

# AN ORDINANCE ADOPTING LAND SUBDIVISION REGULATIONS

**TOWN OF BLUFF ORDINANCE #2019-\_\_\_\_\_**

## SECTION 1601

### GENERAL

#### 1601.1 Intent and Purpose

The following describes the intent and purpose of this ordinance:

- a. Utah Code Annotated § 10-9a-601 allows municipalities to enact ordinances regulating the subdivision of real property.
- b. This ordinance was reviewed by the Planning & Zoning Commission on \_\_\_\_\_, 2019, at which time a public hearing was held and the comments of interested persons considered. The Planning & Zoning Commission recommends approval of this ordinance.
- c. This ordinance is found to be in the best interests of the Town, and in furtherance of the public health, safety, and welfare.

THEREFORE, the Town of Bluff enacts the following:

### **TITLE 16- SUBDIVISIONS**

#### Sections:

- 16.02.010 Definitions
- 16.02.020 Submittal Requirements
- 16.02.030 Performance Standards
- 16.02.040 Review Procedures
- 16.02.050 Approval Criteria.
- 16.02.060 Subdivision Improvements Agreements, Dedications, Warranties

- 16.02.070 Vacating or Changing a Subdivision Plat; Boundary Line Adjustments**
- 16.02.080 Enforcement**
- 16.02.090 Appeals**

## **SECTION 1602**

### **DEFINITIONS**

#### **16.02.010 Definitions**

- A. The term **Adjacent** means a parcel of land that shares a boundary with the parcel of real property that is the subject of an application under this Title. For purposes of this Title, a parcel is adjacent to another if it is separated only by a public street or easement.
- B. The term **Adversely Affected** means a person or entity who claims an interest in real property which may be negatively affected by any decision under this Title.
- C. The term **Advisory Documents** means planning documents adopted by the Town from time to time, including, the General Plan; or similarly adopted guidance documents.
- D. **Base Flood Elevation (BFE)** means the computed elevation to which floodwater is anticipated to rise during a flooding event having a one percent chance of occurring in any given year. The BFE is typically shown on Flood Insurance Rate Maps and is a regulatory requirement for the elevation and flood-proofing of structures.
- F. **Boundary Line adjustment** means the process of combining two or more lawful existing lots into a fewer number of total lots than existed prior to the boundary line adjustment; or the moving of a boundary line between two or more lots where the total number of lots after the change remains the same.
- G. **Buffer** means a structure or area provided to reduce the conflict between two different land uses. Buffers may consist of fencing, walls, landscaping, or land set aside to separate particular uses.
- H. The term **Common Element** means private subdivision features, including open space, parks, trails, playgrounds, entrance features, or other similar elements found in a subdivision and which are dedicated to and owned by property owners in common, or by a homeowner association.

- I. The term 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 subject to this Title.
- J. The term Condominium Conversion means a multi-unit development in which an existing building or structure containing multiple spaces is converted into separate units of condominium ownership.
- K. Engineer means a licensed professional engineer authorized to practice in the State of Utah who exercises responsible charge over the preparation of submittals required under this Title. Engineers shall sign and stamp all plats or other documents to the extent required by this Title.
- M. Final Plat means a map of a subdivision under this Title that has been surveyed by a licensed professional land surveyor, acknowledged by the owner/mortgagee (if applicable), and which accurately depicts streets, alleys, easements, lots, blocks, survey monuments, building envelopes, common elements, utility easements, and other attributes of a subdivision. A final plat must comply with all applicable approval requirements and be executed by the Town prior to recording.
- N. Lot means a parcel of real estate with definite boundaries that is proposed for conveyance or development.
- O. Minor Subdivision means a subdivision application in which no more than six (6) total lots are created, exclusive of common elements.
- P. Major Subdivision means as subdivision application in which seven (7) or more lots are created, exclusive of common elements.
- Q. Preliminary Plat means a map of a subdivision proposed under this Title that has been surveyed by a licensed professional land surveyor, acknowledged by the owner, and which accurately depicts streets, alleys, easements, lots, blocks, survey monuments, building envelopes, common elements, utility easements, and other attributes of a subdivision.
- R. Setback means the minimum distance from a specified boundary that a structure or other feature must be located.
- S. Subdivider means the person submitting a subdivision application under this Title.
- T. The term Subdivision means the division of a parcel of real estate into two or more separate parcels pursuant to the provisions of this Title.

