Chapter 23
SUBDIVISIONS AND DEVELOPMENT

Sections:

23.001 Purpose 2
23.002 Scope of applicability 2
23.003 Interpretation and conflict of laws 2
23.004 Approved and recorded documents required 2
23.005 Penalty for noncompliance 2
23.006 Definitions 3
23.007 Subdivision land use authority 6
23.008 Subdivision appeal authority 7
23.009 Pre-application meeting and concept plan review 8
23.010 Application requirements 9
23.011 Notice to affected entities 15
23.012 Review 16
23.013 Approval 19
23.014 Post-approval actions 20
23.015 Exceptions to specific application requirements and plats 20
23.016 Amending a subdivision 22
23.017 Lot line adjustments 24
23.018 Required improvements 25
23.019 Cost of improvements 26
23.020 Completion of improvements 26
23.021 Maintenance of improvements 27
23.022 Improvement guarantees, completion assurances, and warranties 27
23.023 Subdivision design standards, generally 29
23.024 Lots 29
23.025 Plats straddling municipal boundaries, annexations 30
23.026 Street design 31
23.027 Public use and service areas 31
23.028 Suitability of land 32
23.029 Donation, gifting or procurement of land for parks. 32

23.001 PURPOSE. The purpose of this Chapter is to comply with Utah Code, establish an efficient method for reviewing subdivision applications, and promote the health and general welfare of the Town's current and future residents by standardizing subdivision design and improvements.

23.002 SCOPE OF APPLICABILITY

A. This Chapter applies to all applications or petitions to subdivide land in the Town of Fielding, Utah. The requirements of this Chapter do not apply retroactively to subdivision applications or petitions that were approved by the Town prior to the enactment of this ordinance.

B. *Building Permits:* The Town's approval of a subdivision under this Chapter does not authorize the construction, alteration, or repair of any building or structure within the Town. Separate from the subdivision process, landowners and their contractors must obtain a building permit before beginning any construction, alteration, or repair of any building or structure.

23.003 INTERPRETATION AND CONFLICT OF LAWS. Where any provision in this Chapter conflicts with state law, state law shall prevail. Where any provision in this Chapter conflicts with other ordinances enacted by the Town, the provisions in this Chapter shall prevail unless the Town intended such conflicting ordinances not in this Chapter to amend this Chapter.

23.004 APPROVED AND RECORDED DOCUMENTS REQUIRED

A. No land shall be subdivided which is located wholly or in part in the Town, except in compliance with this Chapter and Utah Code as adopted and amended.

B. A subdivision of land is not valid unless its governing document is approved by the Land Use Authority and properly recorded in the County Recorder's Office.

C. Before the subdivision plat may be filed and recorded in the County Recorder's Office and before lots may be sold, a subdivision plat must comply with the Town's subdivision ordinances, other ordinances, and state law (notably UCA §10-9a-6).

23.005 PENALTY FOR NONCOMPLIANCE

A. It is unlawful to transfer ownership of any parcel of land pursuant to an invalid subdivision. The Town may, in its discretion, void such transfers.

B. Any person who illegally subdivides in the Town shall be criminally liable for a Class B misdemeanor.

23.006 DEFINITIONS. The following words and phrases, as used throughout Town ordinances, shall have the following meanings. Definitions in a particular title, chapter, or section shall apply narrowly to only that title, chapter, or section. Words and phrases not defined in Town ordinances shall have the meaning defined in state law. Words and phrases not defined in Town ordinances or state law shall have their plain meaning in common usage:

A. "Association" means the same as that term is defined in Utah Code Section 57-8a-102, as amended.

B. “Common Area” means property that an Association owns, maintains, repairs, or administers.

C. “Condominium” means a multi-unit development in which individual units are separately owned and each owner receives a recordable deed to the unit, together with an undivided interest in any common elements. A condominium development shall be regarded as a subdivision.

D. “Declarant” means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; “declarant” includes the person’s successor and assign.

E. “Declaration” means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

F. “Facility owner” means the same as that term is defined in state law and includes a canal owner or associated canal operator contact described in different sections of state law.

G. “Improvement plan” means a plan to complete permanent infrastructure on the subdivision that is essential for the public health and safety, that is required for human occupation, or that is required by applicable law and that an applicant must install in accordance with public installation and inspection specifications for public improvements and as a condition of recording a subdivision plat.

H. “Improvement Warranty” means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

    1. Complies with the Town’s written standards for design, materials, and workmanship; and

    2. Will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

I. “Improvement Warranty Period” means a period:

    1. No later than one year after a Town’s acceptance of required landscaping; or

    2. No later than one year after a Town’s acceptance of required infrastructure, unless the Town:

        a. Determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

        b. Has substantial evidence, on record:

            1. Of prior poor performance by the applicant; or

2. That the area upon which the infrastructure will be constructed contains suspect soil and the Town has not otherwise required the applicant to mitigate the suspect soil.

J. "Land use application" means an application required by the Town and submitted by a land use applicant to obtain a land use approval; this does not mean an application to enact, amend, or repeal a land use regulation.

K. "Land use authority" means an individual, board, or commission appointed or employed by a municipality to make land use decisions. "Land Use Authority" includes any appropriately authorized designees.

L. "Period of Administrative Control": the period which the person who filed the association's governing documents or the person's successor in interest retains authority to appoint or remove members of the association's board of directors or exercise power or authority assigned to the association under the association's governing documents.

M. "Plat" means an instrument subdividing property into lots as depicted on a map or other graphic representation of land that a licensed professional land surveyor makes and prepares in accordance with §10-9a-603 or §57-8-13 of Utah State Code (as amended).

N. "Public Landscaping Improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that (1) will be dedicated to and maintained by the Town or (2) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

O. "Review Cycle" means the occurrence of the applicant's submittal of a complete subdivision application; the Town's review of that subdivision application; the Town's response to that subdivision application; and the applicant's reply to the Town's response that addresses each of the Town's required modifications or requests for additional information.

P. "Subdivision" means any land that is divided, subdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

1. Subdivision includes:

a. The division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

b. Except as provided below, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

2. Subdivision does not include:

    a. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

    a. A boundary line agreement recorded with the Office of the County Recorder between owners of adjoining parcels adjusting the mutual boundary in accordance with §10-9a-524 of Utah State Code (as amended) if no new parcel is created;

    b. A recorded document, executed by the owner of record revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels or joining a lot to parcel;

    c. A joining of one or more lots to a parcel;

    d. A road, street, or highway dedication plat; or

    e. A deed or easement for a road, street, or highway purpose.

