

# DEVELOPMENT AND SUBDIVISION

## **10-100: SUBDIVISION PLATS REQUIRED.**

- (1) From the effective date of this Code, no person shall subdivide any tract of land which is located wholly or in part within the limits of Newton Town, nor shall any person sell, exchange or offer for sale or purchase or offer to purchase any parcel of land which is divided into three (3) or more parcels of land within Newton Town, nor shall any person offer for recording any deed conveying such a parcel of land or any interest therein, unless he shall first make or cause to be made a final plat thereof, which plat shall conform to all requirements of this TITLE and shall have been approved by the Planning Commission and Town Council and recorded in the office of the Cache County Recorder.
- (2) Any parcel of land, divided into three (3) or more parcels of land within a 5 year Period of time, shall be governed by this Chapter. Subdivision of 1 or 2 lots may not require a public hearing. An applicant may subdivide property by metes and bounds. A plat should show all proposed lots or parcels front a dedicated public street and comply with the applicable zone standards. This process should be completed in the following manner.
  - 1) An applicant shall submit an application to the Planning & Zoning Administrator for a simple lot subdivision that included at a minimum.
    - a. The name of applicant or authorized agent and contact information
    - b. A property address and parcel number
    - c. The address for the subdivision
    - d. The metes and bounds description of the property proposed to be split.
    - e. Any other information that may be requested by the Planning and Zoning Administrator.
    - f. The subdivision name.
  - 2) Simple lot subdivision shall not be approved until such time as the applicant provides utility hook-ups to each proposed lot or parcel.
  - 3) Side walks are optional at this time unless the Planning commission requires them to be put in, except major subdivisions may be required by the town to install sidewalks at time of building.
  - 4) The applicant may need approval from the Public Health Department on a simple lot.
- (3) All divisions of land require Compliance with Chapter 10 of this Code before the issuance of a building permit.

## **10-101, SUBDIVIDER TO CONTACT ZONING OFFICER.**

Any person desiring to subdivide land within Newton Town shall secure from the Zoning Officer all necessary information pertaining to Newton Town plan of streets, parks, drainage, zoning and other General Plan requirements affecting the proposed subdivision

#### **10-102: CONCEPT PLAN:**

- (1) Any person or firm wishing to obtain approval to develop any tract of land is required to comply with the following procedure:

Concept Plan. The concept plan shall consist of a simple layout of existing and proposed streets, lots, major buildings (planned residential developments), utilities, drainage channels, and other features including existing utilities, drainage and water courses, including irrigation supply and waste ditches, in relation to the existing and planned streets within one fourth (1/4) mile of the development. The plan may be a pencil sketch, or may be made directly on an aerial photograph. The plan shall be prepared at a scale of not smaller than one (1) inch to four hundred (400) feet.

- (2) After compiling the necessary data the developer shall contact the Planning Commission Secretary and request permission to make a presentation to the Planning Commission concerning plans and objectives of the developer. The Commission and the developer shall discuss the procedures, ordinance requirements and standards as they relate to the proposed development.

**10-103: PLANNING COMMISSION PUBLIC MEETING.** The Planning Commission shall hold a public meeting on the application and recommend its approval, denial, or modification to the Town Council.

#### **10-104: PLANNING COMMISSION APPROVAL OF CONCEPT PLAN.**

- (1) In no way shall the meeting with the Planning Commission be construed to constitute approval of the development. The primary purpose of the concept plan review process is to permit the petitioner 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 if the proposed development is in harmony with the General Plan and this Development Code. This meeting is intended to aid the developer in the preparation of the plans and documents before incurring potentially unnecessary expenses of detailed plan and plan preparation.
- 2) At the conclusion of the concept plan meeting with the Planning Commission if it is determined that a zone change is necessary, an application for the zone change will be by the petitioner together with the fee determined by resolution.
- 3) Upon receiving approval for a zone change, the developer shall submit a preliminary plan application to the Secretary of the Planning Commission. Said preliminary plan application shall be attached to all maps, statements, documents and other information required in this ordinance, along with submitted fee required by resolution.

#### **10-105: PRELIMINARY PLAN REVIEWS.**

- (1) *Developer submits application for preliminary plan review.* The developer shall

submit six (6) copies of the application with all maps, charts, statements, documents and other information required on the preliminary plan application to

the Planning Commission Secretary together with the required fee.

