

# Subdivision Ordinance Amendment

## Limited Residential Subdivisions



Draft October 3, 2023

**SECTION 1.** Add the following definitions to Section 14-1-4 of the Ogden Municipal

Code:

<u>BUSINESS DAY:</u>	<u>A day other than Saturday, Sunday, or city designated holiday.</u>
<u>COMPLETE APPLICATION:</u>	<u>A land use application under this title, accompanied by required checklist information and associated fees, filled out by an applicant, and where the authorized city officials have reviewed the submitted information and deemed it complete.</u>
<u>DECISION MAKER:</u>	<u>The official, board, commission, or other body empowered to render a decision on a particular matter under this title.</u>
<u>ENGINEERING TECHNICAL APPEAL PANEL:</u>	<u>A panel of expert engineers assembled by the city engineer to consider appeals of decisions involving technical aspects of the engineering standards and specifications.</u>
<u>LIMITED RESIDENTIAL SUBDIVISION:</u>	<u>A subdivision of land that the applicant indicates on the application is intended to be occupied by two or more single-family, two-family/duplex, or single-family row house dwellings and is located on land that is zoned to allow such use.</u>
<u>PRELIMINARY SUBDIVISION PLAN:</u>	<u>The maps and other documents showing the proposed layout of lots, streets, easements, existing topography, and other required information for land use review of a proposed subdivision. It excludes the final plat intended to be recorded after approval.</u>
<u>SUBDIVISION IMPROVEMENT PLANS:</u>	<u>The civil engineering plans associated with required infrastructure and city controlled utilities required for a subdivision.</u>

**SECTION 2. Section amended.** Section 14-1-10 of the Ogden Municipal Code is

amended to read as follows:

**14-1-10: APPEALS:**

~~Any person adversely affected by a final written decision of the mayor pursuant to the provisions of this title may file a petition for review of the decision with the district court within thirty (30) days after the mayor's decision is final.~~

A. Appeal To Board Of Zoning Adjustment: Any person adversely affected by a final decision of a decision maker in administering or interpreting of the subdivision ordinance may appeal the decision to the board of zoning adjustment. The appellant shall file the appeal within thirty (30) days after issuance of any final written decision.

B. Appeal to Engineering Technical Appeal Panel:

1. Where Utah law requires assembling of an engineering technical appeal panel to resolve disputes, that process shall apply in lieu of an appeal to the board of zoning adjustment.

2. The panel shall operate in accordance with the provisions of Utah law.

3. The city engineer shall assemble the panel as prescribed in Utah law.

4. The decision of the engineering technical appeal panel shall be final. An aggrieved party may file a petition for review of the decision with the district court within thirty (30) days after the date of the technical appeal panel's final written decision.

**SECTION 3. Chapter retitled.** The title of chapter 2 of title 14 of the Ogden Municipal Code is hereby changed from "Plans Required" to "Subdivision Review Procedure".

**SECTION 4. Section amended.** Section 14-2-1 of the Ogden Municipal Code is amended to read as follows:

**14-2-1: GENERAL PROCEDURE:**

The following procedures apply to applications for subdivisions except as modified under chapter 4, Small Subdivisions, chapter 5, Private Subdivisions, and chapter 6, Condominium Approval Procedure, of this title.

A. Steps Of Approval: Before any land is ~~subdivided~~ subdivided, the owner of the property proposed to be subdivided, or the owner's authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which includes ~~three (3)~~ four (4) principal steps:

1. Concept plan review (~~optional, except~~ for property within the sensitive area overlay zone)

2. Preliminary ~~plat subdivision plan~~ review

3. Subdivision improvement plan review

~~3-4.~~ Final plat review

B. Coordination Of Flexible Zoning Application With Subdivision Approval:

1. It is the intent of these regulations that subdivision review be carried out ~~simultaneously~~ in coordination with the review of flexible zoning applications under the zoning ordinance. The plans required for flexible zoning applications shall be submitted in a form to satisfy the requirements of the subdivision regulations.

