

WAYNE COUNTY SUBDIVISION ORDINANCE

A LAND USE ORDINANCE OF WAYNE COUNTY

PUBLIC HEARING DRAFT ONLY

JANUARY 19, 2010 DRAFT

INCORPORATING ALL PLANNING COMMISSION REVIEW
REVISIONS AND ALL OTHER REVISIONS TO JANUARY 19, 2010

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**CHAPTER 1
GENERAL PROVISIONS**

Section 101—Short Title:

This Ordinance shall be known and may be cited as the Wayne County Subdivision Ordinance and may be identified within this document and other documents as “the Ordinance,” “this Ordinance,” “Subdivision Ordinance,” or “Land Use Ordinance.” This Ordinance shall be identified as part, or a component of, the Wayne County Land Use Ordinances, as defined by Title 17 Chapter 27a Utah Code Annotated, 1953, as amended (hereinafter the “Act”).

Section 102—Purposes:

This Ordinance is established to promote the purposes of the Act and to provide for the orderly division of lands and to secure the provision and long-term maintenance of necessary infrastructure and services in an efficient and economical manner for existing and future County residents.

Section 103—Enactment, Applicability and Conflict:

- 1) The Board of County Commissioners of Wayne County, Utah (hereinafter “BOCC”) adopts this Ordinance pursuant the Act and all other authorities and provisions of Utah and Federal statutory laws, and common law, as applicable. This Ordinance constitutes a part of the Wayne County’s Land Use Ordinances, as authorized and identified by the Act.
- 2) This Ordinance shall take effect on _____ following its adoption by the BOCC.
- 3) Upon its effective date, this Ordinance shall repeal Chapters _____ of the Wayne County Code, existing on the effective date of this Ordinance and shall govern and apply to the division of all lands located within the unincorporated areas of Wayne County, Utah.
- 4) This Ordinance shall not nullify any laws, ordinances, or requirements that are more restrictive, but shall prevail notwithstanding such laws, ordinances, or requirements that are less restrictive.
- 5) The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and the purposes of the State of Utah enabling laws, including the Act, and to avoid conflict with the laws of the United States of America, the State of Utah, or any other limitations imposed by law. If any chapter, section, subsection, provision, sentence or clause of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this Ordinance, which shall remain in effect.

- 6) Applications accepted by the County 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 County, as applicable and in effect at the time the application is determined to be “complete,” by the Wayne County Treasurer/Recorder (hereinafter “Treasurer/Recorder”), as required by this Ordinance and Resolutions, as applicable.
- 7) The provisions of this Ordinance shall apply to all lands located within the unincorporated areas of Wayne County, unless exempted by the provisions of this Ordinance, or other lawful exemption.
- 8) The provisions of this Ordinance shall be held to be the minimum requirements necessary to protect the health, safety, and welfare of the citizens of Wayne County, and achieve the purposes of this Ordinance.

Section 104—Omissions not a Waiver:

An omission to specify or enumerate in this Ordinance those provisions of general law applicable to all Utah counties shall not be construed to be a waiver of any such laws.

Section 105—Subdivision Defined:

For the purposes of this Ordinance, and the Act, a subdivision shall be, and shall mean;

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; 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.

Section 106—Final Plat Required Before Lots May be Sold:

As provided and authorized by the Act, a Final Subdivision Plat shall be approved, as required herein, complying with all requirements of this Ordinance, and the Act, before such Final Subdivision Plat may be filed or recorded in the Office of the Wayne County Recorder, and any lots or parcels may be sold.

Section 107—Subdivision Not to Include:

As provided by the Act and for the purposes of this Ordinance “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:
 - a) No new lot is created; and
 - b) The adjustment does not violate applicable Land Use Ordinances; or
 - c) 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.
- 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.

Section 108—Provision of Administrative Guidelines, Standards, and Other Materials – Compliance Required:

The BOCC may provide administrative guidelines, standards, reference materials, forms, or other documents to assist the County Staff, County residents, and Applicant in providing and processing applications and interpreting and administering the County’s Land Use Ordinances, including this Ordinance.