- (2) Consideration of the preliminary plan shall not be placed on the Planning Commission agenda for a given meeting unless the application was submitted no fewer than fourteen (14) days prior to said regularly scheduled meeting. Coincident with placing consideration of the preliminary plan on the Planning Commission agenda written notice of the proposed development shall be mailed to all property owners within three hundred (300) feet of the proposed development. The cost of mailing the notice, along with a reasonable administrative fee as established by motion or Resolution of the Town Council, shall be borne by the developer.
- (3) Town Engineer Review *Preliminary Plans*. At least seven (7) days prior to the Planning commission meeting at which the preliminary plan will be considered, the Town Engineer shall review and return to the Planning Commission the preliminary plans accompanied by recommendations pertaining to corrections, additions, and deletions necessary to bring the same into compliance Newton Town Standards.
- (4) *Planning Commission Reviews and Takes Action On Preliminary Plans*. Following receipt of the Town Engineer's recommendations, the Planning Commission shall review with the developer the report submitted by the Town Engineer. The Commission shall either approve or disapprove the preliminary plan, documents and statements or refer them back to the developer for any of the following reasons
  - (a) The development has been found to be inconsistent with Newton Town General Plan.
  - (b) The Planning Commission requires that certain specific changes be made to the plan in order to bring the plans into compliance with Newton Town standards.
  - (c) The plans or documents and statements are incomplete.
  - (d) Other reasons as indicated on preliminary plan application

#### 10-106: PRELIMINARY PLAN APPROVAL:

- (1) Planning Commission Approval. Preliminary approval of plans and Documents by the Planning Commission shall not constitute approval of the final plan, but shall be deemed as an expression of tentative approval of the layout of the preliminary plan which the developer may use as a guide in preparing the final plan and documents. Final approval shall only be accorded by the Town Council. Following approval of the preliminary plans by the Planning Commission, two (2) copies of the plans shall be submitted for review by the Town Council.
- (2) ACTION OF THE TOWN COUNCIL. The Town Council shall review the preliminary plan and shall approve or disapprove the preliminary plan or refer it back to the Planning commission for further study. Before taking action on the plan, the Town Council may hold an informal public hearing.

Upon approval of the preliminary plan by the Town Council, the developer shall be authorized to prepare and submit the final plan to the Planning commission which shall be in compliance with all procedures, requirements, and standards relating to final approval.

- (3) **LIMITATION OF PRELIMINARY PLAN APPROVAL:** The preliminary plans and documents shall be valid for six (6) months from the date of action by the Town Council. The said time period may be extended for a additional six (6) months upon approval by the Planning Commission and the Town council. Any other extension of time shall be requested in writing and submitted to the Planning Commission no less than thirty-one (31) days prior to the expiration of the preliminary approval period. No construction shall be permitted until final approval has been obtained.

**10-107: FINAL PLAT SUBMITTAL TO PLANNING COMMISSION:**

- (1) After receiving the preliminary plan approval or authorization to proceed the developer shall prepare and submit to the Planning Commission secretary:
- (a) six (6) copies of the final plans.
  - (b) Six (6) copies of the final plat.
  - (c) Three (3) copies of the final documents.
  - (d) Three (3) copies of an itemized estimate of the cost of constructing the required improvements.
- (2) The final plat shall be accompanied by engineering review fee, as provided by resolution by the Town Council plus the actual cost of recording the final plat and documents. In order for the development to be placed on the agenda the application for the final approval with final plans, plat, documents and fees must be submitted to the Planning commission secretary at least (14) days prior to the meeting at which the plans are to be considered.
- (3) Town Engineer Reviews Final Plat. Before the final plat is presented to the Planning Commission for consideration, the Town Engineer shall
- (a) Review the final plans, plats, documents and cost estimate in detail to finally verify compliance with all of the provisions of Town Ordinances and standards and with approved preliminary plans, plats and documents.
  - (b) Communicate with the developer regarding any changes that are required on the final plans, plat, documents and cost estimates to bring the same into compliance with all of the provisions of Town codes and standards and with the preliminary plans, plat and documents.

**10-108: PLANNING COMMISSION APPROVAL OF FINAL PLAT.**

- (1) **Planning Commission Takes Action on Final Plat.** When the plans, plat, documents and cost estimates are complete and have been reviewed by the Town Engineer as required above, the Planning Commission shall approve the final plat after reviewing and ascertaining that:
- (a) The final plans conform with those given preliminary approval.
  - (b) The final plat and documents comply with the requirements and standards relating to the applicable zone.
  - (c) The estimates of cost of constructing the required improvements are realistic.
  - (d) Tax liabilities of the common space (wherever a planned residential development involved the reservation of common open space) have

been determined.