2. Whenever the zoning ordinance authorizes flexible zoning applications which permit uses of land and density of buildings and structures different from those which are allowed as of right with the zoning district in which the land is situated, and the application entails the subdivision or resubdivision of land, subdivision approval shall be required in addition to all other procedures and approvals required in the zoning ordinance, whether or not applicable zoning procedures also require subdivision approval, or planning commission review or recommendation. Flexible zoning application shall include, but not be limited to, all conditional use permits and conditional uses, planned residential unit developments, group dwellings, cluster subdivisions, variances, and residential infill development.

3. Whenever a flexible zoning application is submitted which involves a subdivision or resubdivision of land, the application shall include all applications and information required for a preliminary ~~plat subdivision plan~~ application as set forth in section 14-2-5 of this chapter. ~~If the flexible zoning application is subject to the review or recommendation of the planning commission, the planning commission shall review the flexible zoning application concurrently with the review of the submitted plat.~~ If the subdivision application is for a limited residential subdivision, the applicant shall first receive approval of the flexible zoning application prior to the subdivision preliminary plan application being considered complete. For all other subdivisions, the planning commission shall consider the subdivision preliminary plan concurrently with or subsequent to the flexible subdivision application.

4. No building permits or certificates of occupancy shall be issued for the project until the zoning application has been finally approved and the final plat is recorded in the Weber County Recorder's office, except that a developer may be issued building permits or certificates of occupancy for a flexible zoning application without filing of the final plat, if:

- a. The development has received preliminary ~~plat~~subdivision plan approval;
- b. The development would constitute an allowable use under the zoning ordinances of Ogden City, Utah, without recording of the final plat;
- c. The development is constructed in a manner consistent with the preliminary ~~plat~~subdivision plan approval;
- d. No public dedications of land, easements, public improvements, or parks are required under the preliminary ~~plat~~subdivision plan; and
- e. The developer is willing to proceed at his/her risk that the final plat may not be approved.

5. A flexible zoning development which did not entail the subdivision or resubdivision of land in its original application, may be subsequently subdivided or resubdivided for purposes of sale after the project plan has been finally approved and development completed or partially completed; provided that the planning commission shall approve the subdivision only if an amended zoning application also is approved for the flexible development plan.

**SECTION 5.** Section amended. Section 14-2-2 of the Ogden Municipal Code is amended to read as follows:

#### **14-2-2 PREAPPLICATION MEETING:**

~~Before preparing a concept plan, or if no concept plan is prepared, before preparing a preliminary plat, Prior to submitting a preliminary subdivision plan application,~~ the applicant may schedule an appointment and meet with the manager, or the manager's designee, to discuss the procedure for approval of subdivision plats and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services. ~~The manager, or the manager's designee, shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.~~ The manager may also request that other members of the development review team be present at such meeting to provide early assistance to the applicant.

**SECTION 6.** Section repealed. Section 14-2-3 of the Ogden Municipal Code is repealed.

**~~14-2-3: OPTIONAL CONCEPT PLAN REVIEW:~~**

~~Prior to submitting an application for preliminary plat approval, the owner of land or a prospective purchaser of the land may request the manager, or the manager's designee, to review a concept plan for the subdivision of such land. The purpose of a concept plan review is to assist the applicant in determining the general feasibility of the proposed subdivision prior to proceeding with an application for preliminary plat approval, and to discuss whether the plan, with or without revisions, can comply with minimum requirements for the subdivision of land, considering the proposed lot configuration, street layout, and the general availability of culinary water, sanitary sewer and storm sewer facilities in the vicinity of the subject property. The manager shall coordinate review of the concept plan with the city engineer, and any other members of the development review team who may assist the applicant in assessing the viability of the proposed subdivision.~~