U. Surveyor means a professional land surveyor licensed in the State of Utah who exercises responsible charge over the preparation and submittal of materials required under this Title. Surveyors shall sign and stamp all submittals required by this Title.

#### **16.02.020 Submittal Requirements**

A. An application for a subdivision must be submitted to the Town on the approved subdivision application form, together with the required review fee. The application must be signed by the record property owner or, if the applicant is not the owner, the applicant must deliver proof of approval signed by the owner. Components of the application submittal may contain multiple plan sets or reports, provided they are clear, legible, and successfully demonstrate the purposes required under this Chapter. Unless waived by the Town in writing the application must include four copies and electronic copies (in PDF or similar format) of all design drawings. The application must include the following:

1. **Preliminary Plat.** Applicants shall submit a preliminary plat (with requirements as listed below), drawn by a surveyor, to a scale of not less than one inch equals fifty feet (on paper no larger than twenty-four inches by thirty-six inches), and one copy reduced to eleven inches by seventeen inches that shall include:
  - a. **Parcel Boundary Lines.** Include all easements, setbacks and construction limits, out lots, and adjacent property owned by the applicant;
  - b. **Drives, Streets, and Rights-of-way.** Include widths of pavement, curb and gutter, sidewalks, dimensions of rights-of-way, and street names;
  - c. **Access.** Include all points of ingress, egress. For developments adjacent to and accessed by a state or federal highway, a completed highway access permit application from the Utah Department of Transportation (UDOT) must be submitted with the application, with a permit issued prior to building permit approval;
  - d. **Common open space.** All common elements, open space, common areas, parks, sidewalks, and trails (with required connectivity) must be clearly depicted;

- e. Use Types. Specific areas proposed for specific types of land use shall be shown, and must include the acreage or square footage for each area;
- f. Public Dedications. Areas proposed for public dedication (i.e. utility easements, trails, open space, streets, or the like) shall be depicted;
- g. Lots and blocks. The dimensions and areas for each lot must be shown;
- h. Adjacent Zoning. Zoning for adjacent properties within three hundred feet of the subject property shall be shown;
- i. Title Block. A title block shall appear in the lower right hand corner of all pages of plans and plats and shall contain the name of the development; legal location of the property; name and contact information of the site designer/engineer/surveyor; dedication language granting all public dedications and exactions signed by the owner and mortgagee (if applicable); and the drawing scale and north point;
- j. A regional or vicinity map shall accompany the submitted application to indicate the location of the project;
- o. The legal description of the property.
- p. statistical information accurately showing the dimensions, developed area, lot sizes, and density of the subdivision and all lots and major features.

B. **Narrative.** The narrative shall describe in reasonable detail the purpose of the proposed development, the types of land uses that are anticipated, the phasing of development, and information regarding all accessory uses, structures, or major features. Statistical information as to the project area, developed area square footage, number of parking spaces, and the like shall be included.

C. **Lighting Plan.** The lighting plan shall show number and types of fixtures for public areas and common elements. An acceptable lighting plan shall consist of a full cutoff, fully shielded, downward directed lighting types that are consistent with preserving dark sky features of the Town. The plan shall include manufacturer's information detailing the fixtures to be used. Internal or external shielding may be used to prevent glare toward other properties or into the roadway. Lighting of required parking areas shall be

a minimum of one-half foot-candle at all areas of the parking lot. Wall mounted flood lights that direct outward toward other properties and roadways are prohibited.

