for each parcel involved in the proposed property line adjustment detailing the proposed layout for the parcel, including its proposed property description, which has been signed by all involved property owners, and notarized; and,

(v) a scaled drawing showing the proposed layout of all parcels involved in the proposed property line adjustment graphically with their respective property legal descriptions.

(5) Zoning Administrator Review for Property Line Adjustments Involving Only Parcels of Record. The Zoning Administrator shall review all information and documents to determine if they are complete, accurate, and that they comply with the requirements set forth in this Section. If the Zoning Administrator determines that

the documents are complete and the proposed property line adjustment complies with the standards set forth in this Section, the Zoning Administrator shall approve the property line adjustment. If the Zoning Administrator determines that the documents are not complete or the proposed property line adjustment does not comply with all of the standards set forth in this Section, the Zoning Administrator shall not approve the property line adjustment.

(6) Notice of Approval and Conveyance of Title. After approval by the Zoning Administrator, the applicant shall:

(a) record the appropriate deeds which convey title as approved by the Zoning Administrator; and,

(b) record a Notice of Approval with the deed for each parcel within the property line adjustment application that:

(i) is prepared, signed, and executed by the Zoning Administrator;

(ii) contains the notarized signature of each property owner involved in the property line adjustment; and,

(iii) recites the legal description and parcel number of both of the original parcels and of the parcels created by the property line adjustment.

(7) Inclusion of a property in a property line adjustment shall not grant entitlements or vesting of any kind that did not already exist for the property.

(8) All property line adjustment shall preserve existing easements and provide for new easements for public improvements and other utilities serving the affected parcels.

(9) In the alternative to this Section, property owners may accomplish a lot line adjustment following the procedures established by State of Utah statute. (Ord. 2015-07, 03-18-2015) (Ord. 2013-16, 11-06-2013)

7-19-6.1. Property combinations.

Property combinations or consolidations may be reviewed and approved in the same manner, by the same standards, and by the same process outlined for property line adjustments in Section 7-19-6 of the Tooele City Code. Property combinations or consolidations shall only may be approved only for a reduction in the number of properties through inclusion of one or more properties into another property and shall be applied for, reviewed, and approved separately from any other land use application. (Ord. 2013-16, 11-06-2013)

7-19-7. Dedications. Applicability of this chapter.

~~The procedures and requirements of this Chapter must be followed:~~

~~(1) By every person creating a subdivision as defined herein.~~

~~(2) By every person who must desires to dedicate~~

any right-of-way, street, alley, or other land interest for public use, as part of a land use approval, may do so by way of a recorded final subdivision plat or by conveyance of a, even though said dedication is not a subdivision as defined herein, except that a right-of-way may be conveyed by deed of dedication acceptable to the City. (Ord. 2010-05, 06-02-2010) (Ord. 1981-24, 06-11-1981)

7-19-8. Procedure for approval of preliminary subdivision plan.

(1) Purpose and Scope. The purpose of the preliminary subdivision application and review is to verify the proposed subdivision complies with all City regulations for the subdivision of land. The scope of the preliminary subdivision shall include primarily the uses of land, and the density and configuration of those uses. All application requirements are intended to address that scope.

(2) Pre-application Development Review. For all proposed subdivisions, except for minor residential subdivisions, a subdivider shall schedule a pre-application meeting with the Community Development Department. The purpose of the meeting is to assist the subdivider by discussing in general terms the City's requirements for a proposed subdivision, and to identify any major impediments to the subdivision's approval as proposed. A conceptual illustration and narrative shall be submitted to the City prior to the meeting. This submission is not a land use application. The City makes no commitments, grants no approvals, makes no appealable decisions, and vests no rights during this review.

(3) Land Use Application.

(a) The subdivider seeking preliminary subdivision approval shall submit a preliminary subdivision application. The application shall comply with all City land use, density, and configuration requirements of the General Plan and this Code.

(b) A complete preliminary subdivision land use application shall include the following:

(i) an application on an approved City preliminary subdivision application form;

(ii) all data and information listed on the City preliminary subdivision application checklist;

(iii) a preliminary subdivision plat, not to be recorded, containing the information and formatting required by this Chapter and by the preliminary subdivision checklist;

(iv) payment of the preliminary subdivision review fee, water modeling fee, and sewer modeling fee; and,

(v) evidence that the subdivider owns or has the ability to acquire municipal water rights sufficient for the development and construction of the subdivision.

(4) Land Use Authority.

(a) The land use authority for a preliminary

subdivision application shall be the Tooele City Planning Commission.

(b) Prior to Planning Commission review, the applicant shall deliver copies of the proposed preliminary subdivision plat plan to the Community Development Department that demonstrates a signed review by, and any comments from, the Tooele Post Office, Tooele County School District, County Surveyor, County Recorder, ~~and~~ Health Department, and all non-City utilities anticipated to provide utility service to the subdivision.

(c) A preliminary subdivision application complying with all Tooele City regulations shall be approved. Any application not complying with all City regulations may not be approved.

(d) The Planning Commission chair shall sign the approved preliminary subdivision plat, except that if the chair voted against approval, the senior approving member shall sign the plat.

(5) Duration of approval – extension – phasing.

~~(b)–~~ (a) Approval of the preliminary subdivision plan shall be effective for a maximum period of one year unless, prior to the one-year period lapsing, the Planning Commission Council grants an extension in a public meeting, not to exceed six months, upon written request and payment of an extension review fee by ~~of~~ the subdivider/developer. The request for said extension shall not require an additional fee, or the submittal of additional copies of the preliminary plan of the subdivision. If the a complete application for final subdivision plat approval is not submitted to the Community Development Department prior to the expiration of the said one-year period, plus any extension, which begins to run from the date that the preliminary subdivision plan is approved by the Planning Commission Council, the approval of the said preliminary subdivision plan shall lapse automatically ~~lapses and shall be is~~ void and of no further force or effect. Thereafter, the subdivider/developer must submit a new preliminary subdivision application, including the payment of all fees, must recommence the application process then in effect.

~~(e)–~~ (b) Where a preliminary subdivision plan contemplates more than one final subdivision plat or phase, the failure of a subdivider shall ~~to~~ submit a completed final subdivision plat application for a second or subsequent phase within the scope of the same subdivision preliminary subdivision plan within two years one year of acceptance of public improvements from the previous final subdivision phase. Prior to the two years expiring, the land use authority may grant an extension in a public meeting, not to exceed six months, upon written request of the subdivider and payment of the extension review fee. Failure to timely submit the second or subsequent final subdivision application shall cause the approval for all un-platted portions of the preliminary subdivision plan to automatically lapse and expire and become of no further force or effect. Thereafter, the

subdivider must submit a new preliminary subdivision recommence the land use application, including the payment of all fees, process then in effect.

(6) Appeal Authority. The appeal authority for the preliminary subdivision decisions of the Planning Commission shall be a three-person committee selected by the Community Development Director and Public Works Director, with committee members possessing qualifications relevant to the preliminary subdivision purpose and scope identified in this Section. A unanimous decision is not required. Approval requires the signatures of any two of the three committee members. Appeal procedures shall be those contained in Chapter 1-28 of this Code.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 1998-35, 10-07-1998) (Ord. 1998-17, 07-01-1998) (Ord. 1977-18, 10-19-1977)

7-19-9. Plats and data for approval of preliminary plan. (Repealed.)

~~The following data and plats are required for approval of the preliminary plan:~~

~~(1) Topographic data required as a basis for the preliminary plan, in subsection (B) below, shall include existing conditions as follows, except when otherwise specified by the Planning Commission:~~

~~(a) Boundary line: Bearing and distances of all boundary lines of the subdivision as proposed.~~

~~(b) Easements: The location, width and purpose of all easements of the subdivision.~~

~~(c) Streets on and adjacent to the tract: Name and right of way width and location of all streets of the proposed subdivision; type, width and elevation of surfacing in compliance with Chapter 4 & 8 of the Tooele City Code; any legally established centerline elevations, walks, curbs, gutters, culverts, etc.~~

~~(d) Utilities on and adjacent to the tract: Location, size of sanitary sewers on or adjacent to the tract; location and size of all water mains on or adjacent to the tract; if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and the size of nearest facilities.~~

~~(e) The preliminary plan of the subdivision shall be accompanied by:~~

~~(i) a preliminary plan for sewer and water lines setting forth the general plans for such improvements and indicating the method to be used to overcome particular problems that may be encountered with the development of the proposed system.~~

~~(ii) an exact copy of a preliminary report of a title insurance company, a title insurance policy or an attorney's opinion brought to date of the application, setting forth the names of all property~~

~~owners of property included in the subdivision as shown on the preliminary plan, as well as all mortgages, judgments, liens, easements, contracts and other clouds affecting title to said premises. The City may require all persons having an interest in the premises, as disclosed by the report, policy or opinion, to join in and approve of the subdivision application.~~

~~(iii) when a proposed street will intersect a state or county highway or a railroad, written consent of the appropriate authorities having jurisdiction over said highway or railroad shall be submitted.~~

~~(iv) all information required by the FHA when the subdivision will be submitted to that agency for feasibility and approval under a federal program.~~

~~(v) a written statement outlining any existing public improvements which are anticipated to benefit the proposed use or land development activity, and which, pursuant to Section 7-19-13, below, subject the applicant to a reimbursement requirement.~~

~~(vi) an AutoCAD copy of the development plans, including contours, lot layout, roadways, utilities, etc.~~

~~(f) Other conditions on the tract: Water courses, marshes, rock outcropping, wooded areas, isolated preservable trees one foot or more in caliper at one foot above ground level, houses, barns, shacks and other significant features.~~

~~(g) Other conditions on adjacent land: Approximate direction and gradient of ground slope, including any embankments or retaining walls, character and location of buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences and ownership of adjacent unplatted land (for adjacent platted land, refer to the subdivision plats by name, recording data, and show approximate percent of build up, typical lot size and dwelling type, if any).~~

~~(h) Photographs, if required by the Planning Commission: Camera locations, directions of views and key numbers.~~

~~(i) Zoning on and adjacent to the tract.~~

~~(j) Proposed public improvements: Highway or other major improvements planned by public authorities for future construction on or near the tract.~~

~~(k) Key plan showing location of the tract.~~

~~(l) Ground elevations on the tract, based upon the U.S.G.S. Datum Plane. For land that slopes less than 0.5%, show not less than one foot contours; for land that slopes one half to 2%, show not less than two foot contours; and for land that slopes more than 2%, show not less than four foot contours.~~

~~(2) The preliminary plan shall be to a scale of 100 feet to the inch or if the area of the subdivision is more than 200 acres, 200 feet to the inch. It shall show all existing conditions required in paragraph (A)~~

above, topographic data, and shall show all proposals including the following:

~~(a) Streets: Names, right of way and road widths, approximate grades and gradients, similar data for alleys, if any.~~

~~(b) Other rights of way or easements: location, width and purpose.~~

~~(c) Location of utilities, if not shown on other exhibits.~~

~~(d) Lot lines, lot dimensions, lot numbers and block numbers.~~

~~(e) Sufficient information to show the intent of surface drainage.~~

~~(f) Sites, if any, to be reserved or dedicated for schools, parks, playgrounds or other public uses.~~

~~(g) Sites, if any, for multi family dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single family dwellings.~~

~~(h) Proposed building set back lines.~~

~~(i) Site data, including number of residential lots, typical lot size, acres in parks, etc.~~

~~(j) Proposed name of subdivision.~~

~~(k) Location by section, township and range.~~

~~(l) Name and address of the developer.~~

~~(m) Name and address of the planner or engineer.~~

~~(n) Title, scale, north point and date.~~

~~(3) Other preliminary plans: When required by the Planning Commission, the preliminary plan shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical and preliminary plan of proposed sanitary and storm sewers with grades and sizes indicated. All elevations shall be based on the U.S.G.S. Datum Plane.~~

~~(4) Draft of protective covenants, whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.~~

~~(Ord. 2021-03, 01-20-2021) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 1998-35, 10-07-1998)~~

7-19-10. Procedure for approval of the final subdivision plat.