**SECTION 7.** Section amended. Section 14-2-5 of the Ogden Municipal Code is amended to read as follows:

**14-2-5: PRELIMINARY PLATS SUBDIVISION PLANS:**

A. Application Requirements: Prior to subdividing land, the owner of the land, the owner's authorized representative, or a prospective owner of the land, shall file an application for approval of a preliminary ~~plat~~ subdivision plan with the department. The application shall:

1. Be made on forms available at the offices of the department, together with the required fees, which forms shall include checklists of items to be submitted and at a minimum require the applicant to provide the name, address, email address, and telephone number of:

- a. The property owner, or the owner's authorized representative;
- b. The subdivider, if different from the ~~existing owner of record~~ property owner;
- c. The engineer and/or surveyor of the subdivision;
- d. The designated contact person, ~~in addition to the contact person's fax number and e-mail address.~~

2. Include one current copy of the Weber County ownership plats depicting the property proposed for subdivision ~~and all contiguous holdings of the owner of the subject property including land in "common ownership" as defined in these regulations.~~

3. ~~A~~ Include a recent, preliminary title report covering the subject property, which identifies ownership, easements of record, liens or other encumbrances, and verifies payment

of taxes and assessments. The manager may waive the title report requirement for property owned by the city or the Ogden City redevelopment agency, ~~if the city attorney~~ if the manager determines that information to be derived from a title report is otherwise available to the city.

4. ~~Be accompanied by a minimum of twelve (12) copies of a preliminary plat~~ Include a preliminary subdivision plan meeting the requirements described in subsection B of this section.

5. ~~An "initial public improvement plan",~~ Include an initial public improvement plan as defined herein.

6. ~~A~~ Include a soils and geotechnical report identifying allowable soil bearing pressure, lateral earth pressure, lateral pressure due to seismic forces, liquefaction, seismic design category/site class, proximity to fault lines, extent of existing fill materials, and ground water level conditions of the buildable areas proposed to be subdivided shall be submitted as part of the preliminary subdivision review. The soils report shall be prepared by a registered soils engineer. In the event the soils report determines unusual conditions requiring additional development restrictions on what otherwise appears to be a buildable lot, then such information shall be noted on the final plat in order to provide notice to subsequent owners. The manager may waive the requirement for a soils and geotechnical report for property already developed and constructed upon.

7. Include all documents in electronic portable document format (PDF) or other electronic format deemed accessible by the manager.

B. Requirements Of A Preliminary Plat Subdivision Plan: The preliminary ~~plat subdivision plan~~ shall be drawn to a scale not smaller ~~than one hundred feet to the inch (100' = 1")~~, one inch to one hundred feet (1" : 100') and shall show:

1. A name of the subdivision that is distinct from any plat already recorded in the county recorder's office;

2. All land ~~which that~~ the applicant proposes to subdivide and all land immediately adjacent extending one hundred feet (100') from the subject property, or of that directly opposite the subject property, extending one hundred feet (100') from the street frontage of opposite land, with the names of owners immediately adjoining the subject property, as shown on the ownership plat maps maintained in the records of the Weber County recorder's office. This information may be shown on a separate current ownership plat map reproduction from the Weber County recorder's office showing the proposed subdivision superimposed on such plat maps;

3. If the property proposed to be subdivided is part of a larger tract or is part of a larger undeveloped area, a sketch of the proposed future street system of the unplanned parts shall

be submitted, and the proposed street system of the part submitted shall be considered in the light of adjustments and connections with the future street system of the larger area;

4. Sufficient information to locate accurately the property shown on the plat;

5. ~~Contours of the site at intervals of a maximum of five feet (5') for property without grades exceeding thirty percent (30%), or at intervals of a maximum of ten feet (10') for property within the sensitive area overlay zone or for property with grades exceeding thirty percent (30%);~~ two feet (2') intervals. The plan shall also indicate areas with slopes in the ten to twenty percent (10% to 20%) category, twenty to thirty percent (20% to 30%) category and those over thirty percent (30%).

