

## **ORDINANCE 2023-02**

### **AN ORDINANCE AMENDING SUBDIVISION REGULATIONS IN MULTIPLE REGULATORY VOLUMES, PROVIDING FOR CODIFICATION, INCLUSION IN THE MUNICIPAL CODE, CORRECTION OF SCRIVERNER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Gunnison City is a fifth class city of the state of Utah; and

**WHEREAS**, Cities in the State of Utah are authorized to enact Subdivision Regulations in order to promote and protect the health, safety and welfare of the community; and

**WHEREAS**, Gunnison City has adopted subdivision regulations regarding review processes, approving authorities, applications, and development standards within the Municipal Code, Subdivision Code, Construction & Design Standards, Land Use Administrative Manual and Land Use Ordinances; and

**WHEREAS**, The City Council initiated a review of the subdivision standards on January 4, 2023; and

**WHEREAS**, the Gunnison City Planning Commission reviewed the proposed amendments to the Gunnison City codes and after a properly noticed public hearing, which was conducted on February 22, 2023, has forwarded a positive recommendation for the code amendment to the City Council; and

**WHEREAS**, Council has determined that the proposed amendments will clarify city standards and help expedite new subdivision developments which is in the best interest of Gunnison City.

NOW THEREFORE, BE IT ORDAINED BY THE GUNNISON CITY COUNCIL THAT:

**Section I.** Amendments Adopted. The City codes and ordinances shall be amended as provided in Exhibit A of this Ordinance, which consists of twenty pages attached hereto and by this reference made part hereof.

**Section II.** Contrary Provisions Repealed. Any and all other provisions of the Gunnison City Municipal Code that are contrary to the provisions of this Ordinance are hereby repealed.

**Section III.** Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Municipal Code of Gunnison City, Utah as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Sections of the ordinance may be

re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

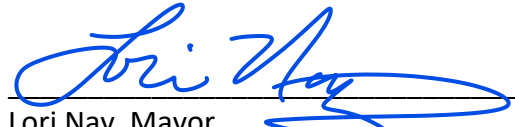
**Section IV. Severability.** If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section V. Posting and Effective Date.** Prior to 5:00 p.m. on March 2, 2023, the City Recorder shall: (a) deposit a copy of this ordinance in the official records of the City; and (b) post a copy of this ordinance in three places within the City. This ordinance shall become effective at 5:00 p.m. on March 2, 2023.

**ADOPTED AND PASSED** by the City Council of the City of Gunnison, Utah this 1<sup>st</sup> day of March, 2023.

ATTEST

  
\_\_\_\_\_  
Valerie Andersen, City Recorder

  
\_\_\_\_\_  
Lori Nay, Mayor

Councilmember Robert Andersen  
Councilmember Shawn Crane  
Councilmember Stella Hill  
Councilmember Rod Taylor  
Councilmember Michael Wanner

yes  
yes  
yes  
yes

**City Code Sections Affected by**  
**Minor Subdivision Process and Requirements Code Amendment**

**Land Use Ordinance**

- §202.1.f. City Council Powers and Duties
- §203.1.e Planning Commission Powers and Duties
- §205.2 Technical Review Committee: Membership
- §205.3.c Technical Review Committee: Powers and Duties
- §205.4 Technical Review Committee: Conduct of Meetings
- §207.1.a City Recorder Powers and Duties
- §404 Determination of Completeness of Land Use Applications
- §1304 Council as Appeal Authority
- §1615 Subdivision and Sale of Property (Repealed)
- §1630 Culinary Water, Sanitary Sewer, And Fire Protection Requirements
- §1631 Required Roads, Streets, Curb, Gutter, Sidewalks, Fire Protection, Trails, And Other Improvements
- §1633 Guarantee Of Installation Of Improvements
- Appendix C Definitions

**Land Use Administrative Manual**

- §602 Application Initiation
- §603 Application Initiation
- §702 Application Initiation
- §703 Application Initiation
- §803 Application Initiation
- Chapter 15 Review Processes

**Municipal Code**

- §9.10.030.2 Application For New Connection - Subdivider Or Developer
- §9.20.050.1 Separate Connection Required For Each Premises

**Subdivision Ordinance**

- §103.6 Enactment, Applicability and Conflict
- §105 Subdivision Defined
- §107 Subdivision Not to Include
- §111 Prohibited Acts
- §303 Land Use Application Procedures
- §304 Determination Of Completeness Of Land Use Applications
- §401 Purpose Procedures
- §402 Council The Land Use Authority For Land Use Ordinance Amendment Applications
- §403 Procedures And Review Standards For Land Use Ordinance Amendment Applications

§404	Findings Required For Approval Of A Land Use Ordinance Amendment Applications
§405	Effect Of Approval Of A Land Use Ordinance Amendment Application
§406	Appeals
§407	Temporary Land Use Regulations
§502	Concept Subdivision Application Required
§504	Review Procedures for Concept Subdivision Applications
§703	Procedures And Review Standards For Preliminary Minor Subdivision Preliminary Applications (Minor)
§704	Commission Approval - Reasonable Requirements Authorized
§706	Effect Of Commission Preliminary Subdivision Approval And Effective Period
§707	Site Preparation Work Prohibited
§802	Council And Commission The Land Use Authorities For Final Subdivision Applications
§803	Procedures And Review Standards For Final Subdivision Applications
§804	Recordation Of Final Subdivision Plat And Associated Subdivision Applications
§806	Effect Of Approval, With Or Without Requirements, Of Final Subdivision Application Approval And Effective Period
§808	Appeal Of Final Subdivision Application Decisions
§1301	Required Improvements And Guarantees

**Construction and Design Standards**

§601	Guarantees Required For Subdivision Improvements
§602	Type Of Amount Of Guarantee

**Section I. The following sections of the Land Use Ordinance are amended as follows: (Stricken text is deleted and underlined text is added)**

**1. §202.1.f. Gunnison City Council Powers and Duties**

- f. To approve, approve with requirements, or deny all Preliminary Applications for Major Subdivisions ~~(Major) Applications~~ and all Final Applications for Major Subdivisions ~~(Major) Applications~~ where Significant Change occurs from the preliminary approvals.