Q. "Subdivision ordinance review" means review by the Town to verify that a subdivision application meets the criteria of the Town's ordinances.

R. "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in state law.

S. "Underground facility" means the same as that term is defined in state law.

T. "Water conveyance facility" means a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. "Water conveyance facility" does not mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for culinary or industrial water, or any federal water project facility.

23.007 SUBDIVISION LAND USE AUTHORITY

A. The Land Use Authority for subdivision applications under this Chapter is the Planning Commission. For purposes of subdivision applications, the Planning Commission shall be ultimately responsible for the following but may delegate any task to the Town Engineer, Town staff, or members of the Planning Commission:

    1. Rendering land use decisions related to subdivision applications under this Chapter, including approving or denying subdivision applications based on the criteria in this title and State law.

2. Reviewing all subdivision applications under this Chapter in an impartial manner and according to the standards and deadlines described in this Chapter.

3. Holding public meetings for reviewing subdivision applications as required by this Chapter.

4. Providing feedback to applicants on their subdivision applications in the manner required by this Chapter.

5. Scheduling and holding a pre-application meeting (and reviewing concept plans) with potential applicants as required by this Chapter.

6. Keeping subdivision application forms and related informational material up to date and publicly accessible and distributing such forms and materials to potential applicants. This task is delegated to Town staff by default.

7. Providing notice to entities and parties as required by this Chapter.

8. Signing subdivision application approvals as required by this Chapter.

9. Ensuring that documents are properly recorded with the County as required by this Chapter.

B. As subdivision application decisions are administrative, not legislative, the Land Use Authority is authorized to make land use decisions described by this Chapter without Town Council approval.

C. Except when operating as the Appeal Authority, the Town Council shall not require the Land Use Authority to approve or deny an application under this Chapter.

23.008 SUBDIVISION APPEAL AUTHORITY

A. The Appeal Authority for Town decisions relating to this Chapter, except where otherwise noted, is the Town Council.

B. The Appeal Authority shall hear appeals on final decisions made by the Land Use Authority and shall hear complaints about the conduct of the Land Use Authority in administering the provisions of this Chapter.

C. A party appealing or complaining of a Land Use Authority decision under this Chapter must exhaust its remedies under this section (by appealing or complaining to the Appeal Authority) before bringing an action against the Town in a court of law.

D. A party who has submitted a subdivision application or petition may appeal or complain to the Appeal Authority under this Chapter. A party desiring to appeal or complain of a

Land Use Authority decision shall submit to the Appeal Authority the following in writing:

1. A brief explanation of the relief the party is seeking, the reason the party submitted its application or petition, the Land Use Authority's decision and treatment of the application or petition, and why the applicant believes the Land Use Authority misapplied the provisions of this Chapter or abused the discretion given it by this Chapter.

2. The most recent version of the application or petition the party submitted.

3. Any supplemental documentation or information that the Appeal Authority requests.

4. All appeals and complaints must be emailed or mailed to the Town Clerk using the Clerk's official Town address and/or email account listed on the Town website.

E. After receiving a complete appeal or complaint in accordance with this Section, the Appeal Authority shall deliver a decision to the applicant, in writing, no later than 45 calendar days after the Appeal Authority receives the appeal or complaint.

23.009 PRE-APPLICATION MEETING AND CONCEPT PLAN REVIEW

A. A party intending to submit a subdivision application under this Chapter may request a pre-application meeting with the Planning Commission for the purpose of reviewing any element of the party's proposed subdivision application. The proposed application need not be complete for purposes of this meeting.

1. If a party requests a pre-application meeting, the Town staff shall schedule the meeting within 15 business days after the request. The meeting shall occur at the next regularly scheduled Planning Commission meeting.

B. Potential subdivision applicants are strongly encouraged to submit a concept plan to the Planning Commission in advance of the pre-application meeting. It is strongly recommended that this concept plan consist of at least a simple layout of:

1. Existing utilities, drainage, and water courses, including irrigation supply and waste ditches in relation to the existing and planned streets within ¼ mile of the development; and

2. The proposed streets, lots, major buildings, utilities, and drainage channels.

C. The Planning Commission shall conduct the pre-application meeting, provide feedback on materials as requested by the potential applicant, and shall provide or have available on the Town website the following at the time of the meeting:

1. Copies of applicable land use regulations,

2. A complete list of standards required for the project, and

3. Relevant application checklists.

D. The pre-application meeting in no way shall be construed to constitute approval of any development. The primary purpose of the pre-application meeting is to permit the potential applicant to review with the Planning Commission the general concept of the proposed development and to review informal feedback from the Planning Commissioners as to whether the development appears feasible, whether there appear to be obvious defects in the development scheme, and whether the proposed development is in harmony with the General Plan and Town ordinances. This meeting is intended to aid the applicant in the preparation of the plans and documents before incurring potentially unnecessary expenses of a detailed subdivision application.

1. At the conclusion of the pre-application meeting, if it is determined that a zone change is necessary, the potential applicant must submit an application for the zone change before proceeding with a subdivision application.

23.010 APPLICATION REQUIREMENTS

A. The Town shall not approve, nor shall a party record, any plat or other creating instrument for a new subdivision unless the party has properly applied under this Chapter and received a subdivision application approval from the respective Land Use Authority.

B. Town staff shall produce, maintain, and make available to the public a list of the specific items that comprise complete subdivision application and a breakdown of any fees due upon submission or approval of the applications.

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

1. An approved land use application that describes how the property will be used after it is subdivided.

a. If the intended use is permitted by right under Town ordinances, the land use application must include citations to the specific ordinance(s) that the applicant believes authorizes the intended use.

b. If the intended use requires a conditional use permit or is otherwise conditioned on Town approval, the land use application must include an approved, Town-issued permit authorizing the intended use. Should an applicant seek a use permit concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the use permit is issued.

c. If the intended use is prohibited under Town ordinances and requires a variance or rezone, the land use application must include an approved,

Town-issued variance or rezone authorizing the intended use. Should an applicant seek a variance or rezone concurrently with a related subdivision application, the subdivision application shall be considered incomplete until the variance is issued or rezone occurs.