**10-109: TOWN COUNCIL APPROVAL OF FINAL PLAT.**

Following approval by the Planning Commission of the final plans, plat, documents, cost estimates, and tax liabilities of the common open space, where applicable, a copy of the same shall be submitted to the Town Council by the Planning Commission for its final approval. A bond satisfactory in form to the Town Attorney shall be submitted with the final plat and the plat shall be approved as to legal form by the said attorney. The Town Council will review said plans, plat, documents and cost estimates and if found to be consistent with the approved preliminary plan, the Town Council shall grant final approval of said plans, plats, and documents, execute all documents, agreements and the final plat; and accept all public dedications.

**10-110: RECORD OF CONDOMINIUM PLAT.** Each application for condominium shall comply with the provisions of the Condominium Act as set forth in U.C.A. 57-8-10 or any successor statute enacted in its place.

**10-111: OWNERS DUTY TO RECORD PLAT.** The owner(s) of an acknowledged, certified and approved plat shall record the plat in the Cache County Recorder's office. An applicant's failure to record a final plat within one year of Town Council approval shall render the plat void. In such case, the applicant must commence the subdivision process a new.

**10-112: VACATING OR CHANGING A SUBDIVISION PLAT.**

- a. The Town Council by ordinance may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision at a public hearing after receiving a recommendation from the Planning Commission.
- b. If a petition is filed, the Town Council shall hold the public hearing within 45 days after receipt of the planning commission's recommendation under Subsection (c) if:
  - i. the plat change includes the vacation of a public street or alley;
  - ii. any owner within the plat notifies the municipality of their objection in writing within ten days of mailed notification; or
  - iii. a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- c.
  - i. Before the Town Council may consider a proposed vacation, alteration, or amendment under Subsection 1) a. or g., the Town Council shall refer the proposal to the Planning Commission for its recommendation.
  - ii. The Planning Commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it.

- d. Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition the legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.
- e. Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:
  - i the name and address of all owners of record of the land contained in the entire plat;
  - ii. the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
  - iii. the signature of each of these owners who consents to the petition.
- f.
  - i. A petition that lacks the consent of all owners referred to in Subsection (e) may not be scheduled for consideration at a public hearing before the Town Council until the notice required by Subsection B below, is given.
  - ii. The petitioner shall pay the cost of the notice.
- g. Subject to Subsection (2), if the Town Council proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by Subsection (2) below.

10:113: **NOTICE OF HEARING FOR PLAT CHANGE.**

- a. The Town Council shall give notice of the proposed plat change by mailing the notice to each owner of property located within 300 feet of the property that is the subject of the proposed plat change, addressed to the owner's mailing address appearing on the rolls of the Cache County Assessor.
- b. The Town Council shall ensure that the notice includes:
  - i. a statement that anyone objecting to the proposed plat change must file a written objection to the change within ten days of the date of the notice;
  - ii a statement that if no written objections are received by the Newton Town Council within the time limit, no public hearing will be held; and
  - iii the date, place and time when a hearing will be held, if one is required, to consider a vacation, alteration, or amendment without a petition when written objections are received or to consider any petition that does not include the consent of all land owners as required by Subsection 1) above.
- c. If the proposed change involves the vacation, alteration, or amendment of a street, the Newton Town Council shall give notice of the date, place, and time of the hearing by:
  - i. mailing notice as required in Subsection 2) a. above; and
  - ii. publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the Newton Town area.

**10-114: GROUNDS FOR VACATING OR CHANGING A PLAT.** Within 30 days after the public hearing, the Town Council shall consider the petition.

- a. The Town Council may approve a petition to vacate or change a plat if it finds:
  - i. Neither the public nor any person will be materially injured by the proposed vacation, alteration or amendment; and
  - ii. There is good cause for the vacation, alteration or amendment.
- b. The Town Council, by ordinance, may vacate, alter, or amend the plat, any portion of the plat, or any street or lot;
- c. The Town Council may approve the vacation, alteration, or amendment by ordinance, amended plat, administrative order, or deed containing a stamp or mark indicating approval by the Town Council;
- d. The Town Council shall ensure that the vacation, alteration, or amendment is recorded in the office of the Cache County Recorder;
- e. An aggrieved party may appeal the Town Council's decision to the District Court.

**10-115: PERFORMANCE GUARANTEE.**

(1) Before final approval of a subdivision is given by the Town Council a bond conforming to the requirements set forth herein, and in Chapter 11, shall be furnished to the Town.

*Type of Bond.* Every bond required or allowed by this ordinance shall be approved by the Town Attorney as to form and shall be in the form of a cash escrow bond.

(l) The value of the bond shall be one hundred (100) percent of estimated cost of improvements plus a contingency factor of fifteen (15) percent additional or reasonable addition for projected inflation, whichever is the greater.

and loan or mortgage company in the name of Newton Town and shall commit the said parties to faithful performance or in lieu thereof, payment to the Town as set forth in the bond. There shall be a specific

commitment not to release any of the said sums without specific approval of the Town Engineer. The Town Attorney shall have discretion as to such other terms as may be required from time to time to adequately protect the Town and assure final completion of all public improvements.