**2. §203.1.e Gunnison City Planning Commission Powers and Duties**

- e. To hear, review, and approve, approve with revisions, or deny ~~of~~ all Preliminary Applications for Minor Subdivisions ~~(Minor) Applications~~ and all Final Applications for Minor Subdivisions where Significant Change occurs from the preliminary approvals ~~(Minor) Applications~~.

**3. §205.2 Membership of the Technical Review Committee**

Membership. The TRC shall consist of the following persons ~~representing various City Departments, and in addition to~~ other persons, ~~as may be~~ designated by the Mayor, ~~responsible for reviewing and coordinating Applications for any approval, permit, or license:~~ Zoning Administrator, Public Works Director, City Engineer or consultant, Fire Chief, Gunnison Valley Police Chief. The City Administrator shall chair all TRC meetings.

**4. §205.3.c Gunnison City Technical Review Committee Powers and Duties**

- c. The TRC ~~may shall~~ provide a report to the Land Use Authority, identifying compliance of any Preliminary Applications for Major or Minor Subdivisions ~~(Major) or (Minor) Applications~~ and shall be the Land Use Authority for any Final Subdivision ~~(Major) or (Minor) Applications~~.

**5. §205.4 Gunnison City Technical Review Committee: Conduct of Meetings**

4. Conduct of Meetings. The TRC shall meet as needed to review and deliberate on development applications. Meetings shall be held in the City Council chambers at City Hall subject to state open public meetings laws and notice requirements. Meetings shall be conducted to provide each TRC member with opportunity to deliver comments to applicants, for applicants to obtain clarifying information if needed from TRC members, and for TRC members to formulate final recommendations or actions in accordance with application review processes. ~~The TRC may establish procedures for the conduct of TRC meetings, the scheduling of meetings, field trips, and any other TRC matters, such procedures being approved by the Mayor, with a majority vote of the Council, before taking effect.~~

**6. §207.1.a Gunnison City Recorder Powers and Duties**

- a. In coordination with the Zoning Administrator, ~~To~~ determine completeness of all Land Use Applications, as required by Chapter 15, Administrative Manual.

**7. §404 Determination of Completeness of Land Use Applications**

All Land Use Applications required by this Ordinance shall be determined to be complete, ~~by the City Recorder,~~ as required by the Administrative Manual, and prior to consideration by a Land Use Authority.

## 8. §1304.1 Council

Any person aggrieved by a decision of the Commission or Technical Review Committee when they are acting as the approving authority for an application may file an Appeal Application with the Council.

## 9. §1615 Subdivision and Sale of Property (Repealed)

~~No person shall subdivide any lands, located wholly or partially within the City, for any purpose, unless approval for such subdivision has been received from the applicable Land Use Authority, as required by the Subdivision Ordinance, and Administrative Manual.~~

## 10. §1630 Culinary Water, Sanitary Sewer, And Fire Protection Requirements

1. All ~~primary properties~~ buildings requiring culinary water, secondary water, and sanitary sewer services shall be connected to the public culinary water, sanitary sewer, and secondary water systems of the City and shall comply with all requirements of the Culinary Water Authority and Sanitary Sewer Authority, as applicable. ~~The size, location and placement of any extensions and risers and other details concerning the design and construction culinary water, sanitary sewer or secondary water system shall conform to City standards, as directed by the City. These requirements shall also be applicable to any extensions to the irrigation company system.~~

~~1. Culinary Water. A separate culinary water connection shall be required for each residential dwelling unit and for each separate nonresidential structure (including all commercial and industrial uses) intended for human occupancy. For a residential building, containing Dwelling Units, Multiple Family, the Land Use Authority may authorize the use of a common connection where:~~

~~a. Because of the design of the building, separate connections for individual Dwelling Units, Multiple Family are not reasonably possible; and~~

~~a. The Dwelling Units, Multiple Family, will remain in a single ownership.~~

~~2. Sanitary Sewer. A separate sanitary sewer connection shall be required for each residential dwelling unit and for each separate nonresidential structure (including all commercial and industrial uses) intended for human occupancy. For a residential building, containing Dwelling Units, Multiple Family, the Land Use Authority may authorize the use of a common connection where:~~

~~a. Because of the design of the building, separate connections for individual Dwelling Units, Multiple Family are not reasonably possible; and~~

~~b. The Dwelling Units, Multiple Family, will remain in a single ownership.~~

~~3. Secondary Water. Where the proposed development project or individual user lies within the "City SID area," but has been exempted from payment of SID assessments, or lies outside the "City SID area" and is not to be served by the pipeline company (farmers) system, the City may authorize the connection of the user or project to the City system subject to:~~

- ~~a. A determination by the City Council that there is adequate capacity in the lines serving the proposed development project or individual user to accommodate the anticipated users, and that the additional demand will not be detrimental to the proper function of the system in the future.~~
- ~~b. The installation, by the applicant, of any required extensions to the main line, when applicable, and installation of individual riser, where required (see Section 9-3-5).~~
- ~~c. Conveyance to the City, at no cost, of one (1) share of Gunnison Irrigation Company stock for each one-half (1/2) acre or building lot in the proposed project served, whichever is greater. Also, the applicant shall provide satisfactory evidence that all assessments against the stock with regard to pressurized irrigation system (payment of the costs of holding pond and transmission line and any other joint improvements) have been satisfied (see Section 9-3-4.3).~~
- ~~d. Payment of the applicable irrigation system connection fee.~~

2. All uses and primary buildings shall comply with the requirements of the Fire Authority, as applicable.

**11. §1631 Required Roads, Streets, Curb, Gutter, Sidewalks, Fire Protection, Trails, And Other Improvements**

1. The installation of necessary roads and streets, street widening ~~and improvement(s)~~, curbs, gutters, sidewalks, storm drain, fire protection facilities, trails, and other public improvements are required for all major subdivisions, multi-family, or non-residential developments and required by the Land Use Ordinances shall be installed in accordance with the city's adopted construction standards be required as a condition of any ~~required~~ Land Use Application approval.
2. The Council may provide that the installation of necessary roads and streets, street widening and improvement, curbs, gutters, sidewalks, fire protection facilities, trails, and other improvements be delayed until a specified date, or provided as part of any area-wide improvement plan(s). Any action by the Council to delay the installation of any required improvements shall only be with a finding of special circumstances, with the Applicant for a Land Use Application approval providing a written agreement, acceptable to the City Attorney, agreeing to provide the required improvements on the date identified, or participating in any improvement plan(s), at a time determined. The timing of any improvement plan(s) shall be at the sole discretion of the Council.