D. **Landscape Plan.** The landscape plan shall include size and species of all plantings, an irrigation plan, xeriscape plan, and a care and maintenance plan for all common areas. Proposed erosion control structures and details as to ground cover must also be noted on the landscape plan.

E. **Wetlands, Riparian Areas, and Floodways.** If the development is adjacent to riparian areas, arroyos, flood zones, probable wetlands, or areas where stream channels may be altered by planned development, a Wetlands, Riparian Areas, and Floodway Plan, drawn by an engineer, surveyor, other appropriate consultant must be submitted. Probable wetlands shall be described and delineated. Where the application includes areas which may be subject to flooding, the applicant shall show that the elevation of the lowest floor of all structures exceeds the elevation which is above the base flood elevation. All elevations on the plan shall be shown in the most current North American Vertical Datum (NAVD).

F. **Drainage Plan.** A storm water drainage plan, signed and stamped by an engineer, shall be submitted and show calculations and other information specified below.

1. Storm Water Drainage Plan. The storm water drainage plan shall include, at a minimum, the following information:
  - a. The project site, including areas three hundred feet beyond its boundaries;
  - b. Existing contours at two-foot intervals shown as dashed lines;
  - c. Proposed contours at two-foot intervals shown as solid lines;
  - d. Indication of a permanent benchmark referenced to mean sea level;
  - e. Drainage system shown in plan view with estimated cubic-feet-per-second flow for a one-hundred year storm event;
  - f. Locations of all natural and man-made drainage channels and water bodies;
  - g. Existing and proposed drainage easements;
  - h. Type, size, and location of existing and proposed drainage structures such as pipes, culverts, inlets, ditches, swales, retention ponds, detention areas, etc.;

- i. One-hundred-year event (base) flood areas;
  - j. Additional grading and drainage elements may be required to be depicted to satisfy Federal Emergency Management Administration (FEMA) flood plain requirements or other applicable Town flood damage policies;
  - k. Erosion control plans showing adequate sedimentation control which shall be accomplished throughout construction phases as well as during the ongoing use of the site (e.g., sedimentation ponds, dikes, seeding, retaining walls, rip-rap, etc.).
2. **Minimum Standards.** All structures for drainage and flood control shall be designed, at a minimum, to successfully convey the anticipated one-hundred-year frequency storm event for maximum period of intensity over the entire drainage basin. The applicant shall submit calculations to show that all structures have adequate capacity to accommodate flows expected to result from the designated storm event.
3. **Water and Sewer System Protection.** All storm water facilities shall be designed to avoid or minimize damage to, or infiltration of, culinary water and sanitary sewer facilities.

G. **Planned Grading.** A Grading Plan for surface drainage (shown by contours and spot elevations) shall be prepared by an engineer or surveyor. It shall show the planned grading and paving of driveways, access roads, and parking areas. Grading and paving shall be shown on plans, profiles, cross sections, and details as necessary to describe new construction. Details of curbs, gutters, sidewalks, drainage structures, and conveyance systems, dimensions of all improvements, size location, thickness, materials, strengths, and necessary reinforcement shall be shown.

H. **Utility Plan.** A utility plan shall be prepared by an engineer. It shall show the locations, dimensions, and elevations of all sewer facilities (if applicable); individual septic disposal systems, and culinary water facilities needed to serve the site. The utility plan shall specify in reasonable detail the types of equipment and materials to be used and shall comply with all applicable Advisory Documents and engineering design requirements. Plans showing the locations of natural gas, electric, and telephone/data lines must also be shown. Plans must clearly show the location of all fire hydrants.

I. **Evidence of Title.** A current title insurance commitment, ownership and encumbrance report, or abstract of title prepared by a title insurance company or attorney showing all ownership interests, easements, and encumbrances which apply to the parcel(s) comprising the application must be submitted. If requested, the applicant

shall provide copies of all recorded documents which may affect the property subject to the application.

J. **Slopes.** If proposed development is likely to result in grading of hillsides, the Town may require submittal of a slope study prepared by an engineer or surveyor showing existing topography and proposed grading.