(1) Purpose and Scope. The purpose of the final subdivision application and review is to verify that the application complies with all City regulations for the subdivision of land. The scope of the final subdivision review shall include all those technical, engineering, design, construction, and other details necessary for recordation of the final subdivision plat and construction of the platted subdivision. All application requirements are intended to address that scope.

(2) Conformity to preliminary subdivision.

The final subdivision plat shall conform substantially to the uses, densities, and configurations of the approved preliminary subdivision plan. Substantial nonconformity shall include increases in density of five percent or more, changes in use requiring a change of zoning, and any substantial reconfiguration of public streets.

(3) Phasing. The final subdivision as approved, and, if desired by the subdivider, may constitute only that portion of the approved preliminary subdivision plan which the subdivider he proposes to record and construct develop as a single development project. For purposes of this Section, the word “construct” shall refer to the construction of public improvements and not of structures for occupancy at the time, provided, however, that such portion conforms to all requirements of these regulations and the approval of the preliminary plan.

(4) Land Use Application.

(a) The subdivider seeking final subdivision approval shall submit a final subdivision application. The application shall comply with all City requirements of this Code for the subdivision and development of land.

(b) A complete final subdivision application shall include the following:

(i) an application on an approved City final subdivision application form;

(ii) all data and information listed on the City final subdivision application checklist;

(iii) the payment of final subdivision review fees; and,

(iv) evidence that the subdivider owns municipal water rights sufficient for the development and construction of the subdivision.

(5) Land Use Authority.

(a) The land use authority for approval of a final subdivision shall be a three-person committee consisting of the Community Development Director, the Public Works Director, and the City Engineer. The approving signatures of at least two members of the land use authority shall be required to approve a final subdivision.

(b) Any final subdivision application complying with all Tooele City regulations shall be approved. Any application not complying with all City regulations may not be approved.

(6) Duration of approval – extension. Each approved final subdivision shall have the durations of approval described in Section 7-19-8 (Procedure for approval of the preliminary subdivision).

(7) Plat signatures. Upon approval of the final subdivision plat by the land use authority, and delivery submission of the final subdivision plat mylar to, the Community Development Department, the Department shall secure the final subdivision plat mylar signatures of the land use authority, Planning Commission Chairperson and the City Council Chairperson.

~~(8) Plat Recordation – deadline – revocation – costs.~~

~~(a)–(1) The subdivider shall deliver to the City the fully executed final subdivision plat mylar within 90 days of final subdivision plat application approval. Failure of the subdivider to fully execute the final plat mylar, or to deliver the fully executed final plat mylar to the City, within the specified 90 days, shall result in the automatic revocation of, and shall void, the final subdivision plat approval.~~

~~(b)–(2) No changes to the approved final subdivision plat mylar may be made without the written approval of the City.~~

~~(c)–(3) Tooele City shall promptly record an approved, fully-executed final subdivision plat mylar with the Tooele County Recorder upon the occurrence of the following:~~

~~(a) a statement from the subdivider of desired timing for recording the plat from the subdivider; and,~~

~~(b) execution of a bond agreement, as applicable, pursuant to Section 7-19-12, above;:~~

~~(c) payment of—(4) The subdivider shall pay all fees associated with the recordation of the approval-final subdivision plat mylar;~~

~~(d) conveyance of water rights pursuant to Chapter 7-26; and,~~

~~(e) all City signatures on the final subdivision plat mylar.~~

~~(9) Appeal Authority. The appeal authority for appeals from final subdivision decisions shall be a three-person committee consisting of a licensed Utah engineer selected by the City, a licensed Utah engineer selected by the subdivider, and a third licensed Utah engineer selected by the first two. A unanimous decision is not required. Approval requires the signatures of any two of the three committee engineers. Appeal procedures shall be those contained in Chapter 1-28 of this Code.~~

~~(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 2004-02, 01-07-04) (Ord. 1998-35, 10-07-1998) (Ord. 1998-16, 07-01-1998) (Ord. 1978-28, 11-21-1978) (Ord. 1977-18, 10-19-1977)~~

7-19-11. Plats, plans, and data for final approval. (Repealed.)

~~(1) The final plat shall be drawn in ink on tracing cloth on sheets not to exceed 36 inches by 48 inches and a scale of 100 feet to one inch. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in contiguous sections compliant with City requirements. The final plat shall show the following:~~

~~(a) Primary control points, approved by the~~

~~City Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.~~

~~(b) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites, with accurate dimensions, bearings and deflection angles and radii, arcs and central angles of all curves.~~

~~(c) Name and right of way width of each street or other right of way.~~

~~(d) Location, dimensions and purpose of any easements.~~

~~(e) Number to identify each lot or site and block.~~

~~(f) Purpose for which sites, other than residential lots, are dedicated or reserved.~~

~~(g) Proposed building set back lines on all lots and other sites.~~

~~(h) Location and description of monuments.~~

~~(i) Certification by a registered land surveyor licensed by the State of Utah certifying to the accuracy of the survey and plat.~~

~~(j) Certification of the County Treasurer showing that all taxes and special assessments due on the property to be subdivided have been paid in full.~~

~~(k) Dedication by the owners of the tract of all streets, easements and rights of way to the public, and other proposed public way or space shown on the plat.~~

~~(l) Certification of title showing that the applicant is the owner of the agent of the owner.~~

~~(m) Proper form for the approval of the Council, with space for the signature of the Council Chairperson.~~

~~(n) Approval by signatures of those persons or departments with signature lines on the final plat.~~

~~(o) Name of the subdivision.~~

~~(p) Location by section, township and range.~~

~~(q) Title, scale, north arrow and date.~~

~~(r) Other items or information reasonably required by the City.~~

~~(2) Cross sections and profiles of streets showing grades. The scales and elevations shall be based on the U.S.G.S. Datum Plane.~~

~~(3) Protective covenants in form for recording. (Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-06, 05-18-2005) (Ord. 1998-35, 10-07-1998) (Formerly Repealed by Ord. 1993-04, 05-04-1993)~~

7-19-12. Public Improvements – bonds and bond agreements – warranty.

Public improvements shall be completed pursuant to the following procedure:

(1) As part of the final subdivision application review, After approval of the preliminary plan, the

subdivider shall submit plans and specifications for all public improvements to the Public Works-Community Development Department, for review and approval.

~~(a) If submitted plans require substantial changes from the approved preliminary plan, the subdivider shall revise and re-submit the public improvements plans and specifications.~~

~~(b) Re-submissions shall not require the payment of additional fees to the City. The City, however, shall not be responsible for the cost of any revisions or for any costs incurred due to delays caused by requiring the revisions.~~

~~(e2) No public improvements may be constructed prior to final subdivision plat or other final land-use approval.~~

~~(2) Upon approval of the final plat, plans, and specifications, the Community Development Department shall provide written notice to the applicant of final plat approval.~~

(3) All public improvements shall be completed within one year from the date of ~~written~~ final subdivision plat approval. The final subdivision land use authority City Council may grant a maximum of two ~~six~~-month extensions upon receipt of a written petition and payment of an extension review fee, and upon a finding of unusual circumstances. Petitions for extension must be filed with the Community Development Department City Recorder prior to expiration of the ~~applicable~~ one-year period, if no extension has been approved, or of an approved six-month extension. If the public improvements are not completed with the time allowed under this Section, further final subdivisions may not be approved within the preliminary subdivision in which the public improvements are incomplete. When the public improvements have been 100% completed and accepted within the final subdivision, another final subdivision for another phase within the same preliminary subdivision may be requested. no further approvals of any land-use application shall be issued to the subdivider responsible for completing the public improvements

(4) (a) Except as provided below, all public improvements associated with a ~~subdivision~~ final subdivision plat must be completed, inspected, and accepted pursuant to Section 7-19-32, ~~below~~, prior to the recordation of that final subdivision plat.

(b) A ~~subdivision~~ final subdivision plat mylar may be recorded prior to the completion, inspection, and acceptance of the final subdivision's plat's public improvements where the subdivider submits a bond and executes a bond agreement compliant with this Section. The purpose of the bond and bond agreement is to insure timely and correct construction completion of all public improvements required ~~to be installed~~ in the subdivision, and to warrant the quality of their construction.

(c) Where public improvements are constructed prior to plat recordation, without a bond and

bond agreement, under no circumstances ~~shall~~ may they such public improvements be connected to the City's existing water distribution, sewer collection, storm drain collection, and streets systems located within City rights-of-way or easements without bonding under this Section for the connections, road right-of-way systems prior to recordation of the associated final subdivision plat or without bonding for the public improvements located within City rights-of-way pursuant to this Section.

(5) Bond agreements shall be in the form and contain the provisions approved by the City Attorney. The agreement ~~must~~ shall be signed by the Mayor and the City Attorney. The agreement ~~must~~ shall include, without limitation, the following:

(a) Incorporation by reference of the final subdivision documents plat, including the final subdivision plat, documents, public improvements plans and specifications, and all data required by this Chapter which ~~are~~ is used by the City Engineer to review the cost estimate the cost of for the public improvements construction.

(b) Incorporation by exhibit of the City Engineer's approved estimate of the cost of the public improvements construction.

(c) Completion of the public improvements within the period of time described in this Section subsection (3), above.

(d) Completion of the public improvements in accordance with the ~~final subdivision land-use~~ approval, City standards and specifications, and the approved engineering plans and specifications associated with the final subdivision land-use application.

(e) Establishment of the bond amount. The bond amount shall include the following:

(i) the subdivider's design engineer's estimated cost of the public improvements to be ~~constructed~~ installed, as reviewed and approved by the City Engineer or designee; and,

(ii) a reasonable contingency of 20% of the estimated cost, intended to cover the costs of inflation and unforeseen conditions or other circumstances should the City need to complete the public improvements under the terms of the bond agreement.

(f) The City shall have exclusive control over the bond proceeds, which may be released to the subdivider only upon written approval of the City Attorney.

(g) The bond proceeds may be reduced upon written request of the subdivider as ~~the whole systems of~~ improvements (e.g., sidewalks) are installed and upon approval by City inspectors on a Certificate of System Completion for Bond Reduction with a City inspection report form. The amount of the reduction shall be determined by reference to the ~~City Engineer's cost~~ estimate attached to the bond agreement, with assistance from the City Engineer, as necessary. Such requests may

be made only once every 30 days. All reductions shall be by the written authorization of the City Attorney.

(h) Bond proceeds may be reduced by no more than 90% of the total bond amount, the remaining 10% being retained to guarantee the warranty and maintenance of the improvements as provided in this Section Sections 7-19-12(7) and Section 7-19-32, herein. Any bond amount reduction shall not be deemed ~~as~~ an indication of public improvement ~~completion or~~ acceptance.

(i) If the bond proceeds are inadequate to pay the cost of the completion of the public improvements, for whatever reason, including previous bond reductions, ~~then~~ the subdivider shall be responsible for the deficiency. Until the public improvements are completed or, with City ~~Attorney Council~~ approval, a new bond and bond agreement have been executed to insure completion of the remaining improvements:

(i) no further final subdivisions plats may ~~shall~~ be approved within the preliminary subdivision plan or project area in which the improvements are to be located; and,

(ii) no further building permits shall be approved issued in the subdivision.

(j) If, ~~after expiration of the bond agreement time period,~~ the bond proceeds are not transferred to the City within 30 days of the City's written demand, ~~then~~ the City's costs of obtaining the proceeds, including the City Attorney's Office costs and any outside attorney's fees and costs, shall be deducted from the bond proceeds.

(k) The subdivider agrees to indemnify and hold the City harmless from any and all liability and defense costs which may arise as a result of those public improvements which are installed until such time as the City accepts the public improvements as provided in Section 7-19-32, this Chapter.

(6) Bond agreements shall be one of the following types:

(a) An irrevocable letter of credit with a financial institution federally or state insured, upon a current standard letter of credit form, or including all information contained in the current standard letter of credit form.;

(b) A cashier's check or a money market certificate made payable only to Tooele City Corporation.

(c) A guaranteed escrow account from a federally or state insured financial institution, containing an institution guarantee.

(7) Warranty.

(a) The subdivider shall warrant and be responsible for the maintenance of all improvements for one year following their acceptance, and shall guarantee such warranty and maintenance in the above-described bond agreements. The City may extend the warranty period upon a determination of good cause that the one-year period is either inadequate to reveal public improvement deficiencies anticipated based on known

substandard materials or construction, or inadequate to protect the public health and safety.