2. A plat. The plat must be drawn to scale, in detail, and in accordance with generally accepted surveying standards and the acceptable filing standards of the County Recorder's office. The plat must include:

    a. The proposed name and general location of the subdivision, in bold letters at the top of the plat. The proposed subdivision name must be distinct from any subdivision name on a plat recorded in the County Recorder's office.

    b. The boundaries, course, numbering, and dimensions of all proposed parcels. All lots should be consecutively numbered.

    c. The lot or unit reference; block or building reference; street or site address; street name or coordinate address; acreage or square footage for all parcels, units, or lots; and length and width of the blocks and lots intended for sale.

    d. The names and addresses of all adjoining property owners of record, or the names of adjoining developments and the names of adjoining streets.

    e. The address and phone number of the land surveyor and/or engineer who prepared the plat.

    f. Sufficient data acceptable to the Town Engineer to readily determine the location, bearing and length of all lines on the plat, and to reproduce such lines upon the ground, and the location of all proposed monuments, including contours at intervals of two feet, five feet, or ten feet.

    g. Whether any parcel is intended to be used as a street or for any other public use.

    h. The names, numbers, widths, lengths, bearings, and curve data on centerlines for all proposed streets, alleys, and easements (if applicable). All proposed streets shall be numbered and named in accordance with the Town's adopted addressing system.

    i. The location of existing streets, easements, water bodies, streams, and other pertinent features such as wetlands, buildings, parks, cemeteries, drainage ditches, irrigation ditches, fences, and bridges.

    j. The location and width of existing and proposed streets, curbs, gutters, sidewalks, easements, alleys, other public ways and easements and proposed street rights-of-way and building setback lines.

k. Every existing right-of-way and recorded easement located within the plat for underground, water, and utility facilities. Including easements identified in:

   i. In the state engineer's inventory of canals; or

   ii. From a surveyor under Utah Code §10-9a-603(6)(c)).

l. Any known and unrecorded water conveyance facility located, entirely or partially, within the plat.

m. Location and size of all proposed water, secondary water, sanitary sewer, storm sewer, irrigation or drainage ditch piping or other subsurface improvements, including detailed provisions for collecting and discharging surface water drainage.

n. Whether any parcel is reserved or proposed for dedication for a public purpose.

o. The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof and conditions, if any, of the dedication or reservation.

p. If any portion of the proposed subdivision is within 300 feet of an Agriculture Protection Area, the notice language found in Utah Code §17-41-403(4).

q. If any portion of the proposed subdivision is within 1,000 feet of an Industrial Protection Area, the notice language found in Utah Code §17-41-403(4).

r. If any portion of the proposed subdivision is within 1,000 feet of a Critical Infrastructure Materials Protection Area, the notice language found in Utah Code §17-41-403(4).

s. If any portion of the proposed subdivision is within 1,000 feet of a Mining Protection Area, the notice language found in Utah Code §17-41-403(4).

t. If any portion of the proposed subdivision is within 1,000 feet of a Vested Critical Infrastructure Materials Operation (extracting, excavating, processing, or reprocessing sand, gravel, or rock aggregate where that use is not permitted by Town ordinances), the notice language found in Utah Code §10-9a-904.

3. An improvement plan, created in accordance with applicable portions of Sections 23.018–023 of this Chapter, for all public improvements proposed by the applicant or required by Town ordinances.

4. A completion assurance for all public improvements required by the approved improvement plan, or a statement that such improvements will be completed before development occurs on the proposed subdivision and before the applicant records the plat.
5. Binding dedication documents, including:
    a. As applicable, formal, irrevocable offers for dedication to the public of streets, Town uses, utilities, parks, easements, or other spaces.
    b. If the plat is to be part of a community association, signed and binding documents conveying to the association all common areas as defined in Utah State Code §57-8a-102, as amended.
6. Certifications, including:
    a. An affidavit from the applicant certifying that the submitted information is true and accurate.
    b. The signature of each owner of record of land described on the plat, signifying their dedication and approval of the plat.
    c. Certification that the surveyor who prepared the plat:
        i. Holds a license in accordance with Utah Code §58-22; and
        ii. Either
            I. Has completed a survey of the property described on the plat in accordance with state requirements and has verified all measurements; or
            II. Has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and
        iii. Has placed monuments as represented on the plat.
    d. Letters of approval by the culinary water authority, the sanitary sewer authority, the Bear River Health Department, the Fielding Fire Department, and the local public safety answering point.
7. Copies, including:
    a. One electronic copy of the final plat in AutoCAD format (DWG or DXF), with a projection assigned to the file(s) and with the proper metadata that describes what coordinate system/projection the data is assigned to.

b. A PDF document of the complete application (including the plat and all other plans and supporting documents required by this Subsection).

c. One 8.5" x 11" printed copies of the complete application, delivered to the Town Office, for review.

d. A copy of the plat drawn on Mylar for signing and recording. The applicant may wait to produce this recording-form copy until the Planning Commission has completed two review cycles, but in such case, the Commission need not approve the application until this copy has been produced and reviewed.

8. Payment of any application-processing fees required by the Town. In addition to those listed on the Town's current Fee Schedule, the applicant shall be liable for any legal, engineering, or consulting fees reasonably incurred by the Town in reviewing the application.

D. The Planning Commission may require, and the applicant shall provide, additional information beyond the requirements of this Section or those published by Town relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements and to protect the health and safety of Town residents.

E. The Planning Commission may waive specific application requirements on a case-by-case basis.

23.011 NOTICE TO AFFECTED ENTITIES

A. Within 15 calendar days after receiving a complete subdivision application under this Chapter, Town staff shall provide written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat.

1. To determine whether any water conveyance facility is located within 100 feet of a proposed subdivision, the Land Use Authority shall review information:

a. From the facility owner under Utah Code §10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

b. From the state engineer's inventory of canals; or

c. From a licensed surveyor who has consulted with a representative of an existing water conveyance facility that services an area near the land the application concerns.

B. To give water conveyance facilities time to provide feedback on subdivision applications, the Land Use Authority shall not approve a subdivision application under

this Chapter sooner than 20 calendar days after the applicant submits a complete application. This waiting period does not apply to revised applications the applicant may submit during the application review process.

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

23.012 REVIEW

A. The Planning Commission shall review all subdivision applications under this Chapter in accordance with the requirements of this Section before approving or denying a subdivision application.

B. The review process begins when an applicant submits a complete application.

1. The Land Use Authority shall not review an incomplete subdivision application, except to determine whether the application is complete.