K. **Surface and Subsurface Soils Report.** The application shall include a surface and subsurface soils report establishing soil suitability for the proposed development. The report shall be prepared by a geotechnical engineer or other professional. At a minimum, the report shall include:

1. A description of soil types;
2. Locations and characteristics with supporting soil maps;
3. Soil logs of test pits and bore holes;
4. All other information necessary to determine soil suitability for the scope of the development and constraints on development based on the findings (including delineation of areas of geologic hazard);
5. Analysis and evaluation of such information with recommendations regarding structural constraints, erosion control, and requirements for building design.

L. **Traffic Study Mandatory for Large Projects.** The Town may require a Traffic Study for subdivisions comprising fifty (50) or more dwelling units or lots, inclusive of all phases of development.

M. **Traffic Study May be Required.** The Town has discretion to require a traffic study for applications which do not generate the level of trips specified above where:

1. High traffic volumes on surrounding streets may affect movement to and from the proposed development;
  2. There is a lack of existing left turn lanes on streets adjacent to the proposed access drive;
  3. There are inadequate sight distances at access points;
  4. Proposed access points are close to other existing drives or intersections;
- or

5. The proposed development includes a drive-through pick up window.

N. **Street Design Drawings.** The application shall include drawings by an engineer showing the design, grades, widths, and profiles of all streets, sidewalks, curbs, gutters, traffic control devices, traffic signs, street signs, and associated public improvements. All street designs shall conform to street classifications and design standards adopted by the Town.

O. **Additional Submittals; Waiver of Certain Submittals—Minor Subdivisions.** The Town may require other or additional submittals where necessary for the review of an application. Alternatively, the Town may waive or modify any requirement for a submittal if it is determined that the document or report is not necessary, or if an alternate submittal is justified for the review of an application. Any waiver shall be in a writing labelled as a Submittal Waiver, shall identify the project by name and application number, and shall be signed and dated by the designated Town official.

1. Submittal waivers may be granted for Minor Subdivisions as determined on a case by case basis.

P. **Conformity with Submittal Standards.** All submittals must conform to the Land Use Submittal Standards adopted by the Town, if any. Where no such standards are adopted, the applicant shall assure that submittals comply with sound engineering and surveying practice standards. Submittals that do not clearly or accurately depict elements required for review of the project may be rejected, or staff may require revisions during the review process.

Q. **Preliminary Covenants, Conditions & Restrictions.** For subdivisions that will have common elements, the applicant shall submit proposed covenants, conditions & restrictions for review.

**16.02.030 Performance Standards.** All subdivisions may be reviewed for compliance with the following performance standards:

A. Each subdivision must comply with the lot area, length, width, setback, density, street frontage, access, open space, and other substantive use standards applicable to the particular zoning district in which the subdivision is located.

B. Except where Secondary Dwelling Units (SDUs) may be permitted, each lot in a residential subdivision shall have not more than one dwelling unit.

C. All lots within a proposed subdivision must be served by culinary water, sewer (or septic systems), and dry utilities (electricity, telephone, data and/or cable). Utility easements must be clearly shown. Where culinary water or sewer service cannot be

provided by the Town the applicant shall deliver a written service commitment by the applicable culinary water/sewer provider. If culinary water service is to be provided via individual wells, the applicant must show feasibility of supply via a well report or similar data.

D. The buildable area of lots within a proposed subdivision must not encroach on required setbacks, wetlands, the Base Flood Elevation, or areas that are prone to flooding. Building envelopes may be required, where applicable. Alternatively, the Town may require, as a condition for plat approval, that the applicant obtain a Conditional Letter of Map Amendment or Letter of Map Amendment from applicable agencies with jurisdiction over flood control.

E. The applicant must show clear title to the areas within a subdivision proposed for development. Unresolved boundary disputes or similar title defects may constitute grounds for denial of a subdivision, or part thereof, until such time as those matters are resolved.