**12. §1633 Guarantee Of Installation Of Improvements**

A Land Use Authority ~~with responsibility to approve of any required Land Use Application~~ shall include as a condition of any final approvals that applicants shall guarantee the installation of any required facilities or improvements in accordance with Chapter 6 of the Construction and Design Standards. and services by one of the methods specified as follows:

~~The Applicant(s) may furnish and file with the City Recorder a bond with corporate surety in an amount equal to the cost of the improvements as estimated by the City Engineer, which bond shall be approved by the City Attorney and shall be filed with the City Recorder.~~

~~The Applicant(s) may deposit in escrow with an escrow holder approved by the Council an amount of money equal to the cost of the improvements as estimated by the City Engineer, which escrow agreement shall be approved by the City Attorney and shall be filed with the City Recorder.~~

### 13. Appendix C: Definitions

~~**Subdivision:** See GCSO Section 105. Means any land that is divided, resubdivided 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. "Subdivision" includes: (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and (ii) except as provided in Subsection (34)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. "Subdivision" does not include: (i) 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; (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if: (A) no new lot is created; and (B) the adjustment does not violate applicable land use ordinances; or (iii) a recorded document, executed by the owner of record: (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances. (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (34) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.~~

~~**Subdivision (Major):** See GCSO Section 105. Means a subdivision that is not a Subdivision (Minor).~~

~~**Subdivision (Minor):** See GCSO Section 105. Means a subdivision, as defined herein, and limited further as follows;~~

~~The land proposed to be divided;~~

- ~~a) Is not traversed by the mapped lines of a proposed road or street as shown by the General Plan.~~
- ~~b) Does not require the dedication of any land for a road or street or for any other public purposes.~~
- ~~c) Has been approved by the culinary water authority and the sanitary sewer authority.~~
- ~~d) Is located in a zoned area.~~
- ~~e) Conforms to all applicable land use ordinances; and~~
- ~~f)a) Contains no more than four (4) lots, including any lot containing any remnant of the subject property.~~

**Section II. The following sections of the LAND USE ADMINISTRATIVE MANUAL are amended as follows: (Sticken text is deleted and underlined text is added)**

**1. §602.1 Application Initiation**

1. All requests to ~~establish-develop~~ a Major subdivision shall first be made by filing a Concept Subdivision Application for review by the Zoning Administrator and Planning Commission. Minor subdivision proposals may be informally discussed with the Zoning Administrator prior to submitting preliminary applications.

**2. §603 Review Procedures For Concept Use Applications**

The procedures for the review of a Concept Subdivision Application ~~by the Commission~~ are identified by Figures 2-11 and 2-12, Chapter 15, herein.

**3. §702 Application Initiation**

1. As a condition precedent to ~~the filing of~~ a Preliminary ~~Subdivision~~ Application with the City Recorder for a Major Subdivision, a Concept Subdivision Application for the Subject Property shall have been provided to the City Recorder and a Concept Subdivision Meeting held with the Zoning Administrator and Commission.

**4. §703 Review Procedures For Preliminary Subdivision Applications**

1. The procedures for the review of a Preliminary Subdivision Application (Minor) by the Commission are identified by Figure 2-~~1211~~, Chapter 15, herein.
2. The procedures for the review of a Preliminary Subdivision Application (Major) by the Council are identified by Figure 2-~~1312~~, Chapter 15, herein.

**5. §803 Review Procedures For Final Subdivision Applications**

1. The procedures for the review of a Final Subdivision Application (Minor) by the Commission is identified by Figure 2-~~1411~~, Chapter 15, herein.
2. The procedures for the review of a Final Subdivision Application (Major) by the Council is identified by Figure 2-~~1512~~, Chapter 15, herein.
3. In considering a Final Subdivision Application the ~~Council or Commission~~ Technical Review Committee, as applicable, ~~in deciding a Final Subdivision Application~~ shall review the Application and shall determine:
  - a. The proposed subdivision complies with all requirements, if any, of the Council or Commission, as applicable, and as required for Preliminary Subdivision Application approval, as authorized by Section 603 or Section 703, as applicable.
  - b. The proposed subdivision complies with all requirements of this Ordinance and the Zoning District in which the subject property is located.
  - c. The proposed subdivision complies with all requirements of the City's other Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
  - d. The proposed subdivision complies with all requirements ~~as required for the written approval of the feasibility of the proposed culinary water system and culinary water sources, as~~ provided by the Culinary Water Authority including, but not limited to, the developers ability to meet water dedication requirements for culinary and secondary water systems, and system capacity and extension needs will be provided as required.