2. If the Land Use Authority determines that an application is not complete, it shall notify the applicant of the incompleteness, highlighting any insufficiencies and explaining that the application will not be reviewed until completed.

C. After the applicant submits a complete application, the Land Use Authority shall review and provide feedback to the applicant in a series of up to four "review cycles."

1. A review cycle consists of the following phases:

a. Phase #1: The applicant submits a complete application (or, if after the first cycle, submits a revised version of the complete application).

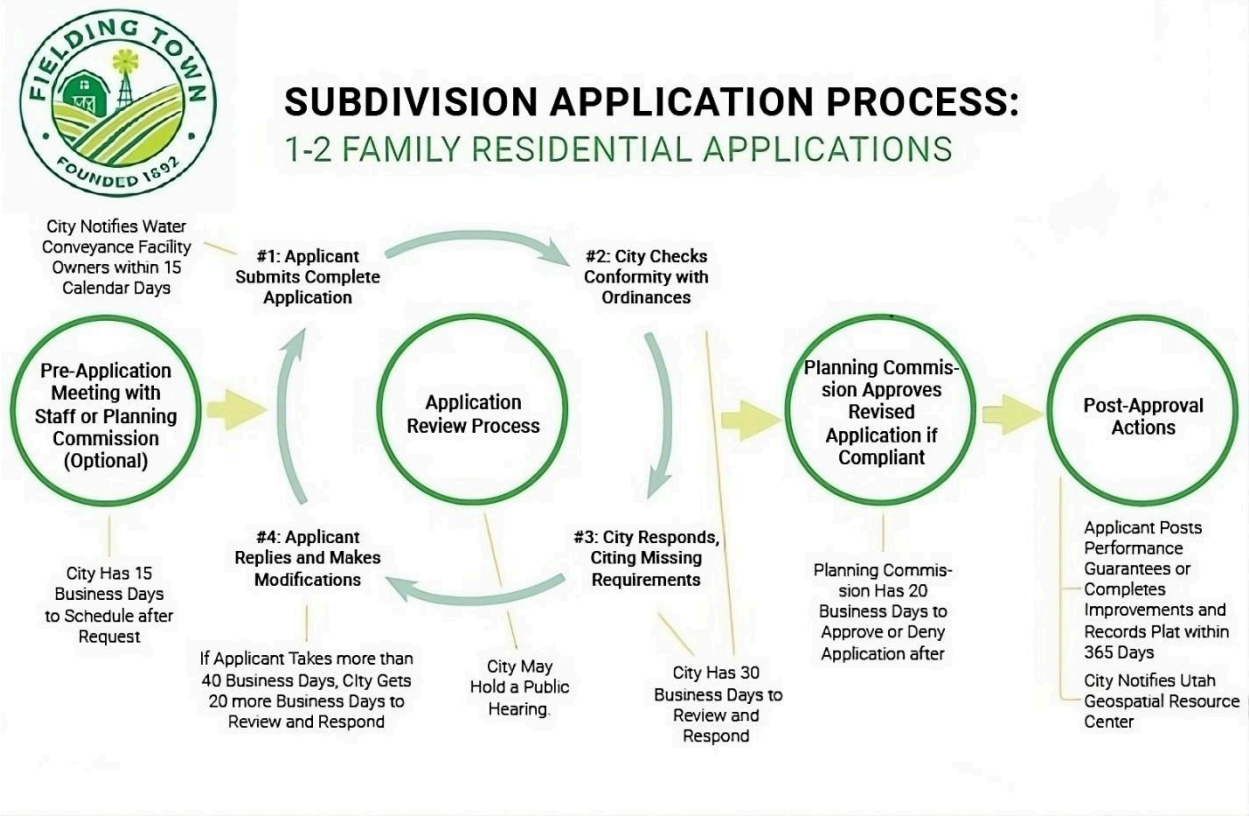
b. Phase #2: The Land Use Authority reviews the application in detail and assess whether the application conforms to local ordinances.

c. Phase #3: The Land Use Authority responds to the applicant, citing any missing requirements or areas of noncompliance and providing a detailed list of necessary revisions to the applicant, within the timeframe specified in Table 23.012. For any required modification or addition to the application or request for more information, the Land Use Authority shall be specific and include citations to ordinances, standards, or specifications that require the modification and shall provide the applicant with an index of all requested modifications or additions.

d. Phase #4: The applicant revises the application, addressing each comment or requirement the Land Use Authority made. The applicant must submit both revised plans and a written explanation in response to the Town's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any. If the applicant fails to

respond to a comment made by the Land Use Authority in its review, the review cycle is not complete and will remain open until the applicant addresses all comments.

Table 23.012 – Review Cycles, Hearings, and Timelines by Subdivision Use Type			
Use Type	*Max Review Phases*	*Public Hearings*	*Town Turnaround Deadline***
1-2 Family Residential*	4	1	30 Business Days
All Other Uses	4	1	30 Business Days
*Includes single-family homes, duplexes, and townhomes, to the extent permitted by Town zoning ordinances. **Describes the total time (per review cycle) the Town may take to complete both Phase #2 and Phase #3.			



D. The Land Use Authority shall not (nor shall any other representative of the Town) exceed the number of review cycles or the review deadlines outlined in Table 23.012. If no further revisions are needed, the Land Use Authority may end the review period early and approve or deny the application.

1. This provision notwithstanding, for any subdivision application that affects property within an identified geological hazard area, the Town is exempt from limits on the number of permitted review cycles and the Town's deadlines for reviewing and responding (Phases #2 and #3).

2. If the applicant makes a material change to an application not requested by the Town at any point in the review process, the Land Use Authority may restart the review process, but only with respect to the portion of the application that the material change substantively affects.

3. If an applicant takes longer than 40 business days to submit a revised subdivision improvement plan responding to the Town's requests for modifications and additions (in Phases #1 and #4), the Town shall have an additional 20 business days to review and respond to the revised application (Phases #2 and #3 of the next review cycle or issuing an approval decision).

4. If an applicant takes longer than 180 calendar days to submit a revised application and respond to the Town's requests for modifications and additions (Phases #1 and #4), the application shall, at the option of the Land Use Authority, expire. If an application expires, the applicant must restart the subdivision application process.

E. After the last review cycle is complete, the Land Use Authority shall approve or deny the application within 20 business days.

1. If the Land Use Authority has not approved or denied the application within 20 business days after the last review, the applicant may request a final decision. After such a request, the Town shall, within 10 business days:

a. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Utah Code §10-9a-508(5)(d) to review and approve or deny the final revised set of plans; or

b. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to the designated Appeal Authority.