- (b) *Duration and Terms.* Every bond authorized by this ordinance shall have an express irrevocable term of two (2) years from the date of approval of the final plat of the subdivision to which it applies. 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 Town's declaration of default by the developer.
- (c) *Default.* Two (2) years after the approval of the final plat, the required improvements shall be inspected by the Town Engineer and if found to be in satisfactory condition, the Town Engineer will certify the same to the Town Council. In the event the subdivider is in default or fails, or neglects to satisfactorily install the required utilities and improvements within two (2) years from the date of approval of the final plat by the Town Council, the Town shall declare the bond forfeited and the Town may install or cause the required improvements to be installed, using the proceeds of the bond to defray the expense.

(2) *Preliminary Report of Title.* In pursuant of the normal subdivision process a final vellum or mylar is required of a subdivider on which signatures of numerous persons and agencies appear, and which is subsequently recorded under the authority of the municipality. Upon the said final vellum the owners of the property described thereon dedicate for the public use certain portions of the property such as streets, right-of-ways, and like, and to assure proper formality a preliminary report of title shall be submitted for review by the Town Attorney, Town Council, *and/or* Town Engineer. In addition, the following provisions shall be met by the subdivider:

- (a) No final linen shall be signed or executed in any manner by the Town Council of Newton Town unless there shall have first been presented to the Town Attorney, Town Council *and/or* the Town Engineer a preliminary title report from an authorized agent licensed to issue policies of title insurance in the State of Utah, which preliminary report shall describe the property included within the subdivision.  
The said preliminary report shall set forth with specificity each and every
- (b) owner or interested party in and to the real property contained within the subdivision, according to the usual custom and practice where the preliminary report is made pursuant to the issuance of a policy of title insurance.  
The said preliminary report shall become the property of the municipality and
- (c) shall be filed with the review papers of the subdivision. Upon tentative approval of the final plat by the Town Council, the subdivider shall post a performance guarantee in the form of a cash bond, acceptable to the Town Council, with the Planning Administrator, as required by the Town Code or Resolutions.



**10-116: FINAL ACCEPTANCE:**

Within 24 months after final approval of plans by the Town Council, all required improvements shall be completed by the developer and inspected by the Town Engineer. The Town Engineer shall then certify to the Town Council that all requirements have been completed by the developer at which time the Town Council shall give final acceptance to the subdivision. Bond requirements continue for one (1) year after final acceptance

**10-117 DESIGN AND DOCUMENTATION REQUIREMENTS**

The layout and design of all subdivision and engineering plans and the content of all required documentation shall be in accordance with the minimum Town standards and specifications which are provided for by this Title.

**10-118: IMPROVEMENT REQUIREMENTS**

After the subdivider's final plan has been approved, he shall construct the required improvements under the direction of the Town Engineer as herein specified. The subdivider shall also submit a cash bond or certified check to the Town guaranteeing the quality of the material and workmanship of the improvements. The amount of the bond shall be set by the Town Council upon recommendation from the Town Engineer which recommendation shall be based upon one hundred and ten (110) percent of the estimated cost of the required improvements plus reasonable addition for estimated inflation of costs for the next twenty -four (24) months. Before final acceptance of any subdivision lying within Newton Town shall be approved, the following improvements shall be constructed in accordance with Town specifications and under the inspection of the Town Engineer.

- (1) *Permanent Markers.* All subdivision boundary corners, all points tangent and street intersections shall be definitely marked with metal monuments approved by Town Engineer.
- (2) *Streets.* All streets shall be graded, gravel and hard surfaced in accordance with Newton Town specifications. Traffic regulatory, safety, and street identification signs shall be erected.
- (3) *Water Lines and Fire Hydrants.* In all subdivisions a culinary water supply, water lines, 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 Engineer and shall be based upon fire protection requirements, but in no case shall they have a diameter of less than eight (8) inches. Workmanship and details of construction shall be in accordance with Town specifications and with the State Board of Health requirements.
  - (b) Fire hydrants shall be installed at intervals within the subdivision in such a manner that no lot will be a

distance greater than (330) three hundred thirty feet from the closest hydrant, measured along the streets.

(c) The subdivider shall provide secondary water and a delivery system to each lot or parcel.

(4) *Electricity, Telephone Services and Any Other Utility.* The subdivider shall make electricity, telephone services and any other utility available to each lot in the sub-division area. These improvements shall be complete before the streets are hardsurfaced. Installation shall be approved by the utility company providing the service and the Town Engineer.