(b) The one-year warranty period shall commence on the date of a Certificate of Completion and Acceptance signed by the following:

(i) Mayor;

(ii) Director of Public Works or designee;

(iii) Director of Community Development or designee; and,

(iv) City inspector responsible for inspecting the warranted relevant public improvements.

(c) A Certificate of Completion and Acceptance shall not be deemed an acceptance of defects in materials or workmanship that are determined to exist in the public improvements before the end of the one-year warranty period. Written notice to the subdivider of the defects, delivered prior to the end of the warranty period, shall operate to extend the warranty period until the defects are corrected or resolved.

(d) The one-year warranty period will be considered successfully concluded only upon the occurrence of the following:

(i) an end-of-warranty inspection signed by a City inspector indicating that the public improvements are free of defects in materials and workmanship; and,

(ii) the signature of the Public Works Director on an End-of-Warranty Certificate.

(8) The final subdivision plat applications for two or more final subdivision phases may be approved, and the entirety of the property within those phases developed, simultaneously where all public improvements associated with the subdivisions plats are bonded for and constructed as if they were one phase. An application for final subdivision plat approval of multiple phases shown on the approved preliminary subdivision plan may also be approved under a single application when the final subdivision plat reflects all requested phases as a single phase in the overall configuration of the approved preliminary subdivision plan.

(9) The subdivider's bond in no way excuses or replaces the obligation to complete public improvement construction, as required in this Section. Nothing in this Section shall require the City to liquidate bonds, spend bond proceeds, or complete public improvements. Any undertaking on the part of the City to liquidate a bond, spend bond proceeds, or complete public improvements shall not relieve the subdivider of the consequences of non-completion of public improvements.

(10) The City Attorney may sign the final subdivision plat mylar upon 100% of the public improvements being completed and/or bonded in accordance with this Section, and with the warranty bond amount received.

(Ord. 2021-11, 05-05-2021) (Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2014-10, 01-

07-2015) (Ord. 2013-10, 06-05-2013) (Ord. 2010-05, 06-02-2010) (Ord. 2004-02, 01-07-2004) (Ord. 2000-24, 12-06-2000) (Ord. 1998-21, 07-01-1998) (Ord. 1996-26, 12-04-1996) (Ord. 1977-18, 10-19-1977)

7-19-13. Applications for Reimbursement.

(1) Definitions. All words and phrases in this Section beginning in capital letters shall have the meanings given them in Tooele City Code Section 7-1-5.

(2) Application for Reimbursement. Developers required to install Eligible Public Improvements may be entitled to reimbursement pursuant to this Section, provided that:

(a) the Construction Costs of the Eligible Public Improvements required by the City as a condition of development approval exceeds the Construction Cost of the City's required minimum standards and specifications for the Eligible Public Improvements by 10% or more; and,

(b) the Cost Differential exceeds \$5,000; and

(c) the Eligible Public Improvements are constructed within the Tooele City Corporate Limit; and

(d) the Subsequent Developer's development receives City approval within eight years from the date of City approval of the development for which the Eligible Public Improvements were required; and,

(e) the Prior Developer files an Application for Reimbursement in the office of the Director of Public Works or City Engineer.

(3) Application for Reimbursement.

(a) Developers satisfying the above criteria may apply for reimbursement for recovery of a pro-rata share of the Cost Differential, minus the Depreciation Value, from a Subsequent Developer to the extent that the Subsequent Developer did not share in the Construction Cost of the Eligible Public Improvements.

(b) Notwithstanding other provisions of this Section to the contrary, subdivisions of ten lots or less, or single-lot developments, that are required by the City to fully improve a road right-of-way (i.e. road base, road surface, curb, gutter) are eligible to apply for and receive reimbursement for the Construction Cost of that portion of the road improvements that directly benefit subsequent development located adjacent to the road improvements, minus the Depreciation Value.

(4) The Application for Reimbursement shall be made on a form approved by the City Attorney, and shall include the following information:

(a) a brief description of the Eligible Public Improvements which may directly benefit future development; and,

(b) an engineer's written estimate of the Construction Cost of the Eligible Public Improvements, or an affidavit of the actual Construction Cost of the Eligible Public Improvements plus copies of receipts and paid invoices. Both the estimated and /or actual Construction

Cost must be approved by the Director of Public Works or City Engineer.

(5) An Application for Reimbursement is not retroactive and may not seek reimbursement for uses or land development activities which exist as of, or have been approved by the City Council prior to, the effective date of the Application for Reimbursement.

(6) After an Application for Reimbursement is filed, the Prior Developer shall be under an affirmative duty to deliver to the City written notice of the identity of any development which the Prior Developer has knowledge or reason to believe will benefit from Public Improvements installed by the Prior Developer, and whether and to what extent the Subsequent Developer should share in the Cost Differential. The notice must be delivered to the Public Works Director or City Engineer prior to or with the benefitting development's final subdivision plat application or, in the case of a site plan, prior to the issuance of a building permit.

(7) When the Prior Developer has complied with the provisions of this Section, the City will make a reasonable effort to collect the Subsequent Developer's pro-rata share of the Cost Differential, minus the Depreciation Value, on behalf of the Prior Developer.

(8) Before making any payments to the Prior Developer pursuant to this Section, the City shall retain from amounts collected from a Subsequent Developer an administrative fee in the amount of 10% of said amounts collected, with a minimum administrative fee of \$100.

(9) Before making any payments to the Prior Developer pursuant to this Section, the City shall make a determination whether the Prior Developer has any outstanding financial obligations towards, or debts owing to, the City. Any such obligations or debts, adequately documented, shall be satisfied prior to making payment to the Prior Developer, and may be satisfied utilizing amounts collected by the City on behalf of the Prior Developer pursuant to a Reimbursement Application.

(10) The City reserves the right to refuse any incomplete Application for Reimbursement. All completed Applications for Reimbursement shall be made on the basis that the Prior Developer releases and waives any claims against the City in connection with establishing and enforcing reimbursement procedures and collections.

(11) The City shall not be responsible for locating any beneficiary, survivor, assign, or other successor in interest entitled to reimbursement. Any collected funds unclaimed after one year from the expiration of the Application for Reimbursement shall be returned to the Subsequent Developer from which the funds were collected minus the City administration fee. Any funds undeliverable to a Prior Developer, or to a Subsequent Developer from which the funds were collected, whichever the case, shall be credited to the City enterprise fund corresponding to the Eligible Public Improvements

for which the funds were collected, as determined by the Finance Director.

(12) Political subdivisions of the state of Utah (e.g. Tooele City Corporation) that construct Eligible Public Improvements shall be considered Prior Developers for purposes of this title, and may file Reimbursement Applications and receive reimbursement under the provisions of this Chapter.

(13) Public Improvements required as a condition of annexation are not eligible for reimbursement pursuant to this Section.

(14) All City development approvals, including, but not limited to, subdivisions and site plans, shall be conditioned upon and subject to the payment of appropriate reimbursement amounts as determined in accordance with this Section.

(15) A Subsequent Developer may protest in writing the assertion of a Prior Developer that the Subsequent Developer will benefit from Eligible Public Improvements constructed by the Prior Developer. Protests should be delivered to the Public Works Director or City Engineer, and must include documentation sufficient to demonstrate that the Subsequent Developer's development will derive no benefit, or a lesser benefit than asserted, from the Prior Developer's Eligible Public Improvements. The Public Works Director or City Engineer will decide the matter, whose decision shall be final.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2005-06, 05-18-2005) (Ord. 1999-35, 12-01-1999) (Ord. 1998-35, 10-07-1998) (Ord. 1997-13, 04-02-1997)

7-19-14. Failure to act - effect.

(1) City. Should the ~~land use authority Planning Commission or the City Council~~ fail to act upon any ~~submitted preliminary or final subdivision plan~~ application within the time periods ~~established by State law, the application shall be deemed denied, allotted by this Chapter, said failure shall be considered a denial of the said submission.~~

(2) Application. Should the applicant for any ~~submitted preliminary or final subdivision plan or final plat~~ application fail to resubmit corrected plans or application materials from any City review of the application within 180 calendar days from the return of that City review, the application shall be ~~deemed considered~~ abandoned ~~and lapsed for lack of diligence.~~ Prior to an application being deemed abandoned, the Community Development Department shall provide to the applicant a notice of potential abandonment at least 30 calendar days prior to abandonment. Following abandonment, the City shall determine the expended portion of fees paid through all efforts involved with the application up to and including the process of abandonment, ~~and a~~ All unexpended application fees ~~will~~

~~be~~ refunded to the applicant. For the purpose of entitlements by this Chapter, abandoned applications shall be considered as if having never been submitted for review. An abandoned application may be resubmitted as a new application at any time following abandonment, including the payment of new application fees and a complete ~~new~~ package of application materials, and shall be subject to all ~~regulations and~~ requirements applicable ~~on the date at the time~~ of the new ~~application~~ submission. (Ord. 2021-02, 01-20-2021) (Ord. 2020-05, 04-01-2020) (Ord. 2010-05, 06-02-2010) (Ord. 1977-18, 10-19-1977)

7-19-15. Phased development.

~~(1) When the public improvements have been 100% completed and accepted within the subdivision final plat, a final plat for a subsequent phase within the same preliminary plan or project area may be requested.~~

~~(2) Each final subdivision final plat within a preliminary subdivision plan or project area shall be considered a phase of the preliminary subdivision plan and shall be developed in a logical and orderly manner based on the subdivision's uses, densities, configuration, and utility systems.~~ All phases shall be contiguous, so that all public improvements shall be contiguous and continuous from their point of beginning in the development throughout the balance of the development. (Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1998-33-B, 10-07-1998) (Ord. 1977-18, 10-19-1977)

7-19-16. Design standards. (Repealed.)

~~The subdivision of land, including the arrangements, character, extent, width, grade and location of all highways, streets, alleys, crosswalks, easements, sites for parks, playgrounds and schools, or other land to be dedicated to the public or for public use shall conform to the terms of the Tooele City Code, land use policies, and master plans of the City.~~

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-17. Streets.

(1) The arrangement of streets in a new development shall provide for the continuation of existing streets in adjoining areas at the same or greater widths, unless altered by the Planning Commission, ~~as the preliminary subdivision land use authority, and City Council~~ upon the positive recommendation of the Directors of the Community Development and Public Works Departments. All streets shall comply with ~~this Section and with~~ the provisions of Title 4 Chapter 8 of the Tooele City Code and the current Tooele City Transportation Master Plan, including the Tooele City Transportation Right-of-Way Master Plan.

(2) An exception to the general rule for road cross

sections or right-of-way improvements required by Title 4 Chapter 8 of the Tooele City Code may be granted by the Planning Commission, as the preliminary subdivision land use authority, City Council for major collector or arterial ~~streets class roads~~ adjacent to the proposed subdivision. ~~Roads~~Streets of lesser classification, and streets interior to a subdivision or between phases of a subdivision, may not be excepted. In no case may the pavement width of an excepted street be less than 30 feet. Exception requests must be submitted in writing to the Directors of the Community Development and Public Works Departments prior to the Planning Commission's review of the preliminary ~~subdivision plan~~. The Directors shall provide a written recommendation on the exception request to the Planning Commission for ~~its their~~ review with the preliminary subdivision application. The recommendation may be based on a professional traffic study. plan. In reviewing an exception request, the City Council shall consider and approve or deny the request following recommendation from the Planning Commission. Any exception shall be based on the following factors:

(1a) the overall safety of the area for transit, vehicular, bicycle, and pedestrian traffic, including crossings of the road or right-of-way;

(2b) existing transit, vehicular, bicycle, and pedestrian traffic in the area;

(3c) anticipated transit, vehicular, bicycle, and pedestrian traffic impacts from the proposed subdivision on the existing traffic loads of the area;

(4d) the ability for existing right-of-way improvements to accommodate anticipated transit, vehicular, bicycle, and pedestrian traffic loads;

(5e) the degree to which the exception would prevent completion or connection to other right-of-way improvements in the area;

(6f) existing right-of-way improvements in the area;

(7g) the degree to which the rights-of-way leading to and from the area requested for exception have been developed and completed;

(8h) the mechanisms, proposals submitted, and timing by which the excepted improvements will be completed in the future;

(9i) the degree to which the entirety of the rights-of-way have been dedicated and improved outside of the area requested for an exception;

(10j) land uses in the area, including but not limited to schools, recreational opportunities, and public facilities, that may have the potential to affect the existing improvements' ability to accommodate all anticipated transit, vehicular, bicycle, and pedestrian traffic loads;

(11k) phasing and a phasing schedule for the proposed subdivision;

(12l) any development agreement with terms affecting right-of-way improvements duly executed

by the Mayor for the exception-requesting subdivision or other developments in the area; and,

(13m) documented history of vehicle-vehicle, vehicle-bicycle, and vehicle-pedestrian conflicts and accidents.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2008-13, 11-05-08) (Am. Ord. 1998-32, 10-07-1998) (Ord. 1998-25, 08-05-1998) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-17.1. Double-frontage lots – definitions – design – maintenance.