F. Applications must show adequate vehicle, pedestrian, and bicycle access via public roads meeting Town standards. Connectivity to adjacent streets, sidewalks, trails, schools, commercial areas, or areas designated in Advisory Documents must be shown. All streets must be configured to provide adequate emergency vehicle access.

G. Applications shall demonstrate adequate capacity to handle anticipated storm-water from the subdivision with no net increase in discharge as compared to pre-development conditions.

H. The application will be reviewed for consistency with applicable Advisory Documents and Town standards (e.g. engineering standards).

I. Curbs, gutters, sidewalks, paved streets, street lighting, street signs, and fire hydrants must be installed on all streets within a subdivision. Where appropriate, the Town may allow sidewalks on only one side of a public street.

J. Applications must show adequate screening and buffering between residential areas and adjacent areas having a differing planned uses or zoning designations.

K. Remnant lots which do not comply with minimum lots sizes for the applicable zoning district, or lots which are unbuildable due to topographic or other features, are prohibited, except that they may be dedicated as common elements or open space.

L. Areas of geologic hazard must be excluded from the buildable area of subdivision lots. Where a subdivision is proposed in areas having expansive, hydro-collapsible, or other soil types which may affect building performance, the Town may require plat notes, building requirements, or similar mitigation measures in conjunction with approval.

M. Where an application proposes private streets, common elements, private amenities or open space, the facilities must be maintained by a homeowner association having authority to enforce covenants, conditions & restrictions.

P. Proposed covenants, conditions & restrictions must show that a property owner's association or similar entity will assume title to common elements and have the authority and means to provide for necessary maintenance and upkeep.

Q. Minimum setbacks for primary structures are twenty-four (24) feet from road rights of way and fifteen (15) feet from the sides of all lots.

R. Maximum building height is twenty-six (26) feet measured from the finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height. In addition, dwellings shall not exceed two (2) stories above finished grade level.

S. The Subdivider or an individual lot owner may apply to the Town for a temporary dwelling permit to allow for the placement of a temporary dwelling, not connected to a permanent foundation, for habitation during the period of construction, but not to exceed one (1) calendar year. The temporary dwelling shall be inspected for building code compliance and must have a functioning individual septic disposal system or sewer connection.

T. Minimum finished interior dwelling size shall be not less than eight hundred (800) square feet. Minimum lot size is one-half acre (21,780 square feet).

U. All buildings shall be permanently affixed to a foundation and constructed in compliance with applicable building codes and health codes.

#### **16.02.040 Review Procedures**

A. **Pre-Application.** All applicants shall participate in a pre-application meeting with a designated member of the Planning & Zoning Commission or a Town staff person. The pre-application meeting is intended to identify project elements and issues which may need to be addressed in the review process. Applicants must bring to the Pre-Application meeting those items identified on the Pre-Application Checklist available from Town, if applicable.

B. **Review for Completeness and Sufficiency.** All subdivision applications shall be promptly reviewed for completeness and accuracy by the Town. If an application is found to be incomplete or deficient the Town shall notify the applicant in writing as to the

deficiencies and allow the applicant to submit additional or corrected submittals as needed. Incomplete or deficient applications will not be scheduled for further review.

C. **Site Posting.** The public shall be notified of all applications under this Title by posting of at least one conspicuous and durable sign, with conspicuous text, advising of the pendency of the application and the availability of information Town offices. Signs shall be located adjacent to public streets and rights of ways in a manner which is sufficient to give notice to passers-by.

D. **Minor Subdivision Procedures.** An application for a Minor Subdivision shall be subject to review by the Planning & Zoning Commission as land use authority. Following review the Planning & Zoning Commission may approve the preliminary plat, approve subject to conditions, table the application pending receipt of additional information, or deny the preliminary plat.

1. If all preliminary plat approval conditions and requirements of this Title are deemed satisfied the Planning & Zoning Commission may approve the Final Plat for a Minor Subdivision.