(5) *Sewers.* At such time as Newton Town is required or determines to install a sewer system, all property owners including those in approved subdivisions will be required to pay a front 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, in accordance with requirements established by the Town Engineer, so that a minimum of roadway excavation will be required to connect said subdivision to the Town sewer system.

(6) *Natural Gas:* natural gas will be made available to Newton Town, the sub-divider will provide for connection to each lot.

#### 10-119: SUBDIVISION COSTS AND CHARGES.

l) Except as may otherwise be provided in this Chapter, all costs and charges for the development and planning of subdivisions shall be borne and paid by the sub-divider and shall not be paid by the town. Any fees incurred by the Town in excess of set fees shall be Reimbursed to the Town by the Developers before final approval is given

#### 10-120: STANDARDS AND SPECIFICATIONS.

(1) All subdivisions in the Town of Newton shall be subject to the design criteria as set forth by the Cache County Development Committee, hereby adopted for the use in Newton Town by reference, or the Cache County General Plan. These standards shall be strictly followed in the design and construction of all Improvements including asphalt paving utilities, storm drainage, and any other improvements related to the development of a subdivision. All subdivision plans submitted to the Newton Planning Commission for approval will be reviewed by the Town Engineer to determine compliance with these standards. The Town Engineer, building inspector, or other authorized personnel will inspect the installation of improvements to assure compliance to these standards during construction.

(2) If there are any conflicts or inconsistencies between the requirements as set forth in this subdivision code, The General Plan, and the standards set by the .Cache County Development Committee, whichever stringent shall prevail.

#### **10-121: STREET DESIGN.**

- (1) 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 once development of the area has been completed. Insofar as possible, offset streets, and jogs at intersections shall be avoided in order to bring about the best development of the area.
- (2) Street right-of-way .in the Town of Newton must conform to the following specifications:
  - (a) Arterial roads: Not less than ninety-nine (99) feet
  - (b) Local roads: Not less than ninety-nine (99) feet minimum
  - (c) Pedestrian walkways: Not less than four (4) feet
- (3) Grades on streets shall not exceed eight (8) percent.
- (4) Streets shall intersect each other as nearly at right angles as topography and other limiting factors of good design will permit. Every subdivided property shall be served worn a dedicated public street.
- (5) On arterial and collector streets the center line radius and curvature shall not be less than five hundred (500) feet.
- (6) Streets shall not be designed to have one end permanently closed.
- (7) Proposed streets shall bear the number (#), not a name, and any existing street which it is in obvious alignment must have the same number (#).
- (8) Blocks shall not be less than six hundred sixty (660) feet in length.
- (10) Streets shall be hard surfaced.

#### **10-122: LOTS.**

- (1) Insofar as practical side lot lines shall be at right angle to street lines. Each lot shall front on a public street or road that is on the State Highway system or that is dedication to the Town of Newton.
- (2) Lot sizes: Residential lost shall conform to the zoning as established in this Newton Town Zoning Code and the adopted Zoning May.
- (3) Lots which abut, the lots may have the rear yard abutting, without access, on the arterial *street* on two parallel streets shall be avoided, except when one street is an arterial Street
- (4) Lot size measurements will be considered as actual measurements. It is not intended that all lot sizes in an area be of identical size. Lot size denotes the minimum allowable.

**10-123: PUBLIC USE AND SERVICE AREAS.**

- (1) 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 side lot lines.
- (2) 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 Town Engineer.
- (3) All streets within the subdivision must be dedicated to the Town of Newton.
- (4) 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.
- (5) 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 waste water, and provide for the continued supply of irrigation water to downstream users and disposal of wastewater and storm drainage. Written approval by irrigation companies of alterations to irrigation systems within proposed developments shall be submitted by developers to the Town Engineer prior to recording the final plat.
- (6) Dedication of all parks, school grounds, and other public open space within the subdivision will be required in accordance with the General Plan of Newton 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 final approval. It will be the responsibility of the Town Council to determine appropriate location in relation to this subsection.

**10-124: SUITABILITY OF THE LAND.**

No land shall be subdivided for residential use which 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.

**10-125: ACCESS TO LOTS.**

Access to each and every lot shall be provided by a public street that has been dedicated to the Town of Newton. The street layout for any proposed development must give due consideration to the future development of adjacent parcels of ground Reasonable access 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.

**10-126: PROCESSING FEES.**

The following provisions and standard fees shall be required and collected with respect to new subdivisions.

(1) *A Concept Plan Fee* shall be paid prior to submission of the said concept plan to the Planning Commission.