(1) Definitions. For purposes of this Section, the following terms shall be defined as follows.

(a) Double-frontage lot: a residential lot that abuts more than one public right-of-way or private road on opposite sides of the lot. "Double-frontage lot" includes corner lots adjacent to other double-frontage lots. "Double-frontage lot" does not include lots whose secondary frontages are on roads that are designated as alleys that do not require sidewalk access and that serve primarily as private access to the rear of lots.

(b) Primary frontage: the portion of a residential lot abutting a public right-of-way or private road that contains the main pedestrian entry to a residence.

(c) Secondary frontage: the portion of a residential lot abutting a public right-of-way or private street that is not the principle frontage.

(2) Design Standards. The secondary frontage of any double-frontage lot shall include the following design elements located within the public right-of-way or private street.

(a) Park strip. The park strip located between the curb and the sidewalk shall be of colored, texture-stamped concrete, which shall differ in color and texture from the adjacent sidewalk.

(i) The concrete color shall be of earth-tones, to include tan, light brown, beige, and similar colors, but shall not include yellow, pink, blue, green, and similar bright colors.

(ii) The concrete texture shall simulate cobblestone, variegated slate squares and rectangles, brick, or similar pattern.

(iii) The park strip concrete thickness shall be a minimum of four inches.

(iv) The park strip shall contain a decorative metal grate around each park strip tree. The grate shall be chosen from a list of City-approved grate types, the list being on file with the Public Works Department.

(b) Park strip trees. Trees shall be planted in the park strip as follows.

(i) Park strip trees shall be chosen from the Tooele City Street Tree Selection Guide.

(ii) Park strip trees shall be spaced not

more than 40 feet apart and not less than 30 feet apart, or as called for in the Tooele City Street Tree Selection Guide.

(iii) Park strip tree size, bonding, and other details not address in this Section shall be as provided in Tooele City Code Sections 4-11a-2 and 7-19-26, as amended.

(iv) The park strip shall include an irrigation system for park strip tree irrigation. The underground piping shall be placed within conduit located beneath the park strip. The irrigation system shall include meters, meter vaults, power, valve boxes, irrigation heads, and other necessary components to provide a fully functioning irrigation system. Irrigation to park strip trees shall be a drip-style irrigation system.

(c) Sidewalk. Sidewalk shall be as required by Tooele City Code and Policy.

(d) Fencing wall. The secondary frontage shall be fenced and screened with a masonry wall possessing the following design elements.

(i) The wall shall be six feet in height except as required under Tooele City Code Section 7-2-11 Clear vision area at intersecting streets.

(ii) The wall materials shall be masonry block or prefabricated decorative masonry panels chosen from a list of City-approved wall material types, the list being on file with the Public Works Department. The wall shall be uniform within each subdivision phase.

(iii) The wall shall include capped pillars spaced at even intervals, not to exceed 20 feet. The pillar materials shall be similar to those comprising the wall.

(iv) No portion of the wall shall contain cinderblock, smooth-faced block, or cast-in-place concrete.

(v) All fencing walls shall receive a City-approved anti-graffiti seal coat upon their construction and prior to acceptance by the City.

(e) Gates. Gates in the fencing wall or otherwise accessing the secondary frontage shall not be allowed.

(f) Special Service District Standards. Where a double-frontage lot is included in an existing special service district that imposes its own design standards for double frontage lots, the district design standards shall apply.

(g) The final determination of whether an application complies with the design standards of this Section shall be made by the City Planner. The determination is appealable to the Community Development Director. ~~Such determinations are not subject to appeal.~~

(3) Bonding. Park strips, park strip trees, park strip irrigation systems, and fencing walls discussed in this Section shall be included in the definition of public improvements. As such, they shall be bonded for in the manner provided in Tooele City Code Section 7-19-12, as

amended, except that park strip trees shall be bonded for in the manner provided in Tooele City Code Chapter 4-11a, Section 7-19-29, as amended.

(4) Maintenance. Because of the added burdens upon the City caused by double-frontage lots, and because residents are disinclined to maintain the secondary frontage, the portions of the public right-of-way located behind the curb and gutter and abutting the secondary frontage shall be maintained as follows.

(a) Home Owners Association. As a condition of final subdivision plat approval, every subdivision with double-frontage lots shall be required to form and fund a home owners association (HOA). At a minimum, the HOA shall maintain and perform at its cost, for the life of the HOA, the following items: park strip, park strip trees and grates, park strip irrigation system, park strip water bill, fencing wall, sidewalk, and sidewalk snow removal. The HOA articles shall provide for a minimum HOA existence of 30 years.

(b) Covenants, Conditions, and Restrictions. As a condition of final subdivision plat approval, every subdivision with double-frontage lots shall be required to record against all lots within the subdivision covenants, conditions, and restriction (CCRs). A copy of the recorded CCRs will be provided to the City. At a minimum, the CCRs shall provide for the perpetual maintenance and maintenance funding of the following items: park strip, park strip trees and grates, park strip irrigation system, park strip water bill, fencing wall, sidewalk, and sidewalk snow removal.

(c) If the HOA fails to enforce the CCRs pertaining to maintenance and maintenance funding for a period of three months or more, the City may bring an action in court to compel the HOA to fund and perform its maintenance obligations.

(d) Special Service District Maintenance. Where a double-frontage lot is included in an existing special service district that maintains some or all of the public improvements adjacent to a secondary frontage, the portions of the public right-of-way located behind the curb and gutter and abutting the secondary frontage shall be maintained in perpetuity by the district.

(Ord. 2023-22, 06-07-2023) (Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2008-04, 11-05-2008)

7-19-18. Easements.

(1) Easements across lots or centered on rear or side lot lines shall be provided for utilities, except where deemed unnecessary, and shall be at least ten feet wide.

(2) Easements shall be designed to provide continuity from block to block.

(3) Where subdivisions and/or parcels abut a watercourse, drainage way, channel, or stream, storm water easements or drainage rights-of-way conforming substantially with the line of such watercourse shall be

provided.

~~(4) Obtaining new easements or preserving existing easements shall be a requirement of all boundary line adjustments under this Chapter.~~

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-19. Blocks.

Subdividers shall adhere to the provisions of Title 4 Chapter 8 of the Tooele City Code regarding blocks.

(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-20. Lots.

~~(1) The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.~~

~~(2) The lot dimensions and layout areas shall conform to the requirements of this Title the zoning ordinance.~~

~~(23) Lots abutting a watercourse, drainage way, channel or stream shall have a minimum width or depth, as required, to provide an adequate building site and to afford the minimum usable area required by ordinance for front, side, and rear yards.~~

~~(34) All corner lots shall be sufficiently larger than others so as to allow for building set-back lines on both streets as provided in Section 7-6-6 of the Tooele City Code.~~

~~(45) All lots shall abut on an adequate public or private access, as approved by the City Engineer, Public Works Director Department, or Community Development Director.~~

~~(56) Double frontage and reverse frontage lots shall be avoided except where essential to provide separation or residential development from highways or primary thoroughfares or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of vehicular access, which easement shall be specifically set forth in the deed to each lot, shall be provided along the real lot lines of lots abutting such highways and major thoroughfares.~~

~~(67) Side lot lines shall be substantially at right angles or radial to street lines.~~

~~(7) See also the lot standards contained in Chapter 7-2 of this Code.~~

(Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2003-05, 06-04-2003) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-20.1. Flag Lots.

(1) Flag or L-shaped lots (hereinafter “flag lots”) may be allowed in certain locations to accommodate the development of property that otherwise could not reasonably be developed under the regulations contained

in this Title or other ordinances adopted by the City. The primary purpose of this Chapter is not to make development of property easier. Rather, it is to serve as a “last resort” for property for which there is no other reasonable way to develop.

~~(2) Flag or L-shaped lots will only be considered as a last resort for infill development. Except for in fill subdivisions, and except as provided in the Sensitive Area Overlay Zone (Tooele City Code Chapter 7-12) creation of flag lots shall not be considered for new subdivisions.~~

(23) Flag Lots. In order to encourage the more efficient use of land, flag lots are allowed subject to the following conditions:

(a) A flag lot shall be comprised of a staff portion contiguous with the flag portion thereof (hereinafter the “staff” and “flag”, respectively).

(b) The staff shall intersect with and be contiguous to a dedicated public street. The minimum paved width of the staff portion of flag lots shall be 204 feet where the maximum staff length is less than 150 feet, and 26 feet where the staff length is greater than 150 feet but less than 220 feet maximum and the maximum length shall be 220 feet, unless otherwise approved by the Planning Commission and fire department upon a finding showing of unusual circumstances.

(c) The staff shall be improved with concrete or asphalt surface capable of supporting the weight of the City’s fire fighting apparatus.

~~(d) No structure, except for driveways and no parking, shall be allowed to obstruct or narrow the staff. No structures, trees, parked vehicles, or stored materials shall be allowed within the Fire Access Restricted Area, and the staff shall be marked with a “No Parking” signs.~~

(e) The front side of the flag shall be deemed to be that side nearest to the dedicated public street upon which the staff portion intersects.

(f) The staff shall be deemed to end and the flag shall be deemed to commence at the extension of the front lot line across the staff.

(g) The flag square footage shall be the same or greater than the minimum square footage as required in the underlying zone, exclusive of the staff.

(h) The minimum front setback for all building shall be 30 feet, excluding the staff, from the front lot line of the flag. All other setbacks shall be those of the underlying zone.

~~(i) The building setbacks shall provide 20-foot minimum vehicle parking in front of the garage, exclusive of the Fire Access Restricted Area.~~

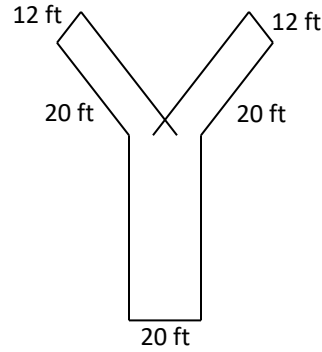
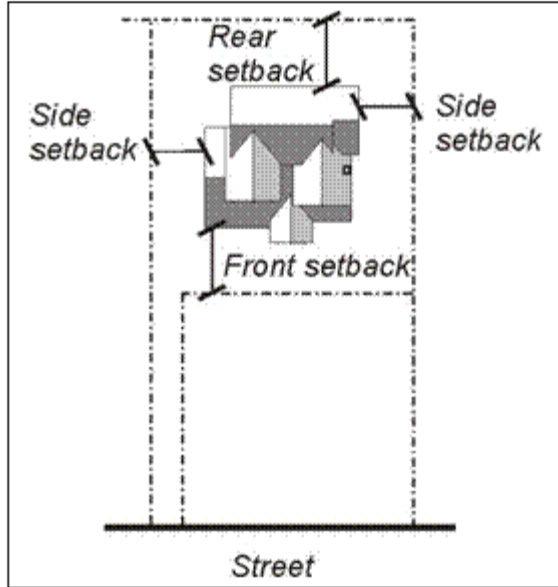
~~(j) No more than two flag lots may be served by one staff.~~

~~(k) Except in In-Fill Geographic Areas A and B, no more than two flag lots may be contiguous to each other where the common or separate staffs connect to the same public street.~~

~~(l) No staff may be contiguous to another staff.~~

(m) Figures 1 and 2 are examples. ~~is an example~~ of a “flag lot” requirements and ~~are is~~ included herein for illustration purposes.