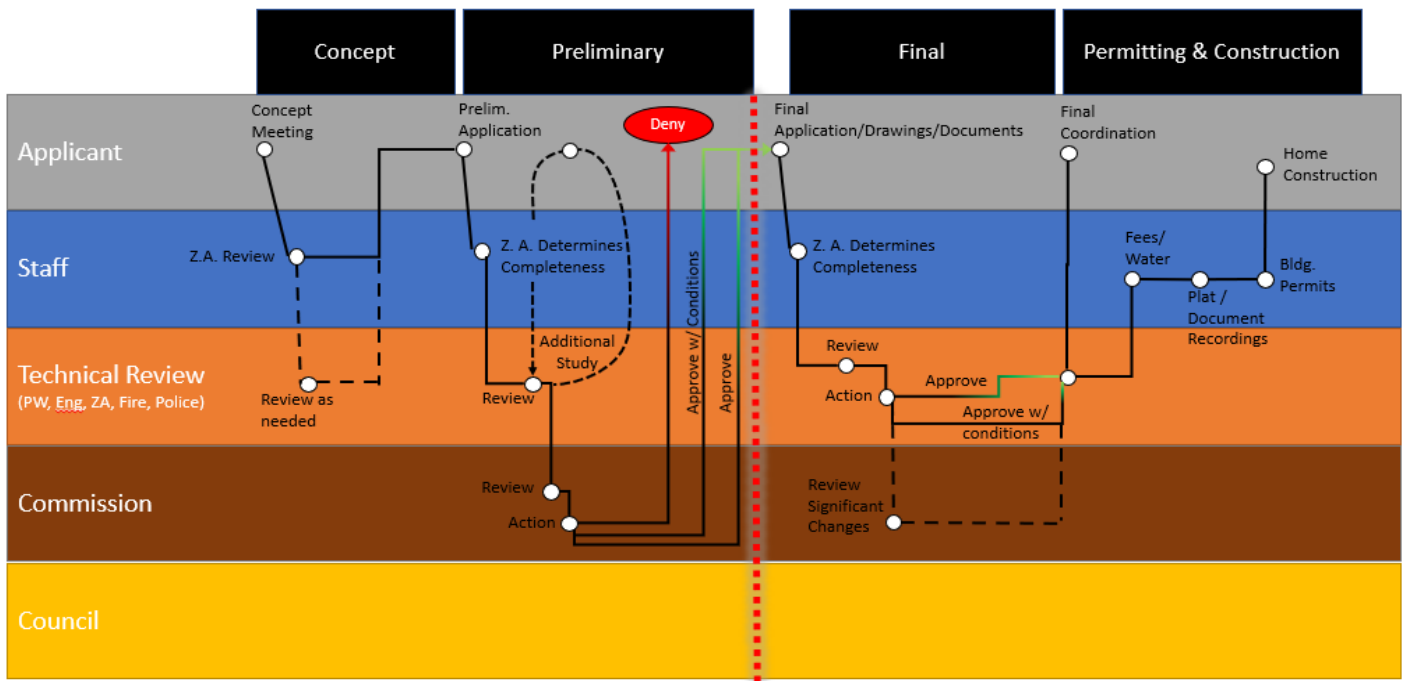
- e. The proposed subdivision complies with all requirements ~~as required for the written approval of the feasibility of the proposed sanitary sewer system, as~~ provided by the Sanitary Sewer Authority.
- f. The proposed subdivision complies with all requirements for~~has received a written recommendation of~~ fire protection, suppression, and fire access facilities, as provided by the City Fire Chief.
- g. The proposed subdivision complies with all requirements as required by any Official Maps, as applicable.
- h. Necessary infrastructure, services and amenities are available, or will be provided, to the subject property sufficient to meet the needs of the proposed subdivision.
- i. The proposed subdivision complies with all applicable dedication requirements of the City for Final Subdivision Applications (Major) only and provides the necessary infrastructure, services and amenities as required.

**6. Chapter 15: Review Processes.** Figures 2-11, 2-12, 2-13, 2-14, & 2-15 are deleted and replaced with the following New Figures 2-11 and 2-12.

New Figure 2-11

**Minor Subdivision Review Process**

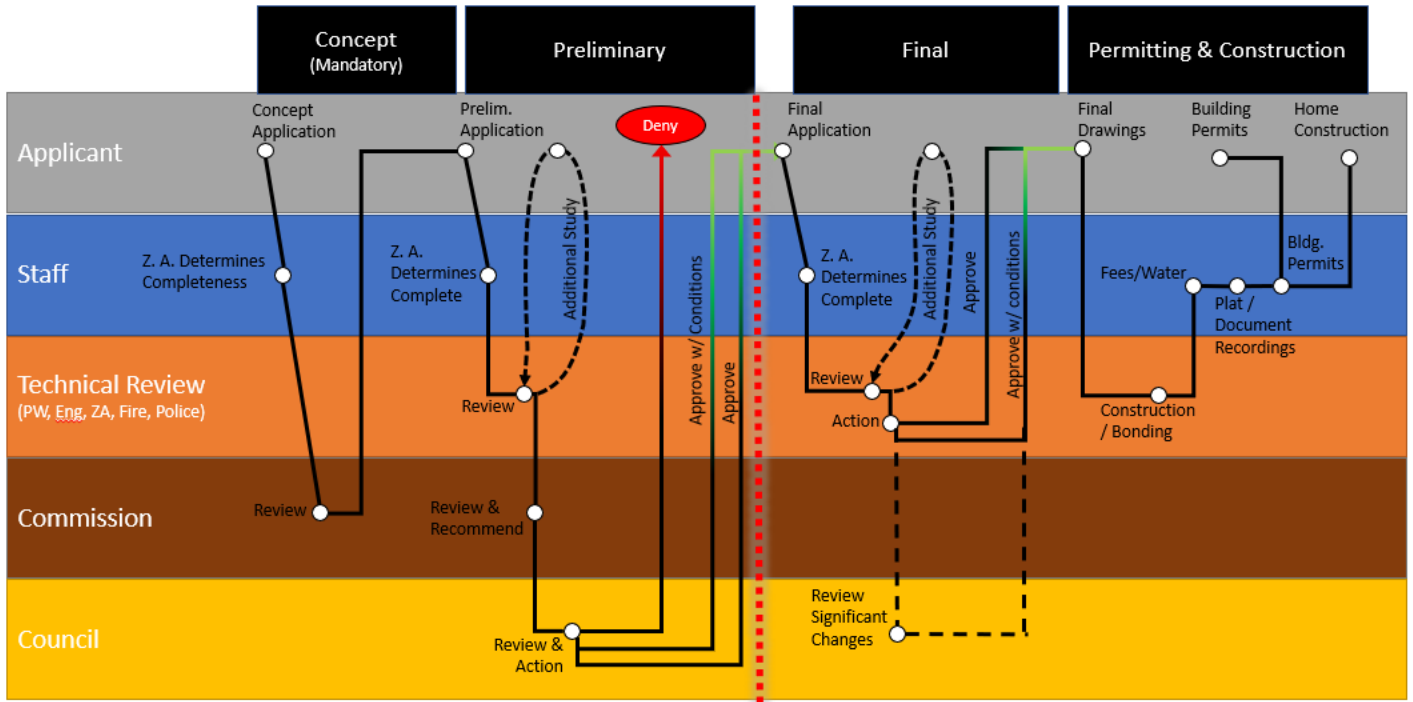
**Proposed**



New Figure 2-12

Major Subdivision Review Process

Proposed



**Section III. The following sections of the MUNICIPAL CODE are amended as follows: (Stricken text is deleted and underlined text is added)**