6. The boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

7. The location, widths and other dimensions of all existing or platted streets and other important features of the subject property which may affect development, including, but not limited to, easements of record including every existing right of way and easement grants of record for underground facilities, as defined in section 54-8a-2 Utah Code Annotated and for other utility facilities, railroad lines, watercourses, floodplains, exceptional topography and buildings within the tract or within one hundred feet (100') of the tract to be subdivided;

8. The location and size of existing sanitary sewers, storm drains, water supply mains and culverts within the subject property or within one hundred feet (100') thereof;

9. The location, lengths, widths and other dimensions of proposed blocks, streets, alleys, easements, lots, units, and common areas;

10. Proposed special features, such as detention basins, shared access areas, parks;

11. North point, scale and date of preparation;

12. The names of the subdivider, and the engineer or surveyor of the subdivision.

C. ~~Review;~~ Notice Initial Review:

1. After receiving an application for preliminary plat approval-subdivision plan review, the manager shall determine whether the application is complete or not. If the manager finds the application is not complete, the manager shall inform the applicant in writing of the missing items. The application shall not be reviewed until the application is complete.

2. Once the manager finds the application is complete, the manager shall distribute copies of the plans to the following officials and reviewing agencies for the information and recommendation of such officials, divisions and agencies: the city engineer, building services division, the water utility, the operations division, the fire department, the police department, and the city attorney; the Ogden City School District and the U.S. postal service; each company or agency furnishing culinary water, sanitary sewer or storm sewer, if such services are proposed to be provided by other than the city; each company or agency furnishing electric, gas, telephone, cable services, or secondary water.

3. The manager shall consider all comments received, complete an initial review of the subdivision preliminary plan, and provide comments and corrections to the applicant. In the case of limited residential subdivisions in areas that do not contain geologic hazards, such review shall be completed and provided to the applicant within fifteen (15) business days of the date the application was complete.

~~2- 4. If after the initial review the manager determines that the application is complete and ready for review, and no major changes are required to be made to the submittal, the manager shall schedule the proposed subdivision for the next regularly scheduled planning commission meeting. Notice of the public meeting giving the date, time and location of the meeting and opportunity to comment on the proposal shall be mailed not less than seven (7) days before the public meeting to:~~

~~a. Each owner of property located within three hundred feet (300') of the subject property, addressed to the owner's mailing address appearing on the rolls of the Weber County assessor;~~

~~b. Each municipality whose boundaries are within one mile of the subject property;~~

~~c. The county, if unincorporated territory is within one mile of the subject property;~~

~~d. The owners of record of all parcels in the proposed subdivision; and~~

~~e. Each affected entity. for review as described in subsection D.~~

~~3- 5. If the manager determines revisions are required to be made to the proposed preliminary plat subdivision plan in order to meet minimum requirements and criteria for plat preliminary subdivision plan approval, and if such revisions may result in major changes to the proposed preliminary plat subdivision plan, the subdivider shall make such changes prior to the preliminary plat subdivision plan being scheduled for review of the planning commission by the decision maker.~~



~~D. Planning Commission Review And Decision: After the planning commission has reviewed the preliminary plat, the initial public improvement plans, the report of the department (including comments and recommendations from other members of the development review team), and any comments or exhibits submitted at the meeting, the planning commission may approve, conditionally approve, or disapprove the preliminary plat only if it does not conform to the land use ordinances. Public Meeting:~~

1. For all preliminary subdivision plans other than small subdivisions, the planning commission shall first review the application at a public meeting.

2. Notice of the public meeting giving the date, time and location of the public meeting and opportunity to comment on the proposal shall be mailed not less than seven (7) days before the public meeting to each owner of property located within three hundred feet (300') of the subject property, addressed to the owner's mailing address appearing on the rolls of the Weber County assessor.