F. After the Land Use Authority provides comments in the last review cycle, the Town shall not require further modifications or corrections in that review phase unless those modifications or corrections are needed to protect public health and safety or to enforce state or federal law or unless the review cycle reset due to the applicant making a material change that the Land Use Authority did not request.

1. With the exception of modifications or corrections that are needed to protect public health and safety, that are needed to enforce state or federal law, or that arise from the review cycle bring reset, the municipality waives noncompliant subdivision-related requirements that the Land Use Authority did not identify during the review process.

2. The applicant shall make reasonable changes, unless prohibited otherwise by a contract or deed, to the subdivision application to accommodate the water conveyance facility to the extent required by Utah Code §73-1-15.5.

G. The Planning Commission may conduct up to the number of public hearings described in Table 23.012 for the purpose of asking questions of the applicant and receiving commentary on the technical aspects of the application from affected entities, interested parties, and the public. If the Planning Commission elects to hold this public hearing, the hearing must occur before the end of the Planning Commission's review period in the last review cycle of the review phase. Scheduling issues shall not extend the review and approval deadlines in this Chapter.

H. Other chapters of this Chapter notwithstanding, the Land Use Authority shall approve or deny a subdivision application under this Chapter after reviewing a complete subdivision application as described in this Section.

23.013 APPROVAL

A. The Land Use Authority shall approve any complete subdivision application made under this Chapter that complies with Town ordinances and state law. The Land Use Authority shall issue its approval in writing.

B. After approval by the Land Use Authority, the subdivision plat shall be signed by the owners of the land to be subdivided, the Planning Commission Chair, and the Mayor.

1. The signatures on the plat of the owners of the land and of the Mayor, when recorded, function as an acceptance of the dedication of any streets or public places and vests the fee of those parcels of land in the Town for the public for the uses named or intended in the plat. However, such a dedication does not impose liability upon the Town for public streets and other public places that are dedicated in this manner but are unimproved unless adequate financial assurance has been provided in addition to the Town accepting the dedication.

23.014 POST-APPROVAL ACTIONS

A. The owner shall record the approved subdivision plat with the County Recorder's Office within 365 calendar days after the Town approves the subdivision application, provided that the applicant has provided all improvement guarantees required by Sections 23.022 and 23.023 of this Chapter. The applicant shall not record the approved subdivision plat until the applicant has provided all such required guarantees.

B. An approved plat not properly recorded within the timeline specified in Subsection 23.014(A) is void, unless the Planning Commission approves an extension.

C. An approved plat, the required improvements for which are not completed or guaranteed before recording, is void, unless the Planning Commission determines otherwise and the applicant cures the defect.

D. Town staff shall submit, within 30 calendar days after a subdivision plat is approved, to the Utah Geospatial Resource Center either:

1. An electronic copy of the approved plat; or

2. Geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

B. If requested by the Utah Geospatial Resource Center, Fielding Town shall:

1. Coordinate with the Utah Geospatial Resource Center to validate the information the municipality submitted about the subdivision plat; and

2. Assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in the subdivision plat for inclusion in the unified statewide 911 emergency service database.

23.015 EXCEPTIONS TO SPECIFIC APPLICATION REQUIREMENTS AND PLATS

A. Agricultural Land:

1. Applications to subdivide agricultural land are exempt from the *plat* requirement (but not the other application requirements) of Section 23.010 if the resulting parcels:

a. Qualify as land in agricultural use under Utah Code §59-2-502;

b. Meet the minimum size requirement of applicable Town land use ordinances; and

c. Are not used and will not be used for any nonagricultural purpose.

2. For subdivision applications for which this exception applies, an applicant may submit to the Town—in place of a plat—a record of survey map that illustrates the boundaries of the parcels.

3. If the Town approves a subdivision application based on a record of survey map, the applicant shall record the map, signed by the Town, with the County Recorder's Office. This shall be done in the same manner as is done for a plat under Sections 23.013 and 23.014.

4. If a parcel resulting from a subdivision under this exception ever ceases to be used for agriculture, the subdivision shall no longer be exempt under this Section and shall be required to conform to typical plat requirements. The Town may, in its discretion, impose the penalty in Section 23.005 and/or require a subdivision amendment before issuing a building permit.

B. Minor Subdivisions:

1. Applications to subdivide land are exempt from the *plat* requirements (but not the other application requirements) of Section 23.010 if the subdivision:

    a. Results in no more than 10 parcels; and

    b. Is not traversed by the mapped lines of a proposed street (as shown in the Fielding General Plan), Town easement, or any other land required for public purposes.

2. For subdivision applications for which this exception applies, an applicant may submit to the Town Land Use Authority—in place of a plat—both:

    a. A record of survey map that illustrates the boundaries of the parcels; and

    b. A legal metes-and-bounds description that describes the parcels illustrated by the survey map.

3. If the Town approves a subdivision application based on a record of survey map and metes-and-bounds description, the applicant shall record the map and description, signed by the Town, with the County Recorder's Office. This shall be done in the same manner as is done for a plat under Sections 23.013 and 23.014, except that the Town shall also provide the notice required in Utah Code §10-9a-605(1).

C. Development Agreements:

1. The Town may approve a subdivision through a development agreement entered into between a developer and the Town.

2. Subdivisions platted in a valid development agreement are exempt from the application and review and approval requirements of this Chapter.

3. Clauses in a valid development agreement with the Town superseded all conflicting requirements in this Chapter, except where a clause in the development agreement poses a substantial danger to the health and safety of Town residents.

23.016 AMENDING A SUBDIVISION

A. *Vacating a Subdivision:* The Town Council may vacate a subdivision or a portion of a subdivision by enacting an ordinance to that effect that describes the subdivision or the portion being vacated and recording that ordinance in the County Recorder's Office. For vacating a street or municipal utility easement, the following requirements apply:

1. A petition to vacate a street or municipal utility easement without a plat may proceed if it includes at least:

    a. The name and address of each owner of record of land that is:

i. Adjacent to the public street or municipal utility easement between the two nearest public street intersections; or

ii. Accessed exclusively by or within 300 feet of the public street or municipal utility easement;

b. Proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and

c. The signature of each owner who consents to the vacation.