**1. §9.10.030.2 Application For New Connection - Subdivider Or Developer**

Whenever a subdivider or developer desires or is required to install water or sewer connections and extensions for a subdivision or development, the subdivider or developer shall ~~enter into a written extension agreement which shall constitute an application for~~obtain permission to make the extensions and connections and ~~an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required, all of which shall be fixed by the City and paid by the applicant.~~shall comply with guarantee requirements of Chapter 6, Construction and Design Standards. Any such request and agreementAll requests shall be consistent with the provisions of ~~Section 10-7-6.3 of the City's Development Code~~Chapter 13 of the Subdivision Ordinances, Chapter 4 of the Construction & Design Standards, and Chapter 16 - General Development Standards of the Land Use Ordinance. Any application for approval of a subdivision or other development shall also constitute a request for extension of the system as required by this Section.

**2. §9.20.050.1 Separate Connection Required For Each Premises**

~~A separate and independent service lateral shall be provided for each premises for both water and sewer.~~

All properties requiring culinary water, secondary water, and sanitary sewer services shall be connected to the public culinary water, sanitary sewer, and secondary water systems of the City and shall comply with all requirements of the Culinary Water Authority and Sanitary Sewer Authority, as applicable. The size, location and placement of any extensions and risers and other details concerning the design and construction of culinary water, sanitary sewer or secondary water system extensions shall conform to City standards, as directed by the City.

1. Culinary Water. A separate culinary water connection shall be required for each residential dwelling unit and for each separate nonresidential structure (including all commercial and industrial uses) intended for human occupancy. For a residential building, containing Dwelling Units, Multiple-Family, the Land Use Authority may authorize the use of a common connection where:

- a. Because of the design of the building, separate connections for individual Dwelling Units, Multiple-Family are not reasonably possible; and
- b. The Dwelling Units, Multiple-Family, will remain in a single ownership.

2. Sanitary Sewer. A separate sanitary sewer connection shall be required for each residential dwelling unit and for each separate nonresidential structure (including all commercial and industrial uses) intended for human occupancy. For a residential building, containing Dwelling Units, Multiple-Family, the Land Use Authority may authorize the use of a common connection where:

- a. Because of the design of the building, separate connections for individual Dwelling Units, Multiple-Family are not reasonably possible; and

- b. The Dwelling Units, Multiple-Family, will remain in a single ownership.
- 3. Secondary Water. Where the proposed development project or individual user lies within the "City SID area," but has been exempted from payment of SID assessments, or lies outside the "City SID area" and is not to be served by the pipeline company (farmers) system, the City may authorize the connection of the user or project to the City system subject to:
  - a. A determination by the City Council that there is adequate capacity in the lines serving the proposed development project or individual user to accommodate the anticipated users, and that the additional demand will not be detrimental to the proper function of the system in the future.
  - a.b. The installation, by the applicant, of any required extensions to the main line, when applicable, and installation of individual riser, where required (see Section 9-3-5).
  - b.c. Conveyance to the City, at no cost, of one (1) share of Gunnison Irrigation Company stock for each one-half (1/2) acre or building lot in the proposed project served, whichever is greater. Also, the applicant shall provide satisfactory evidence that all assessments against the stock with regard to pressurized irrigation system (payment of the costs of holding pond and transmission line and any other joint improvements) have been satisfied (see Section 9-3-4.3).
  - c.d. Payment of the applicable irrigation system connection fee.

**Section IV. The following sections of GUNNISON CITY SUBDIVISION ORDINANCE are amended as follows:** (Sticken text is deleted and underlined text is added)

**1. §103.6 Enactment, Applicability and Conflict**

Applications accepted by the City as complete for any Land Use Application (hereinafter "Application") required by this Ordinance shall be processed, reviewed and approved or denied, subject to the provisions of this Ordinance and all other Ordinances and Resolutions of the City, as applicable and in effect at the time the application is determined to be "complete," ~~by the City Recorder,~~ as required by this Ordinance and Resolutions, as applicable.

**2. §105 Subdivision ~~Defined~~Definitions**

For the purposes of this Ordinance, and the Act, the definitions of the Gunnison Land Use Ordinance, Appendix C and a subdivision shall be, and shall mean the following terms and related definitions shall apply to this Ordinance;

Significant Change: For Subdivision review purposes, this term shall include any of the following: an increase in the total lots within the development, reduction of approved lot sizes by more than 10%, a change of public open space locations or reduced area, or elimination or increase in the number of roads.

Subdivision: Any land that is divided, resubdivided or proposed to be divided into two (2) 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.

"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
2. All divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes; except as provided in the Act, and Section 107 herein.

As provided by the Act "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 recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
  - b. No new lot is created; and
  - c. The adjustment does not violate applicable Land Use Ordinances; or
  - d. A recorded document, executed by the owner of record:

- i. Revising the legal description of more than one (1) contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
  - ii. Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joiner does not violate applicable Land Use Ordinances.
3. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
- a. No new dwelling lot or housing unit will result from the adjustment; and
  - b. The adjustment will not violate any applicable Land Use Ordinance.
- ~~1.4.~~ The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a “subdivision” as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Ordinance.

Subdivision - Major: Means a subdivision that is not a Minor Subdivision.

Subdivision - Minor: Means a subdivision, as defined herein, and limited further to those proposals where the land being divided:

- a. Is not traversed by the mapped lines of a proposed road or street as shown by the General Plan,
- b. Does not require the dedication of any land for a road or street or for any other public purposes.
- c. Has been approved by the culinary water authority and the sanitary sewer authority and will not require the extension or expansion of city water, irrigation, or sewer systems.
- d. Is located in a zoned area.
- e. Conforms to all applicable land use ordinances; and
- ~~a.f.~~ Contains no more than ten (10) lots, including any lot containing any remnant of the subject property.