Figure 1 ~~[Delete]~~



(m) All provisions of the currently applicable fire code shall be met, particularly those regarding the distance a primary structure can be located from a fire hydrant, and fire apparatus access ways and turnarounds. (Ord. 2015-07, 03-18-2015) (Ord. 2009-07, 04-01-2009)

(o) A fire hydrant shall be installed at the public ROW portion of the staff, unless otherwise approved by the Fire Department.

(p) A turn-around must be provided at the flag portion of the lot where the staff length exceeds 150 feet. Hammerheads ~~or Y's~~ are acceptable with a minimum width of 20-12-feet, without parking within 60-30-feet of the staff. The turning radius on any hammerhead ~~or Y~~ shall not be less than 28 feet. Figure 32 is included to illustrate the hammerhead ~~or Y~~ requirements.

(q) A maximum slope of 10% shall be allowed within the staff portion of the flag lot and 4% within the turn-around portion of the Fire Access Restricted Area.

Figure 2 ~~[Delete]~~

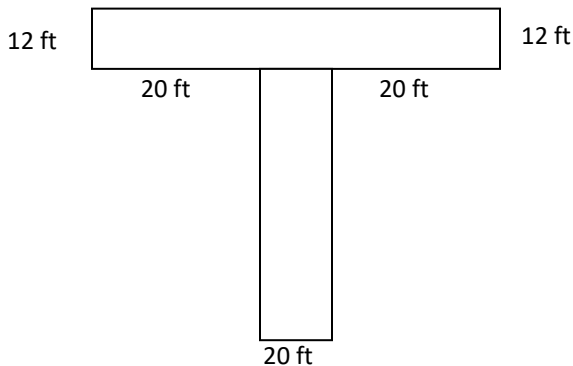


FIGURE 1
(Staff Length < 150')

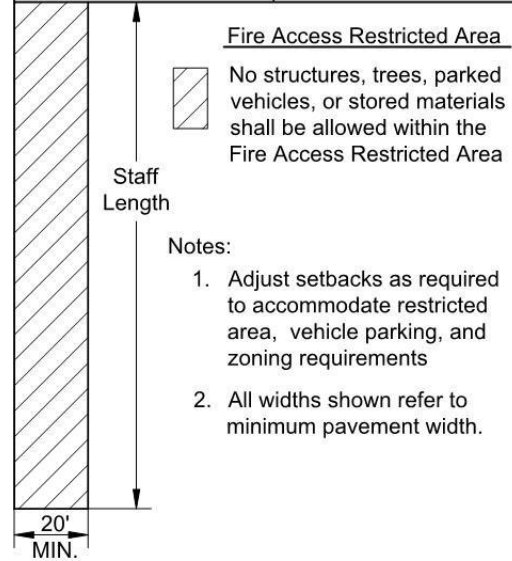
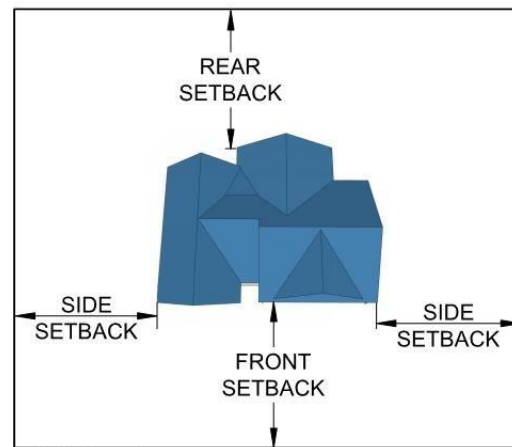


FIGURE 2
(150' < Staff Length < 220' max.)

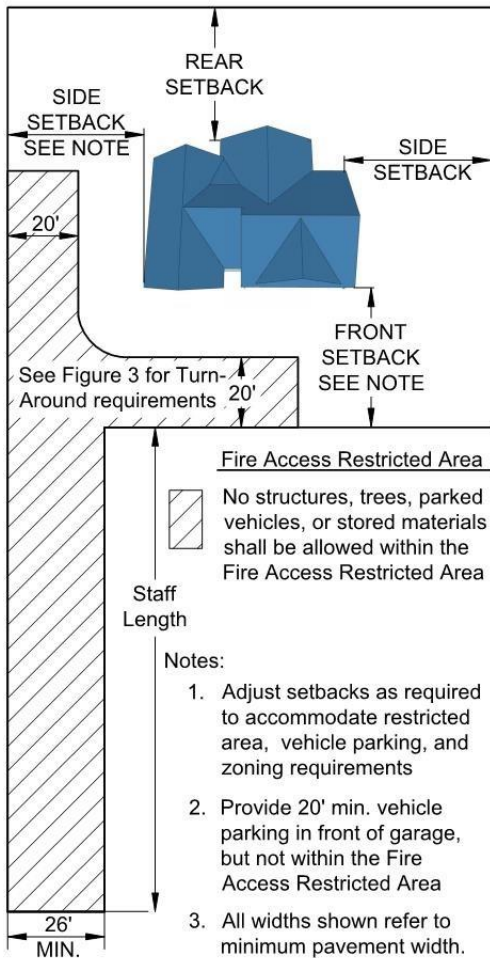
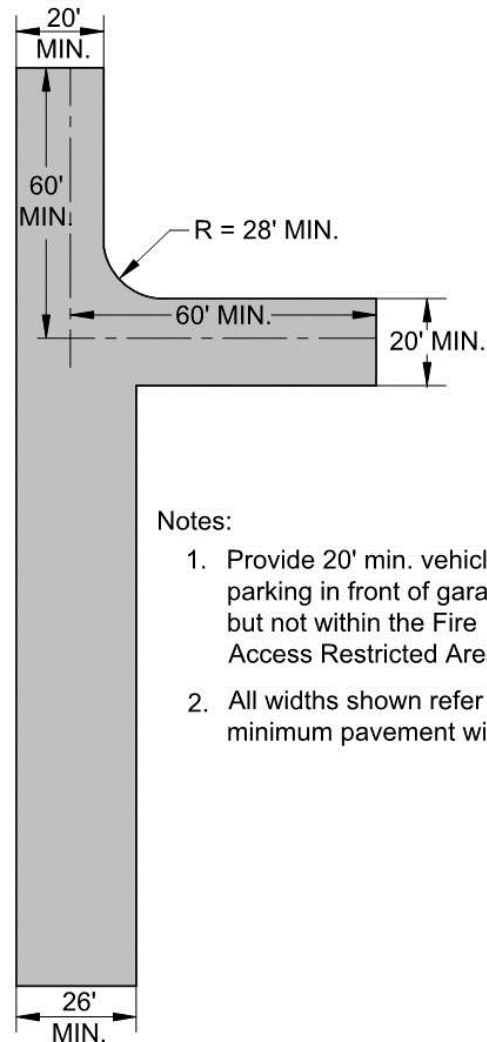


FIGURE 3
Flag Lot Turn-Around Dimensions



7-19-21. Required land improvements. (Repealed.)

~~No subdivision of land shall be approved by the Planning Commission unless:~~

- ~~(1) the public improvements described in the subdivider's plans and specifications, together with agreements, meet the minimum requirements of all engineering ordinances and specifications of the City, and~~
- ~~(2) the subdivider's project engineer so certifies in a signed statement.~~

(Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1998-33-B, 10-07-1998) (Ord. 1977-18, 10-19-1977)

7-19-22. Street signs. (Repealed.)

~~The placement and installation of all street signs shall be governed by Title 4 Chapter 8 of the Tooele City Code.~~

~~The cost of all such signs and their installation shall be borne by the subdivider.~~

(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-23. Monuments and markers.

Monuments shall be placed at all corners and angle points of the outside boundary but not farther than one-quarter mile apart. The monuments shall be of concrete, not copper dowel, three inches long cast in place. Iron pipe or steel bars not less than one-half inch in diameter and 24 inches long shall be set at the intersection of street center lines and at all corners of lots not marked by monuments. The monuments and markers shall be set level with the finished grade.

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-24. Public utilities.

(1) All subdividers shall provide detailed utility plans showing all existing and proposed utilities within and serving the subdivision.

(2) All utility facilities ~~lines~~—for telephone, electricity, cable television, natural gas service, ~~and~~ street lights, ~~and other utilities~~ shall be placed ~~entirely~~ underground ~~entirely~~—throughout ~~areas of existing, proposed, or anticipated~~ ~~subdivisions~~ ~~subdivided area~~. ~~Said lines shall be placed within the other underground services. Further,~~

(3) ~~a~~All transformer boxes and pumping facilities shall be located so as ~~not~~ to ~~minimize harm~~ ~~be hazardous~~ to the public.

(4) ~~The~~Utility lines shall be parallel to and not less than 12 inches from the property lines.

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-25. Sidewalks required - Specifications. (Repealed.)

~~—The provisions of Chapters 4-8 and 4-11 of the Tooele City Code shall apply to sidewalks in all subdivisions.~~

(Ord. 2015-07, 03-18-2015) (Ord. 2006-05, 01-18-2006) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-26. Park Strip Landscaping in Commercial and Industrial Subdivisions.

(1) All park strip areas in commercial and industrial subdivisions, with the exception of paved drive approaches and sidewalks as approved in the site plan, shall be landscaped and perpetually maintained by the owner of the appurtenant property with low or no water use materials and plantings with drip-style irrigation systems for trees and where irrigation is necessary. The use of seeded or sodded lawn grasses in park strips areas of non-residential subdivisions shall be prohibited. The decorative aesthetic or appearance of lawn grass may be accomplished through the use of artificial turf.

(2) (a) The commercial or industrial subdivision developer shall be responsible for the cost of purchasing and planting trees on both sides of all proposed subdivision streets within all park strip areas, except where there are existing trees acceptable to the Director of the Parks and Recreation Department. Newly planted trees shall not be farther apart than 35 feet. Trees planted in park strip areas shall be of a type listed in the Tooele City Street Tree Selection Guide. Newly planted trees shall not be less than two inches in caliper, measured one foot from the ground, and shall not be shorter than eight feet in height. Trees shall be planted during a season of the year when it reasonably can be expected that they will survive. In no case shall trees be planted sooner than

seven days prior to the issuance of an occupancy permit for any structure on the property appurtenant to the park strip.

(b) Commercial or industrial subdivision developers shall do one of the following to ensure compliance with the park strip tree requirement:

(i) post a bond in accordance with the provisions of Section 7-19-12 of the Tooele City Code, in the amount of \$200 per required park strip tree; or

(ii) make a non-refundable payment to Tooele City in the amount of \$200 per required tree, which shall be used by the Director of the Parks and Recreation Department to plant trees within the park strips of the subdivision.

(3) Protective screen planting may be required to secure a reasonably effective physical barrier between residential properties and adjoining uses which minimizes adverse visual, auditory, and other conditions. The screen planting plan shall be approved by the land use authority ~~Planning Commission and the City Council~~ upon the recommendation of the Community Development and Parks and Recreation Departments.

(Ord. 2023-22, 06-07-2023) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-10) (Ord. 2005-03, 02-02-05) (Ord. 2000-10, 06-21-2000) (Ord. 1998-26, 08-05-1998) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-27. Sanitary sewers.

Sanitary sewers and service laterals shall be installed to serve all properties and lots in the subdivision, including properties reserved for public use or purchase. The provisions of Title 8 ~~Chapter 9~~ of the Tooele City Code, shall apply to the installation design and construction of all sanitary sewers and service laterals in subdivisions.

(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-18, 10-19-1977)

7-19-28. Engineering specifications.

The owner or subdivider shall install sanitary sewers, water supply system, right-of-way improvements, crosswalks, public utilities, and street lighting in accordance with applicable ordinances, standards, and specifications for construction in the City.

(Ord. 2015-07, 03-18-2015) (Ord. 1977-18, 10-19-1977)

7-19-29. Water service.

(1) The provisions of Title 9 Chapter 4 of the Tooele City Code, shall apply regarding all pipes, service laterals and appurtenances provided in a subdivision.

(2) All lots and properties including property reserved for public use or purchase shall be supplied with water service sufficient to meet the future anticipated uses

of said property.
(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-01-1988) (Ord. 1977-18, 10-19-1977)

7-19-30. Trench backfill.