(2) *Preliminary Plan Submittal Fee.* For the preliminary plan presented

to the Planning Commission for consideration, with respect to each subdivision, there shall be a fee paid in the amount set forth in the Newton Town resolution for fees and charges. The said fees shall provide for the following services:

- (a) Review and verification of meets and bounds conformity of lots to zoning code and planning standards.  
Planning review of layout and site planning placement of parks and common area if any, and verification of conformance of subdivision with Planning policy of the Town including General Plan conformity.
  - (b) Legal review of plat, bonding instrument, dedication of public areas, preliminary title report and conformity to ordinance.
  - (d) Written notice of preliminary review of the proposed
  - (c) development to owners of properties located within three hundred (300) feet of the proposed development
- (3) *Engineering Review Fees* shall be collected for each lot shown upon the preliminary plan approved by the Planning Commission. Fees set Forth in Newton Town Resolution of Fees and Charges. The fees collected pursuant to this section shall pay for the following regulatory services.
- (4) Newton Town
- (a) Flood control, topographical and drainage review.
  - (b) (b) Traffic review (pattern and scope).
  - (c) Review of public improvements design as to adequacy and placement.
  - (d) Review of capital impact of subdivision including revenue projection and estimated costs of services:
  - (e) Calculations and verification of public improvement bond estimates and final amount.
- (5) *Zone Change and Annexation Fee*. Each application for a zone change for any parcel of land regardless of size shall be accompanied by a fee to pay for legal notices and preliminary staff review of request. Annexation fees shall be based on a flat fee plus a fee per acre of acres annexed, plus fee for preparing impact statement. These fees are established by Newton Town Resolution of Fees and Charges.
- (5) *Final Plat Recording Fees*.
- (6) *Payment of Fees*. The fees set forth and required by sections 1,2,3.4 and 5 herein above shall be paid as follows:
- (a) Section 1 fees: Prior to submission of the concept plan to the Planning Commission.
  - (b) Section 2 fees: Prior to submission of the preliminary plan to the Planning Commission.
  - (c) Section 3 fees: Prior to submission of the preliminary plan to the Planning Commission Secretary immediately prior to consideration of the same by the Town Engineer.
  - (d) Section 4 fees: Concurrent with the filing of the petition.
  - (e) Section 5 fees: Prior to submission of final plan to Town Council

- (7) Fees once paid are not to be refunded. The fees herein charged maybe modified from time to time hereafter by resolution of the Town Council.

**10-127: DRAWINGS REQUIRED.**

Plans showing the locations, size, grade and depth of all water and sewer mains, water and sewer laterals, valves, manholes and other subsurface utility and service lines and facilities shall be submitted to the Town by the subdivider prior to the release of any performance guarantees. The location of required survey monuments shall be approved by the Town Engineer at the request of the subdivider, to the Town Council, before the release of any performance guarantees.

**10-128: VARIANCES.**

Where the subdivider can show that a provision of these general requirements and minimum standards of design would cause unnecessary hardship if strictly adhered to and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning Commission, a departure may be made without destroying the intent of the provisions, the Planning Commission may recommend to the Board of Adjustments that it authorize a variance. Any variance so authorized shall be stated on the final plat and the reasons for such departure shall be entered in writing in the minutes of the Board of Adjustment.

**10-129: ENFORCEMENT/PENALTIES**

- (1) It shall be unlawful to record any plan or plat of a subdivision in the office of the County Recorder unless the same shall bear thereon the approval of the Town Council and Town Planning Commission. Whoever, being the owner or agent of the owner of any land located within a subdivision in the incorporated area of Newton Town transfers or sells any land in such subdivision before the plan thereof has been approved by the Town Council and the Planning Commission and recorded in the office of the County Recorder, or parcel within the outermost bounds of recorded subdivision which does not conform to the approved and recorded lot lines of the plat without first following the procedure of amending the subdivision plat as required by State Law (57-5-7 DCA 1953). PERSONS SHALL BE GUILTY OF A MISDEMEANOR FOR EACH LOT OR PARCEL OF LAND TRANSFERRED OR SOLD, OR ADVERTISED FOR SALE. The description of lots or parcels of land by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties in 10-9-30, Utah Code Annotated, 1953, or from the) remedies herein provided; except that in subdivisions of less than three (3) lots, land may be sold by metes and bounds. Without the necessity of recording a plat if all of the following conditions are met:
- (a) The subdivision layout, or preliminary plan, shall have first been approved in writing by the Planning Commission.
  - (b) The subdivision is not traversed by the mapped lines of a proposed street as shown on road plans as approved by the Town Council and does not require the dedication of any land for street or other public purposes
  - (c) If each lot in the subdivision complies with the

frontage; width and area requirements of these subdivision regulations.