2. For evaluating these petitions, the Town Council shall hold a public hearing to determine whether the petition meets the following requirements:

a. Good cause exists for the vacation; and

b. the public interest or any person will be materially injured by the proposed vacation in accordance with Utah Code §10-9a-609.5(3), as amended.

3. Upon determining these requirements are satisfied, the Town Council may adopt an ordinance granting the petition for the public street or public utility easement vacation.

4. If the Town Council approves a petition to vacate a street/utility easement, the Town shall record with the County either

a. A plat reflecting the vacation or

b. The ordinance and a legal description of the public street to be vacated in accordance with Utah State Code §10-9a-609.5(5), as amended.

5. The Town Council shall not approve a petition to vacate a public street under this subsection unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street as per Utah State Code §10-9a-609.5(8), as amended.

B. *Immaterial Amendments:* A property owner or agent of a property owner may correct minor typographical or clerical errors in a document of record by filing with the County an affidavit or other appropriate instrument. This provision does not apply to changing the name of a subdivision, which requires a material amendment described in the following provisions.

C. *Material Amendments:*

1. A fee owner of land, as shown on the last county assessment roll, in a platted subdivision may request a material subdivision amendment by filing a written petition with the Planning Commission. This petition must meet all the

requirements for a subdivision application specified in Section 23.018, with the following changes:

a. The plat (or the record of survey map, if applicable) should:

    i. Depict only the portion of the subdivision that is proposed to be amended;

    ii. Include a plat name distinguishing the amended plat from the original plat;

    iii. Describe the differences between the amended plat and the original plat;

    iv. Include references to the original plat; and

    v. Meet all the other plat requirements specified in Section 23.018.

b. The petition must additionally include:

    i. The name and address of each property owner affected by the petition; and

    ii. The signature of each of those property owners who consents to the petition; and

    iii. Certification from the surveyor who prepared the amended plat, according to Section 23.018 of this Chapter.

c. The petitioner must include with the petition envelopes addressed to each property owner in the subdivision.

2. Upon receipt of an amendment petition, the Planning Commission (or Town staff, as delegated) shall provide notice of the petition to:

    a. Each utility provider that services a parcel of the subdivision. The Town shall not approve an amendment petition until at least 10 calendar days after noticing these utility providers. The Town may notify the utility providers in any effective manner (email, mail, etc.).

    b. Each property owner in the subdivision. The Town shall notify these property owners by mail.

3. The Planning Commission shall hold a public hearing before approving an amendment petition and within 45 calendar days after the day on which the petition is submitted if:

    a. A property owner objects in writing to the amendment within 10 days of the Town notifying the property owner by mail, or

b. Not every property owner in the subdivision has signed the revised plat.

4. The Planning Commission may not approve a petition for a subdivision amendment unless the amendment identifies and preserves any easements owned by a culinary water authority for existing facilities located within the subdivision.

5. Notwithstanding Section 23.2.8(C)(3), the Planning Commission need not hold a public hearing if notice has been given to adjoining property owners in accordance with any applicable local ordinance and the petition seeks to:

    a. Join two or more of the petitioner's contiguous lots;

    b. Subdivide one or more of the petitioner's lots;

    c. Adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;

    d. On a lot owned by the petitioner, adjust an internal lot restriction imposed by the local political subdivision; or

    e. Alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not owned by the petitioner or designated as a common area.

6. When a conveyance or modification of a common area or common area and facility is approved, the person who presents the instrument of conveyance to a county recorder shall:

    a. Attach a notice of the approval as an exhibit to the document of conveyance; or

    b. Record a notice of the approval concurrently with the conveyance as a separate document.

7. The Planning Commission may approve the vacation or amendment of a plat by signing the amended plat showing the vacation or amendment if the Planning Commission finds that:

    a. There is good cause for the vacation or amendment; and

    b. No public or private harm; and

    c. No public street or municipality utility easement has been vacated or amended.

8. If the Planning Commission approves the amendment petition, the Planning

Commission shall sign the amended plat in the manner described in Section 23.013.

9. The petitioner shall then record the plat, subject to the completion or guarantee of any improvements, as described in Section 23.014, after the plat has been signed, acknowledged, and dedicated by each owner of the portion of the plat that is amended.

23.017 LOT LINE ADJUSTMENTS

A. The fee owners of two parcels may petition to adjust the lot line separating the parcels without a subdivision amendment. Such a petition shall include:

    1. A record of survey map and a metes-and-bounds description showing the adjustment.

    2. An explanation of the reason for the adjustment.

    3. Signatures from all the parcel owners involved in the adjustment.

    4. Any other information the Planning Commission requests.

B. If the adjustment will not result in a violation of a land use ordinance or an adverse development condition, the Planning Commission shall approve the petition.

C. If the adjustment is approved, the Planning Commission shall sign the record of survey map and accompanying metes-and-bounds description.

D. The petitioner shall record in the County Recorder's Office:

    1. A notice of lot line adjustment that:

        a. Is approved by the land use authority; and

        b. Recited the legal descriptions of both the original properties and the properties resulting for the exchange of title; and

    2. A document of conveyance.

23.018 REQUIRED IMPROVEMENTS. The following improvements are required for all subdivisions, except those that qualify under the Agricultural Land exemption of Section 23.015(A):

A. Permanent markers: all subdivision boundary corners, all points tangent, and all street intersections shall be definitely marked with metal monuments approved by the Town.

B. Utilities, including water, septic/sewer, telephone, cable, gas, and electricity.

    1. Water lines and fire hydrants: A culinary water supply, waterlines, and fire

hydrants shall be required as follows.

a. The subdivider shall have prior approval for connections to system or other source and shall make such water available to each lot within the subdivided area. Sizes of water mains shall be subject to the approval of the Town and shall be based upon fire protection requirements, but in no case shall they have a diameter of less than six inches.

b. Fire hydrants shall be installed at intervals within the subdivision in such a manner that no lot will be a distance greater than 250 feet from the closest hydrant, measured along the streets.

2. Sewers: At such a time as the Town installs a sewer system, all property owners, including those in approved subdivisions, will be required to pay a font footage fee and to accept the costs of connecting to said sewer system. Sewer connections, subdivision sewer systems, and individual sewage facilities shall be installed in accordance with specifications set by the State Department of Health. Subdividers shall make necessary provisions by installing sewer mains and laterals to the property line of each lot so that a minimum of roadway excavation will be required to connect said subdivision to the Town sewer system.

3. Natural Gas: If natural gas if made available to the Town, the subdivider must provide for connection to each lot.

4. Electricity, Telephone, and Other Utilities: These improvements must be completed before the streets are hard surfaced.