All trench work shall conform to the provisions of Title 4 Chapter 9 of the Tooele City Code.
(Ord. 2015-07, 03-18-2015) (Ord. 1987-24, 01-02-1988) (Ord. 1977-19, 10-19-1977)

7-19-31. Filing of engineering plans.

One complete set of engineering plans and specifications, as well as an AutoCAD copy, for required land improvements together with an estimate of the cost of the improvements, said plans and specifications to bear the seal of a Utah registered professional engineer along with a signed statement to the effect that such plans and specifications have been prepared in compliance with this Chapter and pursuant to good engineering practices shall be submitted to the Community Development Department prior to the approval of the final ~~subdivision plat~~. Said plans shall be drawn to a minimum horizontal scale of five feet to the inch. Plans shall show profiles of all utility and street improvements with elevations referring to the U.S.G.S. Datum.
(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 1977-18, 10-19-1977)

7-19-32. Acceptance of public improvements.

(1) Public improvements shall be deemed completed and accepted only upon the occurrence of all of the following:

(a) the completion of the construction of all required public improvements, in accordance with the land use approval, City standards and specifications, and the approved engineering plans and specifications ~~associated with the land use application;~~

(b) the submission to the City Engineer or Public Works Director by the design engineer engaged by the subdivider, builder, or land developer of three certified sets of as-built plans, as well as an AutoCAD copy of such as-built plans associated with the land use application;

(c) a start-of-warranty inspection by a City inspector indicating that the public improvements have been satisfactorily completed in accordance with the land use approval, City standards and specifications, and the approved engineering plans and specifications; and,

(d) a fully signed Certificate of Completion and Acceptance referencing the completed public improvements.

(2) Completed ~~and accepted~~ public improvements shall not be ~~deemed dedicated or conveyed to accepted by~~ the City prior to recordation of the approved final subdivision plat mylar in the office of the Tooele County Recorder.

(Ord. 2021-11, 05-05-2021) (Ord. 2015-07, 03-18-2015) (Ord. 2014-10, 01-07-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2004-02, 01-07-2004) (Ord. 1977-18, 10-19-1977)

7-19-33. Building permits.

(1) Except as required by Utah statute, no building permit shall be ~~approved issued~~ for the construction of any residential building, structure, or improvement to ~~the~~ land or ~~to~~ any lot within a residential subdivision as defined herein, which has been approved for platting ~~or replatting~~, until all requirements of this Chapter have been complied with.

~~(2) The Building Official may approve issue building permits for noncombustible residential construction when a his/her justification is entered into the City address file. Permits may be issued, after the developer increases any required bonds for one additional year, and after the finished street, curb and gutter, and all public improvements and utilities under the street are constructed installed and have been approved by a qualified City inspector. Notwithstanding Chapter 7-22 herein, under no circumstances shall a Certificate of Occupancy be issued until all requirements of this Chapter have been complied with, including expressly the requirement to complete public improvements.~~

~~(3) A building permit may be issued for noncombustible commercial construction prior to all requirements of this Chapter being completed after all of the following conditions are met:~~

~~(a) all public utilities required to be within the road right-of-way have been completed, compacted, tested, inspected, and certified;~~

~~(b) the complete width and depth of required road base has been installed, compacted, tested, inspected, and certified to grade, with all test results turned into the Public Works Department;~~

~~(c) all required bonding shall be extended for one additional year;~~

~~(cd) the developer shall make available tire cleaning areas where the road is accessed; and,~~

~~(de) a road width of not less than 28 feet shall be maintained throughout the project until the finished road surface is in place.~~

~~(4) Prior to the finished surface being added to the road, a certified geotechnical report shall be obtained from a qualified engineer and turned in to the Public Works Department. The report shall stipulate that the minimum road base is in place, is compacted, is free of contamination, and will support the load for which it was designed.~~

~~(5) Notwithstanding Chapter 7-22, herein, under no circumstances will any Certificate of Occupancy be issued for any building, structure, or improvement until all requirements of this Chapter have been complied with, including expressly the requirement to complete all public~~

improvements.

(65) The issuance of a building permit or an occupancy permit within a subdivision shall not be deemed as an indication that the public improvements within the subdivision are completed or accepted by the City.

(Ord. 2021-11, 05-05-2021) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010) (Ord. 2005-17, 06-15-2005) (Ord. 1977-18, 10-19-1977)

~~7-19-34. Final plat execution, delivery, and recordation.~~ **7-19-34. Final plat execution, delivery, and recordation. (Repealed)**

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2014-10, 01-07-2015) (Ord. 2004-02, 01-07-2004) (Ord. 1977-18, 10-19-1977)

7-19-35. Minor Residential Subdivision—Exemptions from preliminary plan process.

(1) ~~(1)~~—A minor residential subdivision may shall combine the preliminary subdivision plan and final subdivision plat requirements for approval of the subdivision into a single application and review process. A subdivision is considered a minor residential subdivision and exempt from a separate preliminary subdivision plan review process if:

- (a) it contains no more than six residential less than ten lots;
- (b) it does not contain a public right-of-way dedication ~~for public street~~; and,
- (c) it does not involve off-site water or sewer utilities.

(2) Information normally required as part of the preliminary ~~plan and final subdivision~~ applications may be required by the ~~Public Works or~~ Community Development Departments as part of a minor subdivision ~~final plat~~ application.

(3) Land use authority. The land use authority for a minor subdivision shall be the same as for a final subdivision.

(4) Appeal authority. The appeal authority for appeals from land use authority decisions on minor subdivisions shall be the same as for a final subdivision.

(Ord. 2020-05, 04-01-2020) (Ord. 2015-07, 03-18-2015) (Ord. 2010-05, 06-02-2010)

7-19-36. Effect of revocation and voiding.

Any preliminary ~~plan~~ or final subdivision ~~plat~~ approval revoked or rendered void pursuant to the provisions of this Chapter ~~7-19~~ shall cause any new application of approval to be subject to the laws, ordinance, fees, and policies of Tooele City current as of the date of the completed new application.

(Ord. 2015-07, 03-18-2015) (Ord. 2004-02, 01-07-2004)

1 **LOCAL LAND USE AND DEVELOPMENT REVISIONS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: Stephen L. Whyte

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to local land use and development.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends the penalties for noncompliance with the requirements applicable to a
- 13 political subdivision's moderate income housing report;
- 14 ▶ defines the circumstances under which a garage may be included in the definition of
- 15 an internal accessory dwelling unit;
- 16 ▶ amends a political subdivision's authority with respect to restrictions and
- 17 requirements for internal accessory dwelling units;
- 18 ▶ enacts a new process for subdivision review and approval; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **10-9a-408**, as last amended by Laws of Utah 2022, Chapter 406

27 **10-9a-530**, as enacted by Laws of Utah 2021, Chapter 102

28 **10-9a-608**, as last amended by Laws of Utah 2022, Chapter 355

29 **17-27a-408**, as last amended by Laws of Utah 2022, Chapter 406

366 an owner of a primary dwelling to create an internal accessory dwelling unit, may record a
367 notice in the office of the recorder of the county in which the primary dwelling is located.

368 (b) The notice described in Subsection (6)(a) shall include:

369 (i) a description of the primary dwelling;

370 (ii) a statement that the primary dwelling contains an internal accessory dwelling unit;

371 and

372 (iii) a statement that the internal accessory dwelling unit may only be used in

373 accordance with the municipality's land use regulations.

374 (c) The municipality shall, upon recording the notice described in Subsection (6)(a),
375 deliver a copy of the notice to the owner of the internal accessory dwelling unit.

376 Section 3. Section **10-9a-604.1** is enacted to read:

377 **10-9a-604.1. Process for subdivision review and approval.**

378 (1) (a) As used in this section, an "administrative land use authority" means an
379 individual, board, or commission, appointed or employed by a municipality, including
380 municipal staff or a municipal planning commission.

381 (b) "Administrative land use authority" does not include a municipal legislative body
382 or a member of a municipal legislative body.

383 (2) (a) This section applies to land use decisions arising from subdivision applications
384 for single-family dwellings, two-family dwellings, or townhomes.

385 (b) This section does not apply to land use regulations adopted, approved, or agreed
386 upon by a legislative body exercising land use authority in the review of land use applications
387 for zoning or other land use regulation approvals.

388 (3) A municipal ordinance governing the subdivision of land shall:

389 (a) comply with this section, and establish a standard method and form of application
390 for preliminary subdivision applications and final subdivision applications; and

391 (b) (i) designate a single administrative land use authority for the review of preliminary
392 applications to subdivide land; or

393 (ii) if the municipality has adopted an ordinance that establishes a separate procedure

394 for the review and approval of subdivisions under Section 10-9a-605, the municipality may
395 designate a different and separate administrative land use authority for the approval of
396 subdivisions under Section 10-9a-605.

397 (4) (a) If an applicant requests a pre-application meeting, the municipality shall, within
398 15 business days after the request, schedule the meeting to review the concept plan and give
399 initial feedback.

400 (b) At the pre-application meeting, the municipal staff shall provide or have available
401 on the municipal website the following:

- 402 (i) copies of applicable land use regulations;
- 403 (ii) a complete list of standards required for the project;
- 404 (iii) preliminary and final application checklists; and
- 405 (iv) feedback on the concept plan.

406 (5) A preliminary subdivision application shall comply with all applicable municipal
407 ordinances and requirements of this section.

408 (6) An administrative land use authority may complete a preliminary subdivision
409 application review in a public meeting or at a municipal staff level.

410 (7) With respect to a preliminary application to subdivide land, an administrative land
411 use authority may:

- 412 (a) receive public comment; and
- 413 (b) hold no more than one public hearing.

414 (8) If a preliminary subdivision application complies with the applicable municipal
415 ordinances and the requirements of this section, the administrative land use authority shall
416 approve the preliminary subdivision application.

417 (9) A municipality shall review and approve or deny a final subdivision plat
418 application in accordance with the provisions of this section and municipal ordinances, which:

- 419 (a) may permit concurrent processing of the final subdivision plat application with the
420 preliminary subdivision plat application; and
- 421 (b) may not require planning commission or city council approval.

422 (10) If a final subdivision application complies with the requirements of this section,
423 the applicable municipal ordinances, and the preliminary subdivision approval granted under
424 Subsection (9)(a), a municipality shall approve the final subdivision application.

425 Section 4. Section **10-9a-604.2** is enacted to read:

426 **10-9a-604.2. Review of subdivision land use applications and subdivision**
427 **improvement plans.**

428 (1) As used in this section:

429 (a) "Review cycle" means the occurrence of:

430 (i) the applicant's submittal of a complete subdivision land use application;

431 (ii) the municipality's review of that subdivision land use application;

432 (iii) the municipality's response to that subdivision land use application, in accordance
433 with this section; and

434 (iv) the applicant's reply to the municipality's response that addresses each of the
435 municipality's required modifications or requests for additional information.

436 (b) "Subdivision improvement plans" means the civil engineering plans associated with
437 required infrastructure and municipally controlled utilities required for a subdivision.

438 (c) "Subdivision ordinance review" means review by a municipality to verify that a
439 subdivision land use application meets the criteria of the municipality's subdivision ordinances.

440 (d) "Subdivision plan review" means a review of the applicant's subdivision
441 improvement plans and other aspects of the subdivision land use application to verify that the
442 application complies with municipal ordinances and applicable standards and specifications.

443 (2) The review cycle restrictions and requirements of this section do not apply to the
444 review of subdivision applications affecting property within identified geological hazard areas.

445 (3) (a) No later than 15 business days after the day on which an applicant submits a
446 complete preliminary subdivision land use application for a residential subdivision for
447 single-family dwellings, two-family dwellings, or townhomes, the municipality shall complete
448 the initial review of the application, including subdivision improvement plans.

449 (b) A municipality shall maintain and publish a list of the items comprising the

450 complete preliminary subdivision land use application, including:

451 (i) the application;

452 (ii) the owner's affidavit;

453 (iii) an electronic copy of all plans in PDF format;

454 (iv) the preliminary subdivision plat drawings; and

455 (v) a breakdown of fees due upon approval of the application.

456 (4) (a) A municipality shall publish a list of the items that comprise a complete final
457 subdivision land use application.