- (2) The Town may enjoin such transfer or sale or agreement by action for injunction brought in any court of jurisdiction or may recover said penalty by civil action in any court of competent jurisdiction.
- (3) Each person, persons, firm or corporation found guilty of violation shall be deemed guilty of a separate offense for every day during which any violation of any provision of this ordinance is committed, continued or permitted by such person, persons, firm or corporation and shall be punished as provided in this ordinance.

#### **10-130: PARK FEES AND PARK DEVELOPMENT.**

The Town Council is responsible for the establishment and adjustment of park fees. These fees are to be used for the procurement, development and maintenance of parks. Community Fees are to be collected at the time of issuance of a building permit. The Town Council may accept property as {Outlined in Section 10-125 in lieu of fees.

#### **10-131: DONATION, GIFTING OR PROCUREMENT OF LAND FOR PARKS.**

A developer or a land owner may propose a park incorporated into his 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 and feasibility for 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 subdivider 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 donation, gifts or procurements are at the option and discretion of the Town Council and they 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.

#### **1 0-132: ADMINISTRATIVE RESPONSIBILITIES.**

All administrative officials of the Town of Newton shall refrain from issuing building permits or from opening, accepting, grading or paving a street or authorizing the laying of sewers and water mains, making connections from the main to such lines in a street which has (1) not received the status of a public street, or (2) does not correspond with a street on a subdivision plat tentatively approved by the Planning Commission, or 3) having been submitted to the Planning Commission and disapproved by it has not been accepted by the Town Council by a favorable vote of not less than a majority of their membership.

## CHAPTER II-GUARANTEE OF PERFORMANCE

### 11 -101: APPLICABILITY OF CHAPTER.

This Chapter shall govern the provisions, nature, use, and disposition of all performance bonds or guarantees of performance which are required to be posted with or deposited for the benefit of the Town by Chapter 10 or any other provision of this Code.

### 11-102: TYPE AND AMOUNT OF GUARANTEE.

The performance guarantee shall be in the form of a cash bond. A deposit of cash in a separate escrow account in the name Newton Town in an amount not less than 115% of the estimated cost of constructing the required improvement or improvements, as determined by the Town. Said account shall be made with a financial institution acceptable the Town Council and shall be established in such a manner that any release therefrom shall require the advance written consent of the Town. All interest earned from the account shall be the property of the subdivider if funds are sufficient to cover the improvements.

### 11-103: FINAL DISPOSITION AND RELEASE.

The subdivider, or other person giving the performance guarantee provided for by this Chapter, shall be responsible for all materials and workmanship of the improvement At the completion of the work or not less than ten (10) days prior to the release date of the bond or other assurance, the person giving the guarantee shall submit to the Town Engineer one copy of the drawings of record of the improvement and a certificate of completion. The Town Engineer or building official shall then make an inspection of the improvements and shall submit a report to the Mayor and Town Council setting for the condition thereof. If the condition of said improvements is found to be satisfactory and all liens are paid, the Mayor and Town Council shall issue a final approval of the improvements. If the condition of material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, or if the outstanding liens are not paid, the matter shall be deferred to the Town Council; and in accordance with Section 11-106, the Council may declare the person giving the guarantee in default.

### 11-104: PARTIAL RELRASE PERMITTED.

The Town Council may, upon recommendation of the Town Engineer and application of the person giving the guarantee, authorize from time to time a partial release of the performance guarantee in accordance with the following schedule:

<u>Percent of Work completed</u>	<u>Maximum Percentage of Guarantee of Performance Eligible for Release</u>
50%	40% of Total Bond
75%	60% of Total Bond
100 % and a satisfactory final inspection	80% of Total Bond



**11-105: DURATION OF GUARANTEE-DURABILITY OF IMPROVEMENTS**

- (1) The duration of the performance guarantee covering the construction of the required improvements shall be for a period two (2) years, unless a different time period is prescribed by a particular Section of this Code which requires such guarantee to be posted. The time period shall begin on the date of final approval of the guarantee by the Town Council.
- (2) A retainage of not less than 20% of the total amount of the guarantee shall be retained by the Town for a period of not less than two (2) years following the date of final acceptance of the improvements by the Town. Such retainage shall be a guarantee of the durability of all improvements, if during the two-year period of the durability of said improvements are found to be satisfactory, the Town Council shall authorize release of said retainage. If, however, during said period the condition, or material or workmanship of the improvement or improvements fails or show unusual depreciation, or if it becomes evident that certain work was not completed, or that said condition shall be corrected by the person giving the performance guarantee. If the corrections are not made within a reasonable time, the Town Council may, in accordance with Section 11-106, declare such person in default and use the retainage to defray the cost of any required work.