C. Streets, curbs, gutters, sidewalks, trails, and other improvements described in this title.

1. All streets shall be graded, graveled, and hard surfaced. Traffic regulatory, safety, and street identification signs shall be erected.

D. Any improvements required in by the Town's Land Use ordinances.

E. Any other infrastructure (or infrastructure improvement) that is reasonably necessary to meet the needs of the proposed development.

23.019 COST OF IMPROVEMENTS. All required improvements shall be made by the applicant/developer, at their expense, without reimbursement by the Town or any improvement district therein, and in accordance with related codes, fee schedules, and ordinances.

23.020 COMPLETION OF IMPROVEMENTS

A. Before a subdivision plat may be recorded, and before a building permit may be issued, all improvements required by this Chapter or other Town ordinances shall be either:

1. Completed, inspected, and accepted by the Town, or

2. Guaranteed according to Section 23.022.

B. The decision whether to guarantee an improvement or to complete it before recording and obtaining a building permit rests solely with the applicant.

C. All improvements are subject to Town inspection before such improvements may be accepted by the Town or considered complete. The Town Engineer shall be responsible for conducting such inspections. Improvements shall be accepted only if they conform to applicable Town ordinances (notably Section 23.018 of this Chapter) and do not pose a risk to public health or safety. All public improvements are subject to the warranty described in Section 23.022.

    1. The applicant/developer shall, in accordance with the Town's Fee Schedule, pay to the Town an inspection fee before the Town shall accept any improvements.

D. The provisions of this Chapter do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

E. For subdivisions for which no performance guarantee has been posted, if the improvements are not completed within the period specified in the approved subdivision improvement plan, the approval shall be deemed to have expired. In those cases where a performance guarantee has been posted and required improvements have not been installed within the terms of such performance guarantee, the Town may thereupon declare the guarantee to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the guarantee is declared to be in default. In the event that the un-released portion of the guarantee is not sufficient to pay all the cost for installing the required improvements, the Town may maintain an action against the person giving the guarantee for the necessary amount to complete the improvements.

23.021 MAINTENANCE OF IMPROVEMENTS

A. The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of said improvements by the Town Council. If there are any certificates of occupancy on a street not dedicated to the Town, the Town may, on twelve (12) hours' notice, plow the street or effect emergency repairs and charge the same to the applicant. The Town will not normally accept water improvements or street improvements or assume responsibility for either general maintenance or snow removal until over fifty percent (50%) of the lots within the subdivision are built upon.

B. The applicant/developer shall be required to file a maintenance guarantee with the Town, prior to acceptance, in an amount considered adequate by the Town Engineer in order to assure the satisfactory condition of the required improvements, including all lot improvements on the individual subdivided lots for a period of one (1) year after the date of their acceptance by the Town and dedication of same.

23.022 IMPROVEMENT GUARANTEES, COMPLETION ASSURANCES, AND

WARRANTIES

A. Before the applicant conducts any development activity or records a plat, the applicant shall:

    1. Complete any required public landscaping improvements or infrastructure improvement; or

    2. Post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

B. If an applicant elects to guarantee any required improvement, the applicant shall provide completion assurance for 110% of the cost of the improvement, guaranteeing that the improvements will be completed within two years after the date of the guarantee; The sum of the completion assurance shall not exceed:

    1. 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

    2. 10% of the amount of the bond to cover administrative costs incurred by the municipality to complete the improvements, if necessary.

C. For the purpose of posting an improvement guarantee, the cost of the improvement shall be determined by an engineer's estimate or licensed contractor's bid.

D. The Town shall accept any of the following forms of guarantee for an improvement:

    1. Bond. The applicant may furnish a bond with corporate surety, which bond shall be approved by the Town Attorney and filed with the Town Clerk.

        a. The bond shall have an express irrevocable term of two (2) years from the date of approval of the plat of the subdivision. Further, such bond shall contain language unconditionally guaranteeing the performance of the developer, A provision shall be provided for unconditional payment of the face amount of the bond within thirty (30) days from the day the Town declares, for cause, that the developer is in default.

    2. Escrow. The applicant may make a deposit in escrow with an escrow holder approved by the Town Council, under an escrow agreement approved by the Town Attorney and filed with the Town Clerk.

    3. Letter of Credit. The applicant may provide a letter of credit from a financial institution approved by the Town Council, under an agreement to complete the improvements that is approved by the Town Attorney and filed with the Town Clerk.

E. As improvements are completed, inspected, and accepted by the Town, the Town Council

shall, each quarter, at the option of the applicant, issue a partial release of bonded or escrow funds proportional to the improvements accepted during the prior quarter.

1. Subject to maintenance provisions contained in this Code below, the Town will not accept dedication of required improvements, or release or reduce a performance guarantee, until the Town Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the Town Engineer, through submission of detailed "as-built" survey plats of, the subdivision, indicating location, dimensions, materials, improvements and other information required by the Planning Commission and Town Engineer, that the layout of the line and grade of all public improvements is in accordance with the Town approved construction plans for the subdivision and that a title insurance policy has been furnished to the Town and Town Engineer indicating that the improvements have been completed, are ready for dedication to the local government and are free and clear of any and all liens and encumbrances.

2. In no event shall a performance guarantee be reduced below 25% retainage of the principal amount until total completion.

F. If all required improvements are not completed within two years from the day of application approval, the party who guaranteed the improvements shall be in default, and at the option of the Town Council, shall relinquish the remaining amount of the performance guarantee to the Town.

G. Even if the infrastructure improvement is not complete, the Town shall still issue a building permit as long as the improvement is essential for issuing a building improvement under the building and fire codes or for which the Town has accepted a completion assurance; but the Town may deny it if there is another valid reason besides the incomplete improvement.

H. The Town shall not require improvement guarantees for any of the prohibited uses listed in Utah Code §10-9a-604.5(3)(d), including improvements the Town has previously inspected and accepted, private improvements that are not essential to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation.

I. Upon acceptance of all required improvements, the applicant shall warrant that said improvements shall remain free from defects in material and workmanship for a period of twelve (12) months after the date of acceptance by the Town. The subdivider shall be solely responsible for all repairs and maintenance required to keep the improvements in good working condition for this twelve-month period.