E. **Major Subdivision Procedures.** A preliminary plat for a Major Subdivision shall first be subject to review by the Planning & Zoning Commission and input from the public at a public hearing. Following the public hearing the planning and zoning commission may recommend approval, approval subject to conditions, or denial of the preliminary plat. Alternately, the planning and zoning commission may table the application pending receipt of additional information from the applicant.

1. Following completion of Planning & Zoning Commission review the application shall be reviewed by the Town Council for preliminary feasibility and compliance with this Title. The Town Council, as land use authority, may approve the application, approve subject to conditions, table the application pending receipt of additional information, or deny the application. Approval by the Town Council at this stage shall be deemed Preliminary Plat Approval.

2. If, following Preliminary Plat Approval, the applicant satisfies all approval conditions and the requirements of this Title are deemed satisfied, as verified by Town staff (if applicable), then the Final Plat for a Major Subdivision may submitted to the Town Council for review and approval as the land use authority. At Final Plat review, the Council shall review the application and determine whether all preliminary approval conditions and requirements of this Title have been met.

F. **Recording Deadline.** A final plat for a Major Subdivision or Minor Subdivision must be recorded no later than three hundred sixty-five (365) days from the date of preliminary plat approval. The applicable land use authority, for good cause shown, may extend

that deadline upon a request for extension of time filed by the applicant prior to the expiration of the deadline. In the absence of final plat recording or grant of an extension within three hundred sixty-five (365) days from the date of preliminary plat approval, all land subdivision approvals shall be deemed lapsed and of no further effect.

G. **When a Subdivision Plat is Deemed Granted.** For purposes of this Title, a subdivision plat approved by the applicable land use authority subject to conditions is not deemed granted until the Town certifies in writing that: i) all conditions of approval have been satisfied; ii) all applicable fees have been paid; and iii) all ancillary documents (dedications, Subdivision Improvements Agreements, Financial Assurances, or the like) are executed and delivered to the Town. Satisfaction of all such conditions must occur before a plat may be recorded.

1. A final plat may not be submitted for recording unless it bears the signature of the applicant, any person holding an ownership interest in the subject lands, and the signature of the Mayor of the Town of Bluff. All signatures shall be properly notarized prior to recording.

2. A decision by a land use authority with respect to any land use approval under this Title shall be signed by the Mayor, in the case of the Town Council, or the chairperson of the Planning & Zoning Commission, as applicable.

H. **Concurrent Review.** To the extent possible, where an application under this Title requires other Town approvals, the Town shall attempt to consolidate all such approvals in one proceeding to provide for efficient and timely review. However, nothing in this Title shall be deemed to repeal or abrogate review procedures or criteria in other ordinances.

I. **Condominium Applications.** A condominium application is a subdivision and shall be processed in the same manner as a major or minor subdivision, depending upon the total number of condominium units proposed, exclusive of common areas.

J. **Condominium Conversions.** Persons seeking a Condominium Conversions must submit the required application and filing fee. The Town may require other specific submittals for review, depending upon the needs of the application. The application will first be reviewed by staff, who shall provide a recommendation as to approval, denial, or approval subject to conditions. The planning and zoning commission shall review a condominium conversion as land use authority, and may approve, deny, or approve the application subject to conditions. Alternately, the planning and zoning commission may table an application pending receipt of other or additional information.

1. No public hearing is required for Condominium Conversions. However, the applicant shall demonstrate that it has provided written notice to all tenants or other

occupants of buildings that are the subject of the application. Adversely Affected persons may submit written comments pertaining to the application to the planning and zoning commission.

**16.02.050 Approval Criteria.**

A. The following criteria govern subdivision approval:

1. compliance with applicable state law, Town ordinances, and this Title;
2. availability of necessary utilities, including culinary water, sewer (or septic systems), electricity, natural gas, and the like;
3. consistency of the design with Advisory Documents; and
4. accuracy and truthfulness of submittals or representations in the application.