**11-106: DEFAULT**

- (1) When the Town Council shall determine that the person posting the performance guarantee has failed or neglected to satisfactorily install the required improvements or make required corrections, or to pay all liens in connection with said improvements, the Council may, after a public hearing on the matter, declare the performance guarantee, or any un-released portion thereof, forfeited and thereafter may install or cause the required improvements to be installed or repaired using the proceeds of the guarantee to defray the expense thereof.
- (2) In the event that the un-released portion of the guarantee is not sufficient to pay all the cost and expense of such installation or repair, the Town may maintain an action against the person giving the guarantee of the excess.

## CHAPTER 10 DEVELOPMENT AND SUBDIVISION

- 10-99: PURPOSE
- 10-100: SUBDIVISION PLATS REQUIRED
- 10-101: SUBDIVIDER TO CONTACT ZONING OFFICER
- 10-102: CONCEPT PLAN
- 10-103: PLANNING COMMISSION PUBLIC MEETING
- 10-104: PLANNING COMMISSION APPROVAL OF CONCEPT PLAN
- 10-105: PRELIMINARY PLAN REVIEWS
- 10-106: 0 PRELIMINARY PLAN APPROVAL
- 10-107: FINAL PLAT SUBMITTAL TO PLANNING COMMISSION
- 10-108: PLANNING COMMISSION APPROVAL OF FINAL PLAT
- 10-109: TOWN COUNCIL APPROVAL OF FINAL PLAT
- 10-110: RECORD OF CONDOMINIUM PLAT
- 10-111: OWNERS DUTY TO RECORD PLAT
- 10-112: VACATING OR CHANGING A SUBDIVISION PLAT
- 10-113: NOTICE OF HEARING OFR PLAT CHANGE
- 10-114: GROUNDS FOR VACATING OR CHANGING A PLAT
- 10-115: PERFORMANCE GUARANTEE
- 10-116: FINAL ACCCEPTANCE
- 10-117: DESIGN AND DOCUMENTATION REQUIREMENTS
- 10-118: IMPROVEMENT REQUIREMENTS
- 10-119: SUBDIVISION COSTS AND CHARGES
- 10-120: STANDARDS AND SPECIFICATIONS
- 10-121: STREET DESIGN
- 10-122: LOTS
- 10-123: PUBLIC USE AND SERVICE AREAS
- 10-124: SUITABILITY OF THE LAND
- 10-125: ACCESS TO LOTS
- 10-126: PROCESSING FEES
- 10-127: DRAWINGS REQUIRED
- 10-128: VARIANCES
- 10:129: ENFORCEMENT/PENALTIES
- 10-130: PARK FEES AND PARK DEVELOPMENT
- 10-131: DONATION, GIFTING OR PROCUREMENT OF LAND FOR PARKS
- 10-132: ADMINISTRATIVE RESPONSIBILITIES

## **CHAPTER 11-GUARANTEE OF PERFORMANCE**

11-101: APPLICABILITY OF CHAPTER

11-102: TYPE AND AMOUNT OF GUARANTEE

11-103: FINAL DISPOSITION AND RELEASE

11-104: PARTIAL RELEASE PERMITTED

11-105: DURATION OF GUARANTEE-DURABILITY OF IMPROVEMENTS

11-106: DEFAULT

# CHAPTER 10 DEVELOPMENT AND SUBDIVISION

**10-99: PURPOSE.** The purpose of this chapter is to:

- (1) Protect and provide for the public health, safety, and general welfare of Newton Town .
- 2) Guide the future growth and development of Newton Town, in accordance with the General Plan to retain a rural character.
- 3) Encourage the orderly and beneficial development of land within the municipality.
- 4) Protect the integrity of buildings, land and improvements, and to minimize the conflicts among the uses of land and buildings.
- (5) Provide a beneficial relationship between the uses of land, buildings, traffic circulation and the proper location and width of streets and building setbacks.
- 6) Establish reasonable standards of design and procedures for subdivisions, condominium plats, plat amendments, and lot line adjustments, in order to further the orderly layout and use of land; and to insure proper legal descriptions and recordation of subdivided land.
- 7) Insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- 8) Encourage the wise use and management of natural resources in order to preserve the integrity, stability and aesthetics of the community.
- 9) Continue the rural development and variety of structural design within residential zones. To discourage “cookie cutter” subdivisions that do not reflect the rural character and feel of our town.
- 10) Provide for open spaces through the most efficient design and layout of the land, while preserving the density of land as established in the Zoning and Subdivision Code of Newton Town.