~~E. Standards For Preliminary Plat Approval: No preliminary plat of a proposed subdivision shall be approved by the planning commission or the mayor unless the applicant proves by clear and convincing evidence that: Criteria For Preliminary Subdivision Plan Review: After the planning commission has reviewed the preliminary subdivision plan, the initial public improvement plans, the report of the department, including comments and recommendations from other members of the development review team, and any comments or exhibits submitted at the public meeting, the planning commission may approve, conditionally approve, or disapprove the preliminary subdivision plan based on the following criteria:~~

1. The culinary water authority approves that the water supply system is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

2. The sanitary sewer authority approves that the system is adequate to handle the demands and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;

3. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider, ~~and that the proposed uses of these areas are compatible with such conditions; and the plan includes measures to protect public health, safety, and welfare from these hazards consistent with professional best practices and adopted standards.~~

4. The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking municipal services between developed parcels, or would otherwise detract from the orderly extension of city utilities and the city's ability to serve other properties in the area; and

~~5. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.~~

5. The layout of lots, streets, easements, and other elements of the preliminary subdivision plan meets the standards in the land use ordinances.

6. The initial public improvement plan meets the requirements of the engineering standards and specifications.

7. The preliminary subdivision plan provides for streets, utilities, or other improvements identified in the general plan.

8. Development requirements and conditions have a rational nexus to and are roughly proportional to the impacts of the project. If necessary, proportionality is achieved through the best available balance of project phasing, modification of or reduction in project scope, inclusion of improvements in capital improvement or other programs, reduction of requirements, or project denial until improvements are in place.

~~The planning commission is authorized to disapprove the preliminary plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the general plan, if the proposed plat does not meet the requirements of this section and the requirements of this title.~~

F. Phasing: The division of a ~~preliminary plat proposed subdivision~~ into two (2) or more sections for purposes of recording separate final plats must be approved by the planning commission as part of ~~preliminary plat subdivision plan~~ approval. If the subdivider plans to ~~divide the preliminary plat for recording purposes, it~~ record the subdivision in phases, the subdivider must submit a phasing plan describing each phase, the order of phasing and the projected timing for the recording and development of each phase. The planning commission may impose such conditions upon the filing of the sections as it may deem necessary ~~to assure the orderly development of the preliminary plat.~~ to ensure that each section may function independently of any future phase.

~~G. Submission To Mayor: After a preliminary plat is approved by the planning commission, the proposed plat shall be submitted to the mayor for preliminary approval, including the preliminary approval of all proposed public dedications of land, easements, subdivision improvements or parks, or to consider any other matters requiring approval of the mayor under the provisions of this title. If the mayor approves the preliminary plat as recommended by the planning commission, the developer shall proceed in accordance with approval granted by the planning commission. If the mayor imposes additional conditions which do not involve major changes to the plat as approved by the planning commission, such conditions shall merely be added to the conditions imposed by the planning commission. If conditions imposed under the mayor's preliminary approval require other major changes to the preliminary plat, as approved by the planning commission, the mayor shall refer the preliminary plat back to the planning commission for further consideration and recommendation. The Planning Manager may require that any such major changes to the proposed preliminary plat be made to the preliminary plat prior to the preliminary plat being scheduled for review by the planning commission.~~

~~H. Copy Of Mayor's Approval: The mayor's approval and any conditions thereof shall be reduced to writing and signed by the mayor. A copy of such decision shall be provided to the subdivider as authorization for the subdivider to proceed with the preparation of subdivision improvement plans and with the preparation of the final plat.~~

~~I. Approval Not Acceptance: Approval of the preliminary plat by the planning commission and the mayor shall not constitute final acceptance of the subdivision by the mayor. Approval of the preliminary plat by the planning commission shall constitute a recommendation to the mayor for approval of the final plat, if the final plat conforms in all respects to the preliminary plat approval and the requirements of this title for final plat approval.~~