**3. Section 107 is deleted and the remaining sections of Chapter 1 are renumbered accordingly.**

**4. (Renumbered) §110 Prohibited Acts**

- 1. No person shall subdivide any lands, located wholly or partially within the City, for any purpose, unless approval for such subdivision has been received from the applicable Land Use Authority, as required by this Ordinance, and the Administrative Manual.
- ~~1.2.~~ An owner of any land ~~located in a subdivision~~ who transfers or sells any portion of land in a manner that meets the definition of a subdivision-Subdivision before ~~a Final Subdivision Plat of~~ the subdivision has been approved and recorded in the Office of the Sanpete County Recorder, as required and provided by this Ordinance, and the Act, is guilty of a violation of this Ordinance, and the Act, for each lot or parcel transferred or sold.
- ~~2.3.~~ The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring lots does not exempt the transaction from being a violation of this Ordinance, and the Act, or from the penalties or remedies provided by this Ordinance, or the Act.
- ~~3.4.~~ Notwithstanding the provisions of this Section, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Ordinance, and the Act:

- a. Does not affect the validity of the instrument or other document; and
- b. Does not affect whether the property that is the subject of the instrument or other document complies with the City's Land Use Ordinances, including this Ordinance, and the City's other Land Use Ordinances, including the Zoning Ordinance.

**5. §303 Land Use Application Procedures**

The steps in the review and consideration of the various Land Use Applications authorized by this Ordinance ~~may be~~ provided ~~with the applicable application form. Such Applications may be contained~~ in the Administrative Manual and may be included with respective applications.

**6. §304 Determination Of Completeness Of Land Use Applications**

All Land Use Applications required by this Ordinance shall be determined to be complete, ~~by the City Recorder,~~ as required by the Administrative Manual and prior to consideration by a Land Use Authority.

**7. Chapter 4 is renamed "Applications to Amend the Gunnison City Subdivision Ordinances"**

**8. ~~§401 Purpose~~Procedures**

~~This Chapter and the Administrative Manual provides the standards and procedures for the review of Applications to amend the City's Land Use Ordinances, including Applications to amend this Ordinance. The process to amend the Gunnison City Subdivision Ordinances shall be in accordance with the State of Utah Land Use Management Act 10-9a and follow the same procedures outlined in Chapter 6 of the Gunnison City Land Use Ordinances.~~

**9. Sections 402, 403, 404, & 405 are deleted, and the remaining sections of chapter 4 are renumbered accordingly.**

**10. (Renumbered) ~~§402~~ Appeals**

Any person aggrieved by a decision of the Council ~~for regarding~~ any ~~Land Use Ordinance Amendment hereto Application~~ may appeal the decision to the Appeal Authority as identified by Chapter 13, Zoning Ordinance.

**11. (Renumbered) ~~§407-403~~ Temporary ~~Land Use~~ Regulations**

The effect of a Temporary ~~Land Use~~Subdivision Regulations shall be the same as identified by Section 608, Zoning Ordinance.

**12. §502 Concept Subdivision Application Required**

A. A ~~property owner~~Developer proposing ~~to subdivide any lands located~~a Minor Subdivision shall meet with the Zoning Administrator to informally discuss their proposal before submitting a Preliminary Application for review.

A.B. Developers proposing a Major Subdivision within the boundaries of the City shall present a Concept Subdivision Application to the City Recorder for the scheduling of a Concept Subdivision

Application discussion with the Commission and the Zoning Administrator. The purpose of the Concept Subdivision Application discussion is to create an opportunity for the Applicant to ~~gain a better understanding elements of the City's General Plan, zoning laws, subdivision requirements, and development standards that could pertain to their application and to obtain Ordinance and Application processing and review information.~~

### 13. §504 Review Procedures for Concept Subdivision Applications

The procedures for the review of a Concept Subdivision Application are identified by Chapter 6 ~~and the Concept Subdivision Application materials, as contained of this Ordinance and~~ in Chapter 15, Administrative Manual.

### 14. §703 Procedures And Review Standards For ~~Preliminary Minor~~ Subdivision ~~Preliminary Applications (Minor)~~

1. The procedures for the review of a ~~Minor Subdivision~~ Preliminary ~~Subdivision~~ Application ~~(Minor)~~ are identified by Chapter 7, Administrative Manual, and ~~Minor Subdivision~~ Preliminary ~~Subdivision~~ Application ~~(Minor)~~ materials, ~~as contained in Chapter 15, Administrative Manual.~~
2. In considering a ~~Minor Subdivision~~ Preliminary ~~Subdivision~~ Application, ~~(Minor)~~ the Commission shall review the Application and shall determine that ~~the proposed subdivision:~~
  - a. The proposed subdivision ~~complies with the city's definition of a Minor Subdivision;~~
    - i. ~~Is not traversed by the mapped lines of a proposed road or street as shown by the City's general plan.~~
    - ii. ~~Does not require the dedication of any land for a road or street or for any other public purposes.~~
    - iii. ~~Has been approved by the culinary water authority and the sanitary sewer authority.~~
    - iv. ~~Is located in a zoned area.~~
    - v. ~~Conforms to all applicable land use ordinances; and~~
    - vi. ~~Contains no more than four (4) lots, including any lot containing any remnant of the subject property.~~
  - b. The proposed subdivision has received a written recommendation of fire protection, suppression, and fire access facilities, as provided by the City Fire Chief.
  - c. The proposed subdivision complies with all applicable Federal, State, or Local requirements and regulations.
  - d. The proposed subdivision complies with all requirements as required by any Official Maps, as adopted.
  - e. Necessary infrastructure, services and amenities are available, or will be provided, to the subject property sufficient to meet the needs of the proposed subdivision.
  - f. The Subdivision will not create any non-conforming uses or structures.

### 15. §704 Commission Approval - Reasonable Requirements Authorized

1. The Commission may approve ~~the Preliminary a Minor~~ Subdivision ~~Preliminary~~ Application ~~(Minor)~~, as presented, approve the ~~Preliminary Subdivision~~ Application ~~(Minor)~~ with revisions and requirements, or deny the ~~Preliminary Subdivision~~ Application ~~(Minor)~~, ~~with based on~~ findings of compliance or non-compliance with this Ordinance, the City's other Land Use Ordinances and all other requirements, as applicable.