458 (b) No later than 20 business days after the day on which an applicant submits a plat,
459 the municipality shall complete a review of the applicant's final subdivision land use
460 application for a residential subdivision for single-family dwellings, two-family dwellings, or
461 townhomes, including all subdivision plan reviews.

462 (5) (a) In reviewing a subdivision land use application, a municipality may require:

463 (i) additional information relating to an applicant's plans to ensure compliance with
464 municipal ordinances and approved standards and specifications for construction of public
465 improvements; and

466 (ii) modifications to plans that do not meet current ordinances, applicable standards or
467 specifications, or do not contain complete information.

468 (b) A municipality's request for additional information or modifications to plans under
469 Subsection (5)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or
470 specifications that require the modifications to plans, and shall be logged in an index of
471 requested modifications or additions.

472 (c) A municipality may not require more than four review cycles.

473 (d) (i) Subject to Subsection (5)(d)(ii), unless the change or correction is necessitated
474 by the applicant's adjustment to a plan set or an update to a phasing plan that adjusts the
475 infrastructure needed for the specific development, a change or correction not addressed or
476 referenced in a municipality's plan review is waived.

477 (ii) A modification or correction necessary to protect public health and safety or to

478 enforce state or federal law may not be waived.

479 (iii) If an applicant makes a material change to a plan set, the municipality has the
480 discretion to restart the review process at the first review of the final application, but only with
481 respect to the portion of the plan set that the material change substantively effects.

482 (e) If an applicant does not submit a revised plan within 20 business days after the
483 municipality requires a modification or correction, the municipality shall have an additional 20
484 business days to respond to the plans.

485 (6) After the applicant has responded to the final review cycle, and the applicant has
486 complied with each modification requested in the municipality's previous review cycle, the
487 municipality may not require additional revisions if the applicant has not materially changed
488 the plan, other than changes that were in response to requested modifications or corrections.

489 (7) (a) In addition to revised plans, an applicant shall provide a written explanation in
490 response to the municipality's review comments, identifying and explaining the applicant's
491 revisions and reasons for declining to make revisions, if any.

492 (b) The applicant's written explanation shall be comprehensive and specific, including
493 citations to applicable standards and ordinances for the design and an index of requested
494 revisions or additions for each required correction.

495 (c) If an applicant fails to address a review comment in the response, the review cycle
496 is not complete and the subsequent review cycle may not begin until all comments are
497 addressed.

498 (8) (a) If, on the fourth or final review, a municipality fails to respond within 20
499 business days, the municipality shall, upon request of the property owner, and within 10
500 business days after the day on which the request is received:

501 (i) for a dispute arising from the subdivision improvement plans, assemble an appeal
502 panel in accordance with Subsection [10-9a-508\(5\)\(d\)](#) to review and approve or deny the final
503 revised set of plans; or

504 (ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in
505 writing, of the deficiency in the application and of the right to appeal the determination to a

506 designated appeal authority.

507 Section 5. Section **10-9a-604.9** is enacted to read:

508 **10-9a-604.9. Effective dates of Sections 10-9a-604.1 and 10-9a-604.2.**

509 (1) Except as provided in Subsection (2), Sections 10-9a-604.1 and 10-9a-604.2 do not
510 apply until December 31, 2024.

511 (2) For a specified municipality, as defined in Section 10-9a-408, Sections 10-9a-604.1
512 and 10-9a-604.2 do not apply until February 1, 2024.

513 Section 6. Section **10-9a-608** is amended to read:

514 **10-9a-608. Subdivision amendments.**

515 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
516 subdivision that has been laid out and platted as provided in this part may file a written petition
517 with the land use authority to request a subdivision amendment.

518 (b) Upon filing a written petition to request a subdivision amendment under Subsection
519 (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in
520 accordance with Section 10-9a-603 that:

- 521 (i) depicts only the portion of the subdivision that is proposed to be amended;
- 522 (ii) includes a plat name distinguishing the amended plat from the original plat;
- 523 (iii) describes the differences between the amended plat and the original plat; and
- 524 (iv) includes references to the original plat.

525 (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide
526 notice of the petition by mail, email, or other effective means to each affected entity that
527 provides a service to an owner of record of the portion of the plat that is being vacated or
528 amended at least 10 calendar days before the land use authority may approve the petition for a
529 subdivision amendment.

530 (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
531 public hearing within 45 days after the day on which the petition is filed if:

- 532 (i) any owner within the plat notifies the municipality of the owner's objection in
533 writing within 10 days of mailed notification; or

TOOELE CITY CORPORATION

RESOLUTION 2023-104

A RESOLUTION OF THE TOOELE CITY COUNCIL AUTHORIZING PAYMENT OF A FEE IN LIEU OF WATER RIGHTS CONVEYANCE FOR HOLIDAY OIL.

WHEREAS, Tooele City Code Chapter 7-26 governs the exaction by Tooele City of water rights as a condition of land use approval (see also UCA 10-9a-508); and,

WHEREAS, TCC Section 7-26-2(2) empowers the City Council to adopt a legislative policy allowing for the payment of a fee in lieu of water rights conveyance: “Fee-in-lieu. Pursuant to established City Council policy, in lieu of actual conveyance of water rights pursuant to this Chapter, certain development applicants may pay to the City an amount per acre-foot for access to water rights controlled by the City in a quantity necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system”; and,

WHEREAS, on May 18, 2022, the City Council approved Resolution 2022-29, adopting an updated fee-in-lieu of water rights conveyance policy referred to in TCC 7-26-2(2), with an effective date of June 1, 2022 (with the original policy being adopted in 2007) (see the June 1 policy attached as Exhibit B); and,

WHEREAS, the June 1 policy encourages the consideration of at least the following factors in considering requests to pay the fee-in-lieu:

- The number of acre-feet of water rights requested.
- The availability of City-owned water rights and corresponding water sources.
- The number of jobs the development is anticipated to create, together with the nature of the jobs (e.g., full-time) and job compensation (e.g., wage levels, benefits).
- The amount of sales tax the development is anticipated to generate.
- The amount of property tax the development is anticipated to generate.
- The anticipated environmental, social, and community impacts of the development.

WHEREAS, the City Council retains sole and exclusive legislative discretion in deciding to allow the payment of the fee-in-lieu; and,

WHEREAS, Tooele City received from Brent Neel (representing Holiday Oil) (“the Project”) a letter dated December 14, 2023, requesting the allocation of 8.00 acre-feet of City-owned municipal water rights to the Project, or, in other words, requesting to pay the

fee-in-lieu rather than convey water rights for the Project (see the letter attached as Exhibit A); and,

WHEREAS, the Project will consist of approximately 5,020 square feet of new commercial construction plus a 20 ft by 66 ft car wash; and,

WHEREAS, the Project proposal addresses the policy considerations identified above and in the June 1 policy in the following ways:

- The Project requests 8.00 acre-feet of water.
- An estimated capital investment of \$1,618,000; estimated new annual property tax to **city** of \$3,900.
- The creation of an estimated 13 to 15 jobs (1 full time store director and other hourly positions).
- The generation of new sales tax and commercial activity; Holiday Oil anticipates \$15 Million in sales annually (\$11M in fuel sales, \$3M in C-Store sales, \$200,000 in car wash sales).

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that, in light of the legislative policies and considerations discussed above, the City Council hereby authorizes the payment of the fee-in-lieu of water rights for the Project, for up to 8.00 acre-feet of municipal water rights, for the fee amount established in the June 1 policy of \$35,000 per acre-foot.

This Resolution is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 202__.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

TOOELE CITY MAYOR

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, Tooele City Attorney

Exhibit A

Letter Requesting Fee in Lieu

Jared Stewart

From: Brent Neel <brent@holidayoil.com>
Sent: Thursday, December 14, 2023 12:54 PM
To: Jared Stewart
Subject: Re: Tooele City Water Fee-in-Lieu request

Hi Jared,

Let's apply for the 8 acre feet to cover ourselves and keep the submittal bundled with our c-store needs.

Let me know if you need anything else.

Thanks,
Brent Neel

From: Jared Stewart <jareds@tooelecit.gov>
Sent: Thursday, December 14, 2023 10:04 AM
To: Brent Neel <brent@holidayoil.com>
Subject: RE: Tooele City Water Fee-in-Lieu request

Brent,

I took your numbers and calculated the annual Acre Feet of water usage for the carwash. Average 3 year use (2021-2023) for carwash + landscaping is 6.12 Acre Feet. The existing Holiday Oil at 600 N Main Street in two years used an average of 1.54 Acre Feet—without a car wash and essentially no landscaping. I would estimate your future water use at around 7.5 to 8 Acre Feet per year. At \$35,000 per acre foot this would mean a fee-in-lieu of \$262,500-\$280,000.

Please let me know what amount of Acre-Feet you would like to request.

Erda Holiday Oil--Car Wash

Car Wash	2023*	2022	2021	2020
January	130,709	165,280	118,235	89,371
February	155,433	211,342	139,439	99,934
March	160,120	191,650	143,627	74,911
April	125,681	149,181	157,528	50,686
May	203,571	141,485	223,241	114,610
June	188,705	173,455	183,022	104,758
July	245,040	235,641	142,803	104,758
August	201,074	157,115	183,022	127,661
September	141,657	167,655	135,119	122,198
October	138,378	132,951	164,493	117,689
November	93,551	106,539	80,562	76,993
December	100,274	108,233	92,314	70,112

Annual AcFt	5.78237293	5.95525869	5.41169123	3.540517
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*2023 Sept through December are averages

Erda Holiday Oil--Landscaping

Car Wash	2023*	2022	2021	2020
January		-	-	-
February	-	-	-	-
March	-	-	-	-
April	-	-	-	-
May	54	-	-	-
June	19,311	19,477	4,440	16,170
July	27,008	23,475	22,464	36,993
August	26,161	45,808	17,500	27,092
September		44,617	17,705	29,822
October		2,072	19,838	32,699
November		10,194	20,130	7,184
December		-	-	-
Annual AcFt	0.22259867	0.44696196	0.31326281	0.4602103

Best,
Jared

From: Brent Neel <brent@holidayoil.com>
Sent: Thursday, December 14, 2023 8:39 AM
To: Jared Stewart <jareds@tooelecitey.gov>
Subject: Re: Tooele City Water Fee-in-Lieu request

Hi Jared,

Thanks for sending this and helping us out. Below are the numbers I received from our finance team for our store in Erda that has a car wash and felt it would be more accurate than our store at 600 N. Main Steet that doesn't have a car wash. Below is also a screenshot of the water usage we based our numbers from. I have a meeting with Draper City at 9:30am and then I'll head into the office to send you the utility bills showing the water usage.

Thanks,
Brent Neel

Brent, per 2022 completed income statement and 2023 Jan-Oct (#60)				
	2022	2023 YTD (Oct)		
C-Store Sales	3,390,167	3,348,435		
Car Wash Sales	222,248	217,367		
Fuel Sales	11,904,771	9,899,359		
Total	15,517,186	13,465,161		

Erda Store #60 Car Wash and Landscaping Water Usage				
*All numbers are in gallons used for the month				
Car Wash	2023	2022	2021	2020
January	130,709	165,280	118,235	89,371
February	155,433	211,342	139,439	99,934
March	160,120	191,650	143,627	74,911
April	125,681	149,181	157,528	50,686
May	203,571	141,485	223,241	114,610
June	188,705	173,455	183,022	104,758
July	245,040	235,641	142,803	104,758
August	201,074	157,115	183,022	127,661
September		167,655	135,119	122,198
October		132,951	164,493	117,689
November		106,539	80,562	76,993
December		108,233	92,314	70,112
Landscaping	2023	2022	2021	2020
January	-	-	-	-
February	-	-	-	-
March	-	-	-	-
April	-	-	-	-
May	54	-	-	-
June	19,311	19,477	4,440	16,170
July	27,008	23,475	22,464	36,993
August	26,161	45,808	17,500	27,092
September		44,617	17,705	29,822
October		2,072	19,838	32,699
November		10,194	20,130	7,184
December		-	-	-

From: Jared Stewart <jareds@tooelecitey.gov>
Sent: Wednesday, December 13, 2023 5:55 PM
To: Brent Neel <brent@holidayoil.com>
Subject: RE: Tooele City Water Fee-in-Lieu request

Brent,

Attached is the draft resolution that I will present to the Council. I was able to get water data from two other gas stations in town (without car washes). Best to have the actual numbers from a similar location, but both could help.