~~J. G. Amendments To Preliminary Plats Approved Preliminary Subdivision Plans: At any time after preliminary subdivision plan approval and before submission of a final plat, the applicant may request that an amendment be made in the approval or conditional approval of the preliminary plat-subdivision plan.~~

~~1. Minor Amendments: The manager may agree to approve proposed amendments that are deemed to be the manager determines are minor. Minor amendments include changes that do not increase the number of lots, do not make substantive changes in traffic impacts or patterns, do not increase impacts on abutting properties, and do not make substantive changes the public facilities proposed.~~

~~2. Major Amendments: If the proposed amendment is a major change, the proposed amendment must shall be reviewed and approved by the planning commission and the mayor. Consideration of the amendment shall be limited to whether the proposed amendment should or should not be approved, together with any conditions or issues reasonably related to such~~

~~amendment. The mayor, after receiving the recommendations of the planning commission, shall approve or disapprove the proposed amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment. If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the mayor, the applicant may withdraw the proposed amendment and proceed with the original approval. following the same procedure as used for the original preliminary subdivision plan.~~

3. Criteria: The criteria for review of a preliminary subdivision plan amendment are the same as for the preliminary subdivision plan.

4. Limitation On Number Of Amendments: An applicant may not propose more than two (2) amendments, whether minor or major, to any preliminary ~~plat.~~ subdivision plan.

~~-K.H. Effective Period Of Preliminary Plat Subdivision Plan Approval: Approval of the preliminary plat by the planning commission~~ subdivision plan shall be valid for a maximum period of eighteen (18) months from the date of a complete submittal for preliminary subdivision plan review. Within this time frame the applicant shall also receive ~~final~~ approval of the final plat and record it with the county ~~recorders~~ recorder's office.

1. If the final plat has not been recorded within the eighteen (18) month time frame, a six (6) month extension may be granted by the planning manager provided there are no changes made to the preliminary approval and there have been no changes to zoning or subdivision regulations which may alter the requirements of the preliminary approval.

2. Preliminary ~~plat~~ subdivision plan approval of a large tract approved to be subdivided in phases shall not be void if the final plat of the first phase was recorded within the eighteen (18) month period. After recording of the first phase of a ~~preliminary plat~~ subdivision with an approved phasing plan, the preliminary ~~plat~~ subdivision plan approval shall be valid for a maximum period of seven (7) years from the recording of the first phase.

~~-L.L. Construction Of Public Improvements; Public Improvement Plans~~ Subdivision Improvement Plan Review: Prior to submittal of a final plat, the construction of any public improvements ~~and prior , and~~ to the submission of any financial guarantee:

1. The subdivider shall furnish to the city engineer all public improvement plans and any related information and data necessary for review and approval of such plans; ~~and.~~

2. The public improvement plans shall be examined and approved by the city engineer when the city engineer finds the plans meet engineering standards and specifications and all conditions of preliminary plan approval.

3. If after the fourth review cycle, as defined and required in Utah law, the decision maker finds that the plans submitted do not meet ordinance requirements, standards and specifications, and all conditions of preliminary subdivision plan approval, the preliminary subdivision plan shall be denied.

~~M.J.~~ Construction Of Buildings: No construction of buildings requiring a subdivision shall be begun on the subject property until after recording of the final plat.

**SECTION 8.** Section amended. Section 15-5-1 of the Ogden Municipal Code is amended to read as follows:

A. The board of zoning adjustment shall have the power to hear and decide:

1. Appeals from zoning decisions applying the zoning ordinance or decisions applying the subdivision ordinance, as provided in Utah Code Annotated ~~section 10-9a-704~~title 10, chapter 9a, part 7, as amended;

2. Special exceptions to the terms of the zoning ordinance, when such authority is specifically granted by other provisions of this chapter or of this title; and

3. Variances from the term of the zoning ordinance, as provided in Utah Code Annotated section 10-9a-707, as amended, or its successor provision, except where the zoning ordinance gives express authority to grant a variance to another person or body.