2. The Commission may, upon a determination of necessity to protect public health and safety or for compliance with zoning standards, require onsite and offsite improvements, facilities, and services, and amenities, to be provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Minor) approval, such before a certificate of occupancy may be given for development on the subject properties. Any required improvements, facilities, and services, and amenities being determined to shall be consistent with the requirements of Section 115 herein, including, but not limited to:
- ~~a.~~ b.a. Road and street improvements, including layout, design, grading and surfacing.
  - ~~b.a.~~ Flood control facilities.
  - ~~c.~~ Culinary Water facilities.
  - ~~d.~~ Secondary and Irrigation Water facilities.
  - ~~e.~~ Sanitary Sewer facilities.
  - ~~f.~~ Storm Drainage facilities.
  - ~~g.b.~~ Erosion Control facilities.
  - ~~h.~~ Traffic Circulation and Access Management facilities.
  - ~~i.c.~~ Lot, Parcel, and/or Site drainage as part of property development.
  - ~~j.~~ Park and open space areas and facilities.
  - ~~k.~~ Public features and recreational amenities.
  - ~~l.d.~~ Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities consistent with Fire Authority approvals.
  - ~~m.~~ Electrical power and telecommunications facilities.
  - ~~n.e.~~ Fencing Screening and buffering treatments.
  - ~~o.~~ Street lighting facilities.
  - ~~p.~~ Streetscape enhancements, including street trees and park strip improvements.
  - ~~q.f.~~ Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
  - ~~g.~~ Such other measures, improvements, facilities, amenities and services determined reasonable and necessary to allow the proposed subdivision in compliance with the requirements of this Ordinance, all other Land Use Ordinances, and all Federal, State, or Local regulations, as applicable.
  - ~~r.h.~~ Demolition or relocation of structures as needed to comply with setback requirements.
3. ~~In lieu of providing road and street improvements, required by Section (2)(a) above, including surfacing, curb & gutter, sidewalk, and other road and street improvements, the Commission may, acting at its sole discretion, determine that certain improvements be deferred. If deferred, the Commission shall, as a requirement of Preliminary Subdivision Application (Minor) approval, require the Applicant to provide cash payment(s) to the City in an amount, determined by the City, to provide the deferred but required road and street improvements. Applicant has provided a cash payment to the City to provide the required improvements, as required by Subsection 3, the full obligation and responsibility to provide such improvements shall become the City's. For this section, the improvements being deferred shall be "project improvements" only and not "system improvements", as defined by §11-36a et. seq. Utah Code, as amended.~~

If through the review process, it is determined that existing city infrastructure must be extended or expanded (e.g., water lines, sewer, etc.) to facilitate a development request, then the application shall be treated as a Major Subdivision and shall follow the approval process outlined in Figure 2-12

of Land Use Manual Chapter 15. Establishing additional easements for future public utilities is not considered an expansion or extension of city systems under this part.

~~If the Commission determines that certain road and street improvements may be deferred and the Applicant has provided a cash payment to the City to provide the required improvements, as required by Subsection 3, the full obligation and responsibility to provide such improvements shall become the City's. For this section, the improvements being deferred shall be "project improvements" only and not "system improvements", as defined by §11-36a et. seq. Utah Code, as amended.~~

~~The Commission in deciding a Preliminary Subdivision Application (Minor) shall find that the procedural requirements and review standards of Section 703 have been met.~~

**16. §706 Effect Of Commission Preliminary Subdivision Approval And Effective Period**

The approval of a Preliminary Subdivision Application (Minor) with or without requirements, by the Commission shall not constitute a final approval of the proposed subdivision. A Preliminary Subdivision Application (Minor) approval shall not authorize the division or development of the subject property, but allows the Applicant(s) to proceed with the preparation and submission of the Final Subdivision Application (Minor) for the subject property.

As provided by the Act, the continuing validity of ~~an approval of a Preliminary Subdivision Application (Minor)~~ a preliminary approval is conditioned upon the Applicant(s) proceeding ~~after approval~~ to implement the approval with reasonable diligence. For the purposes of this Ordinance and this Section, the preliminary approval of a ~~Preliminary Sminor~~ subdivision Application (Minor) shall be effective for a period of one hundred eighty (180) calendar days from the date of approval by the Commission, at the end of which time the Applicant(s) shall have submitted a Final Subdivision Application (Minor) to the City Recorder. If a Final Subdivision Application (Minor) is not received by the City Recorder within one hundred eighty (180) calendar days of approval, the Preliminary ~~Subdivision Application (Minor)~~ approval shall be rendered void and invalid.

**17. Section 707 is deleted, and the remaining sections of Chapter 7 are renumbered accordingly.**

**18. §802 ~~Council And Commission~~ The Land Use Authorities For Final Subdivision Applications**

The ~~Council Technical Review Committee~~ is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Final Subdivision Applications (Major). However, if through the Final Application review process, Significant Change occurs to the development plans, then a condition of final approval shall be the City Council's review and approval of the Significant Changes.

The ~~Technical Review Committee Commission~~ is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Final Subdivision Applications (Minor). However, if through the Final Application review process, Significant Change occurs to the development plans, then a condition of final approval shall be the Planning Commission's review and approval of the Significant Changes.