I'll watch for the actual water request from you tomorrow as well as data on average sales to include.

Thank you!
Jared

From: Jared Stewart
Sent: Wednesday, December 13, 2023 3:47 PM
To: 'brent@holidayoil.com' <brent@holidayoil.com>
Subject: Tooele City Water Fee-in-Lieu request

Hi Brent,

Thank you for your call earlier today. I've begun drafting a resolution that we can fill in the details for tomorrow morning. I will send you a copy a little later today. Please let me know what your average sales at a location would be and what the refined water number you are requesting will be.

Thank you!
Jared



Jared Stewart | Tooele City Corporation
Economic Development Director | Grant Administrator
90 North Main Street | Tooele, UT | 84074
Ph: [\(435\) 843-2169](tel:4358432169) | Cell: [\(801\) 834-3858](tel:8018343858)
jareds@tooelecity.gov | <https://tooelecity.gov> | [LinkedIn](#)

Attention: Tooele City is in the process of adopting tooelecity.gov as its top level domain. Please update any contacts in your address book to use [@tooelecity.gov](https://tooelecity.gov)

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Exhibit B

June 1, 2022, Fee-in-lieu Policy

City Council Policy

RE: Payment In Lieu Of Water Rights Conveyance under Tooele City Code §7-26-3(2).

Effective Date: June 1, 2022

Tooele City Code Chapter 7-26 requires the conveyance of water rights as a condition of approval of all land use applications. Section 7-26-3(2) states the following:

Fee-in-lieu. Pursuant to established City Council policy, in lieu of actual conveyance of water rights pursuant to this Chapter, certain development applicants may pay to the City an amount per acre-foot for access to water rights controlled by the City in a quantity necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system.

This City Council Policy is established pursuant to the authority embodied in §7-26-3(2).

Residential Development. Beginning on the Effective Date, Tooele City will allow owners of existing parcels of record that are not part of a recorded subdivision, and owners of single lots subdivided from those existing parcels through two-lot subdivisions (e.g., a lot split), to pay a fee (the "Fee") per parcel or lot in lieu of the residential water right requirement established in TCC §7-26-2(1). The item for which the Fee is paid shall be known for purposes of this Policy as a Water Rights Credit or Credit.

Credits will be available on a first-come first-served basis. The Fee shall be paid in full prior to building permit issuance. Should a building permit for which the Fee was paid expire under the terms of the permit, the City will refund the Fee, minus a \$100 administrative service charge. An owner who previously paid the Fee and received a Fee refund due to an expired building permit may submit a new building permit application and pay the Fee on a first-come first-served basis behind others who paid the Fee and whose building permits remain valid.

Non-residential Development. Beginning on the Effective Date, Tooele City will allow owners of non-residential developments to pay the Fee if the development is determined by the City to need less than 20 acre-feet of municipal water rights. Additional Credits may be made available, upon recommendation of the Public Works Director and with written approval of the Mayor, after full consideration of the following criteria in relation to the amount of water used:

- The number of jobs the development is anticipated to create, together with the nature of the jobs (e.g., full-time) and job compensation (e.g., wage levels, benefits).
- The amount of sales tax the development is anticipated to generate.
- The amount of property tax the development is anticipated to generate.
- The anticipated environmental and social impacts of the development.

Credits will be available on a first-come first-served basis. The Fee shall be paid in full prior to building permit issuance. Should a building permit for which the Fee was paid expire under the terms of the permit, the City will refund the Fee, minus a \$100 administrative service charge. An owner who previously paid the Fee and received a Fee refund due to an expired building permit may submit a new building

permit application and pay the Fee on a first-come first-served basis behind others who paid the Fee and whose building permits remain valid.

General.

1. The Fee shall be established at \$35,000 per Credit, each Credit being the equivalent of 1.0 acre-foot of municipal water rights.
2. Credits sold pursuant to this Policy shall not exceed a total of 50 acre-feet of municipal water rights in any calendar year without the approval of the City Council.
3. Upon payment of the Fee, the City will indicate such payment on the approved building permit.
4. This Policy shall supersede any prior oral or written policies or practices on the subject of this Policy.
5. Revenues derived from the sale of Credits shall be utilized for the protection of existing water rights and/or the purchase of additional water rights, except that the City Council may authorize the use of such revenues for other Tooele City water-related projects and/or needs upon a finding of good cause.
6. The sale of Water Rights Credits under this Policy is subject to the availability of corresponding water rights, in the sole discretion of Tooele City.

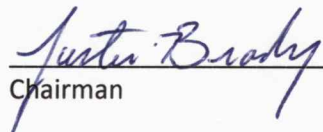

Chairman

Exhibit C

Staff Analysis and Calculations

Water Usage & Property Tax at Tooele Gas Stations

Holiday Oil: 608 Main Street Tooele UT

Bill Date	Begin Read	End Read	Billed Consumption
11/26/2023	7131	7193	62
10/26/2023	7065	7131	66
09/26/2023	6984	7065	81
08/26/2023	6910	6984	74
07/26/2023	6873	6910	37
06/26/2023	6830	6873	43
05/26/2023	6798	6830	32
04/26/2023	6765	6798	33
03/26/2023	6754	6765	11
02/26/2023	6693	6754	61
01/26/2023	6632	6693	61
12/26/2022	6571	6632	61
11/26/2022	6511	6571	60
10/26/2022	6446	6511	65
09/26/2022	6370	6446	76
08/26/2022	6300	6370	70
07/26/2022	6244	6300	56
06/26/2022	6187	6244	57
05/26/2022	6137	6187	50
04/26/2022	6099	6137	38
03/26/2022	6052	6099	47
02/26/2022	5987	6052	65
01/26/2022	5922	5987	65
12/26/2021	5857	5922	65
11/26/2021	5799	5857	58

Location Details

2465 Square Feet
\$ 748,055.00 Taxable Value
\$ 303.47 Value per SF
\$ 7,991.47 2023 Property Taxes Paid
\$ 1,803.56 2023 Tax to Tooele City
\$ 3.24 Taxes per SF
Average Annual Water Usage

Year 1 Units Consumed:	622
Year 1 Gallons Consumed	466,500
Year 1 Acre-Feet Consume	1.43

Year 2 Units Consumed:	714
Year 2 Gallons Consumed	535,500
Year 2 Acre-Feet Consume	1.64

Average 2 year AcFt 1.54

Maverick: 246 E 2000 N

Bill Date	Begin Read	End Read	Billed Consumption
11/26/2023	23845	23958	113
10/26/2023	23516	23845	329
09/26/2023	23056	23516	460
08/26/2023	22623	23056	433
07/26/2023	22250	22623	373
06/26/2023	21890	22250	360
05/26/2023	21676	21890	214
04/26/2023	21579	21676	97
03/26/2023	21537	21579	42
02/26/2023	21461	21537	76
01/26/2023	21385	21461	76
12/26/2022	21309	21385	76
11/26/2022	21194	21309	115
10/26/2022	20982	21194	212
09/26/2022	20638	20982	344
08/26/2022	20638	20638	332
07/26/2022	9980	306	326
06/26/2022	9668	9980	312
05/26/2022	9589	9668	79
04/26/2022	9505	9589	84
03/26/2022	9355	9505	150
02/26/2022	9304	9355	51
01/26/2022	9253	9304	51
12/26/2021	9202	9253	51
11/26/2021	9163	9202	39

Location Details

4542 Square Feet
\$ 1,549,640.00 Taxable Value
\$ 341.18 Value per SF
\$ 17,190.16 2023 Property Taxes Paid
\$ 3,736.18 2023 Tax to Tooele City
\$ 3.78 Taxes per SF
Average Annual Water Usage

Year 1 Units Consumed:	2649
Year 1 Gallons Consumed	1,986,750
Year 1 Acre-Feet Consume	6.10

Year 2 Units Consumed:	2107
Year 2 Gallons Consumed	1,580,250
Year 2 Acre-Feet Consume	4.85

Average 2 year AcFt 5.47

New Holiday Oil Location: Approx 602 Three O'Clock Drive

ESTIMATED Taxes

5020 Square Feet
\$ 322.33 Avg Value per SF Gas Station
\$ 1,618,073.22 Est. Taxable Value
\$ 17,285.88 Est. Taxes Tax Area 1; 0.010683
\$ 3,901.17 Est Taxes to Tooele City; 0.002411

Taxes & Annual Sales from Holiday Oil Erda Location

5439 Square Feet
\$ 1,864,733.00 Taxable Value
\$ 342.84 Value per SF
\$ 18,072.99 2023 Property Taxes Paid
\$ 3.32 Taxes per SF

Brent, per 2022 completed income statement and 2023 Jan-Oct (#60)

	2022	2023 YTD (Oct)
C-Store Sales	3,390,167	3,348,435
Car Wash Sales	222,248	217,367
Fuel Sales	11,904,771	9,899,359
Total	15,517,186	13,465,161

Top Stop Chevron: 322 E 2400 N (includes a Burger King)

Bill Date	Begin Read	End Read	led Consumption
11/26/2023	40601	40798	197
10/26/2023	39838	40601	763
09/26/2023	39078	39838	760
08/26/2023	38321	39078	757
07/26/2023	37619	38321	702
06/26/2023	36870	37619	749
05/26/2023	36693	36870	177
04/26/2023	36536	36693	157
03/26/2023	36367	36536	169
02/26/2023	36212	36367	155
01/26/2023	36057	36212	155
12/26/2022	35902	36057	155
11/26/2022	35076	35902	826
10/26/2022	34297	35076	779
09/26/2022	33101	34297	1196
08/26/2022	32243	33101	858
07/26/2022	32122	32243	121
06/26/2022	32015	32122	107
05/26/2022	31902	32015	113
04/26/2022	31792	31902	110
03/26/2022	34039	31792	-2247
02/26/2022	33083	34039	956
01/26/2022	32127	33083	956
12/26/2021	31171	32127	956
11/26/2021	30968	31171	203

Location Details

4328 Square Feet
 \$ 2,470,032.00 Taxable Value
 \$ 570.71 Value per SF
 \$ 26,387.35 2023 Property Taxes Paid
 \$ 5,955.25 2023 Tax to Tooele City
 \$ 6.10 Taxes per SF
 Average Annual Water Usage

Year 1 Units Consumed	4896
Year 1 Gallons Consum	3,672,000
Year 1 Acre-Feet Consu	11.27

Year 2 Units Consumed	4731
Year 2 Gallons Consum	3,548,250
Year 2 Acre-Feet Consu	10.89

Average 2 year AcFt 11.08

Erda Holiday Oil--Car Wash

Car Wash	2023*	2022	2021	2020
January	130,709	165,280	118,235	89,371
February	155,433	211,342	139,439	99,934
March	160,120	191,650	143,627	74,911
April	125,681	149,181	157,528	50,686
May	203,571	141,485	223,241	114,610
June	188,705	173,455	183,022	104,758
July	245,040	235,641	142,803	104,758
August	201,074	157,115	183,022	127,661
September	141,657	167,655	135,119	122,198
October	138,378	132,951	164,493	117,689
November	93,551	106,539	80,562	76,993
December	100,274	108,233	92,314	70,112
Annual AcFt	5.78237293	5.95525869	5.41169123	3.540517

Average 3 year Use (2021, 2022, 2023)
5.71644095

*2023 Sept through December are averages

Erda Holiday Oil--Landscaping

Car Wash	2023*	2022	2021	2020
January		-	-	-
February	-	-	-	-
March	-	-	-	-
April	-	-	-	-
May	54	-	-	-
June	19,311	19,477	4,440	16,170
July	27,008	23,475	22,464	36,993
August	26,161	45,808	17,500	27,092
September	30,715	44,617	17,705	29,822
October	18,203	2,072	19,838	32,699
November	12,503	10,194	20,130	7,184
December	-	-	-	-
Annual AcFt	0.41109075	0.44696196	0.31326281	0.4602103

Average 3 year Use (2021, 2022, 2023)
0.390438506

*2023 Sept through November are averages

TOTAL Car Wash + Landscaping 6.11 Acre Feet