23.023 SUBDIVISION DESIGN STANDARDS, GENERALLY

The following standards shall apply to the design and construction of all improvements required by Town ordinances:

A. The current (2007) edition of the Manual of Standard Specifications published by the Utah Chapter of the American Public Works Association (APWA), as amended. References to "owner" shall mean Fielding Town and references to "engineer" shall mean Fielding Town's engineer.

B. The current (2007) edition of the Manual of Standard Plans published by the Utah Chapter of the American Public Works Association (APWA), as amended.

C. All Town land use, building, and development ordinances, including those in this Chapter and the other Chapters of this Title.

D. Any design standards promoted by the Sanpete County Development Committee applicable to the Town.

23.024 LOTS

A. No subdivision is permissible that does not comply with the lot size, frontage, width, depth, and all other requirements of the Town's Land Use Ordinances.

B. Insofar as practical, side lot lines shall be at right angles to street lines. Each lot shall front on a public street or road that is on the State Highway System. Any proposed development must give due consideration to the future development of adjacent parcels/ Reasonable address to adjacent properties must be provided. No parcel of ground may be landlocked as a result of the development of any other parcel of ground.

C. Flag lots which meet Town requirements for accessibility, services, and safety may be allowed by the Planning Commission.

D. Lots that abut on two parallel streets shall be avoided, except when one street is an arterial street, in which case the lots may have the rear hard abutting without access on the arterial street.

E. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the adopted construction and fire codes of the State, this Code, and in providing reasonable driveway access to buildings on such lots from an approved street.

F. In areas that are determined to be in high fire danger areas, the building sites shall be located or situated in areas of the development that are less hazardous or are naturally clear of the hazardous vegetation.

G. Lot dimensions shall comply with the minimum standards of Town's land use ordinances. Where lots are more than double the minimum required area for the zoning district, the Land Use Authority may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with this Code and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots

shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in this Code.

23.025 PLATS STRADDLING MUNICIPAL BOUNDARIES, ANNEXATIONS

A. Whenever a subdivision is proposed across land under County jurisdiction, the Land Use Authority may require the annexation of the property involved before approving the proposed subdivision. In general, lot lines and/or roads shall not be laid out so as to cross municipal boundary lines. The annexation may be enlarged at the discretion of the Town to avoid creating islands or peninsulas of incorporated territory that may be difficult to manage. All annexations must comply with the current annexation policy declarations in force at the time the annexation is proposed or a new annexation policy must be prepared and approved.

B. If the area in the County is not annexed, the Town and the County shall work together in a cooperative arrangement or through an interlocal agreement, if necessary, to ensure that the portion of development lying in the County is as compatible as possible with the Town codes, development regulations and General Plan.

23.026 STREET DESIGN

A. Street designs must conform to the adopted street plan for the area as regards alignment and right-of-way widths. The layout of proposed streets for any development must give due consideration to the extension of the street network to abutting properties, developed or undeveloped, in order to produce a safe, effective street network in conformity with the intent of the transportation and circulation element of the General Plan. Insofar as possible, offset streets and jogs at intersections shall be avoided in order to bring about the best development of the area.

B. Street rights-of-way in the Town must conform to the following specifications:

    1. Arterial roads: Not less than ninety-nine (99) feet.
    2. Local roads: Not less than sixty-six (66) feet.
    3. Pedestrian walkways: Not less than three (3) feet.

C. Grades on streets shall not exceed eight percent (8%).

D. Streets shall intersect each other as nearly at right angles as topography and other limiting factors of good design will permit.

E. Every subdivided property shall be served worn a dedicated public street.

F. On arterial and collector streets, the center line radius and curvature shall not be less than five hundred (500) feet.

G. Streets shall not be designed to have one end permanently closed.

H. Proposed streets shall bear the number, not a name, and any existing street which it is in obvious alignment must have the same number.

I. Blocks shall not be less than four hundred ninety-five (495) feet in length.

J. Streets shall be hard surfaced.

23.027 PUBLIC USE AND SERVICE AREAS

A. The Planning Commission may require easements not exceeding ten (10) feet in width for poles, wires, conduits, storm and sanitary sewers, gas, water, and heat mains or other utility lines along the rear lot lines and along the side lot lines.

B. No irrigation ditches, canals, or other waterway shall be located within a dedicated public Street except to cross such street in a location approved by the Planning Commission.

C. All streets within the subdivision must be dedicated to the Town of Fielding.

D. All canals and major ditches shall be fenced on both sides for public safety, health, and welfare with a six (6) foot chain link fence as specified by the Town Engineer. All irrigation ditches running contiguous or within a property or subdivision shall be piped covered. Pipe size and quality shall be determined by the Town Engineer in consultation with the service irrigation company. Developers of any parcel of land must give due consideration in their development plan to the location of any existing legally established irrigation ditch for supply or wastewater and provide for the continued supply of irrigation water to downstream users and disposal of wastewater and storm drainage.

E. Dedication of all parks, school grounds, and other public open space within the subdivision will be required in accordance with the General Plan of Fielding Town. Where this Plan calls for larger amounts of public open space than the subdivider's fair amount, as established by the Planning Commission, the additional land is to be reserved for acquisition by a public body, provided such acquisition is made within one (1) year from the date of approval. It will be the responsibility of the Town Council to determine the appropriate location of such public open spaces in relation to this subsection.

23.028 SUITABILITY OF LAND

A. No land shall be subdivided for residential use that is held by the Planning Commission to be unsuitable for such use by reason of flooding, bad drainage, septic systems, or any feature likely to be harmful to the health, safety, or welfare of the future residents in the proposed subdivision or of the community unless and until such land is rendered suitable for residential use.

23.029 DONATION, GIFTING OR PROCUREMENT OF LAND FOR PARKS.

A developer or a landowner may propose a park incorporated into the development plat for purposes of donation or gifting, or for future sale to the Town. It will be the option of the Town Council to determine the need for and feasibility of such a design. When a park or recreational facility has been designated in the Town's General Plan and is to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the

neighborhood within which the subdivision is located, the landowner or developer may donate, gift, or sell land for a local park sufficient in size and topography to serve the residents of the neighborhood within which the subdivision is located. Donated, gifted, or sold land for parks will not be in the computation of the lots allowable in their development. Such donations, gifts or procurements are to be accepted at the discretion of the Town Council, and the Council may place conditions to the acceptance of such property. It is the intent of this section to encourage incentives and cooperation with developers in the implementation of the Town's General Plan as it relates to parks and recreation property. It will be the responsibility of the Town Council to establish criteria for park development.