



TOWN OF PORTAGE - LAND USE ORDINANCES

116.0 SUBDIVISION ORDINANCE

116.1 Purpose

This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals and general welfare of present and future inhabitants of Portage, Utah. This Ordinance is also enacted to provide for the efficient and orderly growth of the Town while providing standards for the physical development of subdivisions of land and construction of improvements within the town. This Ordinance will also establish an efficient method for reviewing subdivision applications and to otherwise strive to comply with Utah Code (Notably Sec. 10-9a-6).

116.2 Effect

This Ordinance applies to all applications or petitions to subdivide land in the Town, regardless of the intended use (Commercial, residential, etc.). The requirements of this Ordinance do not apply retroactively to subdivision applications or petitions that were approved by the Town prior to the enactment of this ordinance.

116.3 Approved and Recorded Documents Required

1. No Land shall be subdivided which is located wholly or in part in the Town, except in compliance with this Ordinance and Utah Code as adopted and amended.
2. A subdivision of land is not valid unless its governing document is approved by the Land Use Authority and property recorded in the County Recorder's Office.

116.4 Penalty for Non Compliance

Any person, group, firm or corporation, whether a principal agent, employee or otherwise, violating, causing, or permitting the violations of the provisions of this Ordinance, namely the selling or transferring of land in a subdivision without an approved and recorded plat, shall be guilty of a misdemeanor. Such Person, group, firm or organization shall be deemed to be guilty of a separate offense for each day during which any portion of any violation of this Ordinance is permitted or continued by such person, group, firm or corporation.

In addition, the Town of Portage by action of the Town Council may also initiate injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful use.

116.5 Interpretation and Conflict of Laws

Where any provisions in this Ordinance conflicts with state law, state law shall prevail. Where any provision in this Ordinance conflicts with other ordinances enacted by the Town, the provisions in this Ordinance shall prevail unless the Town intended such conflicting ordinances not in this Ordinance to amend this Ordinance



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116.6 Definitions

The following words and phrases, as used in this Ordinance, have the following meanings. Words not included herein but defined elsewhere within other Ordinances shall be construed as termed therein.

Whenever any words or phrases in this ordinance are not defined herein, the most common usage of such word or phrase shall be deemed to apply.

1. **Affected Entities** - Is an entity, county, municipality, local district, or special service district that provides a service to an owner of record of the portion of the plat that is being vacated or amended.
2. **Association** - A corporation or other legal entity, any member of which:
 - a. Is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and
 - b. By virtue of membership or ownership of a residential lot is obligated to pay:
 - (1) Real property taxes;
 - (2) Insurance premiums;
 - (3) Maintenance costs; or
 - (4) For improvement of real property not owned by the member.
3. **Common Area** - property that the association:
 - a. Owns;
 - b. Maintains;
 - c. Repairs; or
 - d. Administers.
4. **Completion Assurance** - A surety bond, or other equivalent security required by the Town to guarantee the proper completion of landscaping or an infrastructure improvement required as a condition precedent to recording a subdivision plat.
5. **Declarant** - all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the person referred to in this subdivision who come to stand in the same relation to the condominium project as their predecessors also come within this definition.
6. **Declaration** - Instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.



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7. **Facility Owner** - An individual, entity, mutual water company, or unincorporated organization:
 - a. Operating a water conveyance facility;
 - b. Owning any interest in a water conveyance facility; or
 - c. Having a property interest in real property based on the presence of the water conveyance facility located and operating on the real property.
8. **Improvement Plan** - The civil engineering plan to complete permanent infrastructure and municipality controlled utilities 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.
9. **Land Use Application** - The 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
10. **Land Use Authority** - the individual, board, or commission appointed or employed by the Town to make land use decisions. "Land Use Authority" includes any appropriately authorized designees.
11. **Local Health Department** - Means the Bear River Health Department
12. **Period of Administrative Control** - The period of control described in Sec. 57-8-16(1) of Utah State Code.
13. **Plat** - An instrument for 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 Sec. 10-9a-603 or Sec.57-8-13 of Utah State Code (as amended).
14. **Public Landscaping Improvement** - Landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:
 - a. Will be dedicated to and maintained by the Town; or
 - b. Are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.
15. **Review Cycle** - the occurrence of:
 - a. The applicant's submittal of a complete subdivision land use application
 - b. The Town's review of that subdivision land use application;
 - c. The Town's response to that subdivision land use application; and



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- d. The applicant's reply to the Town's response that addresses each of the Town's required modifications or requests for additional information.

16. State Engineer's Inventory of Canals - the state engineer's inventory of water conveyance systems established in Sec. 73-5-7 of Utah State Code.

17. Subdivision - Any land which is divided, subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions.

- a. Subdivision includes:

- (1) 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
- (1) 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.

- b. Subdivision does not include:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) A boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with §10-9a-524 and §10-9a-608 of Utah State Code (as amended) if no new dwelling lot or housing unit will result from the adjustment and the adjustment will not violate any applicable land use ordinance;
- (5) A bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division is in anticipation of future land use approvals on the parcel or parcels does not confer any land use approvals, and has not been approved by the land use authority;



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- (6) A parcel boundary adjustment;
- (7) A lot line adjustment;
- (8) A joining of one or more lots to a parcel;
- (9) A road, street, or highway dedication plat;
- (10) A deed or easement for a road, street, or highway purpose; or
- (11) Any other division of land authorized by law.

18. Subdivision Ordinance Review - A review by the Town to verify that the subdivision land use application meets the criteria of the Town's subdivision ordinances.

19. Subdivision Plan Review - A review of the Applicant's subdivision improvement plans and other aspects of the subdivision land use application to verify that the application complies with Town ordinances and applicable standards and specifications.

20. Underground Facility - Personal property that is buried or placed below ground level for use in the storage or conveyance of any of the following:

- a. Water;
- b. Sewage;
- c. Communications;
- d. Electric power;
- e. Oil;
- f. Gas;
- g. Steam;
- h. Slurry; or
- i. Other dangerous materials or products.

21. 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.



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116.7 Subdivision Land Use Authority.

1. The Land Use Authority for applications under this Ordinance is the Planning Commission. For purposes of subdivision applications, the Planning Commission shall be responsible for the following but may delegate any responsibility to Town staff.
 - a. Rendering land use decisions related to subdivision applications.
 - b. Reviewing applications in an impartial manner and according to the standards and deadlines described in this Ordinance.
 - c. Holding a public hearing for subdivision applications (when needed).
 - d. Providing feedback to applicants on their subdivision applications.
 - e. Scheduling and holding a pre-application meeting with potential applicants (when requested).
 - f. Keeping 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.
 - g. Providing notice to entities and parties as required by this Section. This task is delegated to Town staff by default.
 - h. Ensuring that documents are properly recorded with the County after final approval as required by this Section. This task is delegated to Town staff by default.
2. As subdivision application decisions are administrative, not legislative, the Planning Commission is authorized to make any land use decision described by this Ordinance without Town Council Approval.
3. The Town Council shall not require the Planning Commission to approve or deny any subdivision application under this Ordinance.

116.8 Subdivision Appeals

1. The Appeal Authority for Town Decisions (through the Planning Commission) relating to this Ordinance (e.g., approval or denial of a subdivision application), except where otherwise noted, is the Board of Adjustment.
2. The Board of Adjustment shall hear appeals on final decisions made by the Land Use Authorities and shall hear complaints about the conduct of the Land Use Authorities in administering the provisions of this Ordinance.
3. Subdivision Appeals shall follow the process laid out in Section 113.0 of Portage Town Ordinances.