B. **Discretion to Grant Conditional Approval.** The applicable land use authority has discretion to impose conditions during the review process that include, but are not limited to: i) remedying deficiencies in the application; ii) performance of the design in providing efficient access, vehicle circulation, connectivity, pedestrian/non-motorized vehicle access; iii) buffering of off-site impacts; iv) storm water management and flood damage prevention; v) landscaping, and architectural design; vi) efficient utility design; vii) dedications of land needed for access, infrastructure, open space, common elements, or the like; viii) building restrictions relating to soil conditions, geologic hazards, or slopes; and/or ix) other provisions of Town ordinances or Advisory Documents.

C. **Statement of Reasons in the Event of Denial.** Where an application is denied, the land use authority shall provide a statement of reasons explaining the basis for its denial.

D. **Code Violations; Taxes.** The Town may properly decline to review or approve any application where the property outstanding municipal code or building code violations exist on the site that is the subject of the application. Where such violations exist, the Town may decline further review of the application until such time as all violations are abated and applicable fines or fees paid. The Town may properly decline to review or approve any application where real property taxes or assessments applicable to the property that is the subject of the application are unpaid.

E. **Matrix of Approval Processes.** The following processes apply to approvals under this Title:

Application/ Action	Advisory Body	Land Use Authority	Appeal Body	Required Public Hearing
Minor Subdivision	Staff	Planning & Zoning Commission	District Court	No
Major Subdivision Prelim. Plat	Planning and Zoning Commission	Town Council	District Court	Yes PC
Major Subdivision Final Plat	Staff	Town Council	District Court	No

Major Subdivision is 7 or more lots;  
 Minor Subdivision is no more than 6 lots; and  
 PC means Planning & Zoning Commission.

Amendments to subdivision plats or dedicated rights of way shall be governed by the procedures mandated by Utah law.

**16.02.060 Subdivision Improvements Agreements, Dedications, Warranties**

A. **Subdivision Improvements Agreement.** The Town may require the applicant to deliver a Subdivision Improvements Agreement (SIA), which will specify in detail: the site-specific development plan for the property; the public improvements which must be constructed to serve the development; engineer’s estimates for the cost of required improvements; deadlines for construction and the phasing of development; provisions for a financial assurance and a warranty deposit to secure completion of public improvements; required property dedications; and such other terms as may be specifically required for the development.

B. **Financial Assurance.** The amount of the financial assurance and warranty deposit in the SIA shall be equal to 140% and 10%, respectively, of the approved construction costs, as verified by the Town, its engineer, or other designee. At the election of the Town, the SIA may be recorded in the San Juan County land records and constitutes an encumbrance on the subject real property for the duration of the life of the development authorized under this Chapter. The form of any financial assurance shall be as authorized by the Town Attorney.

1. Where an applicant seeks to record a final plat prior to completion of all required improvements, a Subdivision Improvements Agreement and accompanying financial assurance is mandatory.

C. **Dedications.** The Town may require an applicant to dedicate an interest in land to the Town, in fee simple or an easement, where it is necessary for the siting of public infrastructure, such as public streets, sidewalks, pedestrian paths, or underground utilities made necessary by an application. Additionally, dedications may be required incident to subdivision approval to conform to Advisory Documents. Property dedications will be confirmed by a plat dedication or a separate deed, easement, or bill of sale, in a form acceptable to the Town, which shall be executed by the property owner and recorded. All applicants are encouraged to consider access dedications and connectivity with adjacent parcels during the design process. The dedication of a public street or sidewalk in a recorded plat results in fee simple dedication of the applicable lands to the Town.

D. **Public Improvements Warranted and Delivered free of Liens.** All public improvements installed and dedicated to the City (e.g. culinary water lines, sewer lines, curbing, gutters, roads, hydrants, street lights, and the like) shall be delivered free of liens and encumbrances, and shall be warranted by the applicant to be free of defects in design, materials, and workmanship for a period of one (1) year from the date of acceptance.

E. **Release of SIA.** If the Town determines that the SIA serves no further purpose, as in the case of abandonment or termination of the subdivision, then the SIA may be released via a writing duly executed by the Town and recorded in the land records.