**19. §803 Procedures And Review Standards For Final Subdivision Applications**

1. The procedures for the review of a Final Major Subdivision Application ~~(Major)~~ are identified by Chapter 8, Administrative Manual, and ~~the Final Subdivision Application (Major) materials,~~ as contained in Chapter 15, Administrative Manual.
2. The procedures for the review of a Final Minor Subdivision Application ~~(Minor)~~ are identified by Chapter 8, Administrative Manual, and ~~the Final Subdivision Application (Minor) materials,~~ as contained in Chapter 15, Administrative Manual.
3. In considering a Final Subdivision Application the Council ~~or,~~ Commission, or Technical Review Committee as applicable, in deciding a Final Subdivision Application shall review the Application and shall determine:

**20. §804 Recordation Of Final Subdivision Plat And Associated Subdivision Applications**

1. After a Final Subdivision Application has been approved ~~by the Council or Commission, as applicable,~~ with or without requirements, applicants shall provide to the City Recorder all appropriate documents to be signed by ~~all~~ City Officers ~~and service providers,~~ as required, and including any necessary acknowledgments required for the conveyances of real property to a public agency, including the City, or private entity. Applicants are responsible for collecting signatures or authorizations from public utility service providers if applicable prior to delivery of documents to the City Recorder. Any, the Final Subdivision Plat final subdivision plats, easements or other conveyance documents necessary to effect the approved subdivision shall only be presented ~~to the City Recorder, for presentation~~ by the City Recorder, or other city designee, to the Office of the Sanpete County Recorder for recordation.
2. After the Final Subdivision Plat has been recorded, the Applicant(s) may apply for permits required for the construction and installation of subdivision improvements and building permits consistent with the approved and recorded Final Subdivision Plat and the City requirements for such permits.
3. The Applicant is required to pay all fees, including copies, for the recording of all Final Subdivision documents and the Final Subdivision Plat.

**21. §806 Effect Of Approval, With Or Without Requirements, Of Final Subdivision Application Approval And Effective Period**

1. As provided by the Act, the continuing validity of a Final Subdivision Application ~~(Major), or Final Subdivision Application (Minor),~~ approval is conditioned upon the Applicant proceeding ~~after approval~~ to implement the approval with reasonable diligence. For the purposes of this Section ~~the any final approval of a Final Subdivision Application (Major) or (Minor)~~ shall be effective for a period of one hundred eighty (180) calendar days from the date of approval, at the end of which time the Applicant shall have presented the Final Plat and/or related documents for recording to the City Recorder, as required by Section 804. If the ~~Final Subdivision Plat is~~ final documents are not presented ~~for recording by~~ to the City Recorder within one hundred eighty (180) calendar days, the ~~final approval Final Subdivision Application (Major) or (Minor)~~ shall be rendered void able by action of the City Council, and the Applicant ~~shall~~ may be required to submit a new Preliminary Subdivision Application ~~(Major) or (Minor),~~ subject to the requirements of this Ordinance and other Land Use Ordinances and requirements in effect at the time the Application is filed.

2. After the Final Plat has been recorded, the Applicant(s) may apply for permits required for the construction and installation of subdivision improvements and building permits consistent with the approved and recorded Final Plat and the City requirements for such permits.

## **22. §808 Appeal Of Final Subdivision Application Decisions**

- ~~1.—Any person(s) aggrieved by a decision of the Council Technical Review Committee concerning a decision on a Final Subdivision Application (Major) may appeal the decision to District Court, as provided by Chapter 13, Zoning Ordinance.~~
- ~~2.1. Any person(s) aggrieved by a decision of the Commission concerning a Final Subdivision Application (Minor) may appeal the decision to the City Council, as provided by Chapter 13, Zoning Ordinance.~~

## **23. §1301 Required Improvements And Guarantees**

- ~~1. No excavation, and no grading or regrading, shall take place on the subject property, and no building permits shall be issued by the City, until a Final Subdivision Application has been approved and the appropriate guarantees have been provided in accordance with Chapter 6 of the City Construction and Design Standards and paragraph 4 below.~~
- ~~2. Street Improvements.~~
  - ~~1. If a Minor Subdivision application is made for lands adjacent to a city street or ROW that is not asphalted, the applicant will be required to provide a cash payment(s) to the City in an amount, determined by the City Engineer, for the cost of paving half of the street/ROW width for the length of the frontage of the project. After the Applicant has provided a cash payment to the City to provide the required improvements, the full obligation and responsibility to provide such asphalt improvement shall be the City's~~
  - ~~2. Minor Subdivision proposals adjacent to existing, asphalted city streets where curbing, gutter, or sidewalks are not present shall not be required to install such improvements along the existing street.~~
  - ~~3. Any disturbance of existing street improvements shall comply with street excavation permit requirements.~~
- ~~1.3. The owner of any land to be part of a subdivision shall install all required improvements and guarantee the installation of such improvements, as required by the Land Use Authority, as provided by this Chapter and the Gunnison City Construction and Design Standards—and as inspected and approved by the City.~~
- ~~2.4. For the purposes of this Ordinance and this Chapter, the requirements of Land Use Ordinance Section 16301629—Adequate Public Facilities Requirements, Section 16311630—Culinary Water, Sanitary Sewer, and Fire Protection Requirements, Section 16321631—Required Roads, Streets, Curb, Gutter, Sidewalks, Fire Protection, Trails, and other Improvements, and Section 1633—Guarantee of Installation of Improvements, Zoning Ordinance shall apply.~~

Section V. Chapter 6 of the CONSTRUCTION AND DESIGN STANDARDS is amended as follows: (Stricken text is deleted and underlined text is added)

1. Chapter 6: ~~SUBDIVISION~~-IMPROVEMENT GUARANTEES REQUIRED

2. §601 Guarantees ~~Required For Subdivision-Required~~ Improvements

All ~~subdivision-public~~ improvements required by the City's Land Use Ordinances, Subdivision Ordinance, this Resolution, and any Land Use Application approval shall be guaranteed by the establishment of a Performance Guarantee~~d~~ as required by this Chapter.

3. §602 Type Of Amount Of Guarantee

~~The required subdivision i~~An improvements performance guarantee shall be one of the following:

1. A deposit of cash in a separate escrow account in an amount not less than one-hundred twenty-five percent (125%) of the City Engineer's estimated cost of performing the work for which the guarantee is required. Said account shall be made with a financial institution acceptable to the City and shall be established in such a manner that any release there from shall require the advance written consent of the City. Any interest derived from the account shall inure to the benefit of the developer.
2. A performance bond in an amount not less than one-hundred twenty-five percent (125%) of the City Engineer's estimated cost of performing the work for which the guarantee is required, as established by the City.
3. An irrevocable letter of credit from a financial institution acceptable to the City, in an amount not less than one-hundred twenty-five percent (125%) of the City Engineer's estimated cost of performing the work. The letter of credit shall be established in such a manner that any release of funds to the developer shall require the advance written consent of the City.