#### **16.02.070 Vacating or Changing a Subdivision Plat; Boundary Line Adjustments.**

A. **Vacating or Amending a Subdivision Plat.** Persons seeking to vacate or amend a subdivision plat must submit the required application and filing fee. At minimum, the application must be accompanied by:

1. amended plat survey drawings showing the proposed change to the subdivision;
2. the existing plat showing conditions prior to the amendment;
3. a narrative explaining the purpose of the application; and
4. names and addresses of all persons: i) having an interest of record in lands within the boundaries of the application; and ii) having an interest of record in lands adjacent to the boundaries of the application.

B. The petition to vacate or amend a subdivision plat or adjust lot boundaries, including any dedicated road or street right-of-way, shall be reviewed in conformity with the procedures mandated by Utah law.

### **16.02.080 Enforcement**

A. It is unlawful for any person to convey or sell any lot which has not been legally subdivided.

B. It is unlawful for any person to convey or sell lots which have not been constructed in compliance with the provisions of this Chapter or applicable subdivision development approvals.

C. In the event of any violation of this Title, applicable terms or conditions of approval, or any terms of the SIA the Town may:

1. Retain or withhold any financial assurance or warranty deposit in the SIA;
2. Withhold building permits, certificates of occupancy, or certificates of zoning compliance;
3. Obtain an injunction to halt or abate zoning violations or violations of this Title;
4. Record an affidavit of a Lapse Subdivision Plat in whole or in part;
5. Commence an action for damages—including damages for costs incurred in completing, repairing, or replacing required improvements or abating any violations; and/or
6. Any other remedies available at law or equity, including the remedy of specific performance. The City may combine remedies in its discretion and pursue some or all at different times, as may fit the circumstances.

C. Prior to recording an Affidavit of Lapse of Subdivision Plat the Town shall provide notice to the Subdivider identifying the breach or violations and allow that person a reasonable period of time, but not less than thirty (30) days in which to cure or abate the violation(s). The recording of an Affidavit of Lapse of Subdivision Plat by the Town shall result in the termination of all prior land use approvals and the voiding of the subdivision of the subject property.

D. To obtain injunctive relief the Town need only prove a violation of this Title or the conditions of approval; it shall not be required to post a bond as a condition for obtaining injunctive relief.

### **16.020.090 Appeals**

A. **Appeals.** Any person adversely affected by a final decision under this Title may file an appeal of that decision with the San Juan County District Court.

B. **Judicial Appeals.** Judicial Appeals shall be a review of the record that was submitted to the applicable land use authority. Upon the filing of an appeal the Town shall assemble the record of proceeding and forward same to the court, as applicable,

and the parties. If the record is particularly voluminous, the Town may require the appellant to pay in advance the reasonable costs of assembly and copying of the record.

C. **Standard of Review.** In any judicial appeal the matter shall be reviewed based on the record before the applicable decision maker. The decision shall be affirmed unless it is found to be arbitrary, capricious, or illegal. The appealing party has the burden of proof. To preserve an issue for judicial review, the appealing party must first have exhausted its administrative remedies by presenting any claimed point of error to the attention of the decision maker prior to seeking appellate review.

1. If any provision of this Title shall be found to be unlawful or invalid, it shall be stricken or reformed so as to comply with applicable law, and the remainder of this Title shall be enforced regardless of any such provision.

D. **Time for Judicial Review.** A judicial action seeking review of a decision of the land use authority must be commenced no later than thirty (30) days from the date of the final written decision or order. Untimely appeals are subject to dismissal with prejudice.

THIS ORDINANCE was approved by the affirmative vote of a majority of the Town Council of the Town of Bluff this \_\_\_\_ day of \_\_\_\_\_, 2019. This ordinance shall take effect immediately upon passage.

By: \_\_\_\_\_  
Mayor Ann Leppanen

\_\_\_\_\_  
Date

Attest:

By: \_\_\_\_\_  
Recorder

\_\_\_\_\_  
Date

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