When provided by the BOCC the Land Use Applications required by this Ordinance shall be reviewed and approved or denied by the Land Authority, as applicable, and in compliance with all requirements and standards of this Ordinance and all guidelines, standards, reference materials, forms, or other documents, as applicable

Section 109—Fees and Charges:

The BOCC, by Resolution, may establish all necessary fees and charges payable for any Applications required by this Ordinance including application processing, application reviews, inspections, and any additional services provided by the County or required of this Ordinance. Such fees and charges may be amended from time to time, as considered necessary, by the BOCC.

Section 110—Approvals and Permits to Comply with this Ordinance:

- 1) From the effective date of this Ordinance, no approval or permit, shall be provided or issued by the County unless such approval or permit complies with the requirements and provisions of this Ordinance. Any approval or permit issued in conflict with the provisions and requirements of this Ordinance shall be void.
- 2) The County may enforce this Ordinance by withholding building permits.
- 3) The County shall not approve and issue a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all adopted Land Use Ordinances of the County, including this Ordinance, the Wayne County Zoning Ordinance (hereinafter “Zoning Ordinance”) and the Building Codes, as adopted.

Section 111—Prohibited Acts:

- 1) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a Final Subdivision Plat of the subdivision has been approved and recorded in the Office of the Wayne 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) 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) 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 County’s Land Use Ordinances, including this Ordinance, and the County’s other Land Use Ordinances, including the Zoning Ordinance.

Section 112—Restrictions for Solar and other Energy Devices:

The Wayne County Planning Commission (hereinafter “Commission”) may refuse to recommend, and the BOCC may refuse to approve a Preliminary Subdivision Application, Preliminary Subdivision Plat, Final Subdivision Application, Final Subdivision Plat, or the dedication of any road, street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels.

Section 113—Enforcement:

- 1) The County may take all actions, allowed under the law, to insure compliance and enforcement of this Ordinance. Failure of the County to enforce any provision or seek remedies to any violation of this Ordinance shall not legalize any such violation.
- 2) The County, or any adversely affected owner of real estate within the County, in which violations of this Ordinance are occurring, or are about to occur may, in addition to other remedies provided by law, institute:
 - a) Injunctions, Mandamus, Abatement, or any other appropriate actions; or
 - b) Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 3) As provided by the Act, the County need only establish a violation of this Ordinance to obtain the injunction.
- 4) The County may bring an action against a property owner to require that the property conform and comply with the provisions of this Ordinance, or the Act.
- 5) An action brought by the County against a property owner, and authorized by this Section, and/or the Act, may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation of this Ordinance.
- 6) See also Section 110.

Section 114—Penalties:

- 1) A violation of any provision of this Ordinance is punishable as a Class C misdemeanor upon conviction either:
 - a) As a Class C misdemeanor; or
 - b) By imposing an appropriate civil penalty adopted under the authority of the Act.

Section 115—When an Applicant is Entitled to Approval of an Application – Exceptions – County may not Impose Requirements that are Unexpressed – County Required to Comply with the Requirements of this Ordinance:

An Applicant is entitled to the approval of an Application, required by this Ordinance, if such Application conforms to the requirements of this Ordinance, and the County's other Land Use Ordinances, Official Maps, and Administrative Manual, as may be applicable, and in effect at the time the Application is determined to be complete and all fees have been paid, unless:

- 1) The Land Use Authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
- 2) In the manner provided by the Zoning Ordinance and the Act, and before the Application is submitted, the County has formally initiated proceedings to amend its Land Use Ordinances, including this Ordinance, in a manner that would prohibit approval of the Application as submitted.
- 3) The County shall process an Application required by this Ordinance without regard to proceedings initiated to amend the County's Land Use Ordinances if:
 - a) One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
 - b) The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
- 4) If the Final Subdivision Plat, as required herein, conforms fully to the requirements of this Ordinance, and the County's other Land Use Ordinances, and Administrative Manual, and has been approved by the Culinary Water Authority and the Sanitary Sewer Authority, as identified herein, the Final Subdivision Plat shall be approved.
- 5) The County shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:

- a) In the approval required by this Ordinance, or in documents on which such approval is based; or
 - b) In this Ordinance, or in the County’s other Land Use Ordinances, including the Zoning Ordinance.
- 6) The County shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:
- a) In the Building Permit, or in documents on which the Building Permit is based; or
 - b) In this Ordinance, or the County’s other Land Use Ordinances, including the Zoning Ordinance and the Building Code, as adopted.
- 7) The County shall be bound by the terms and standards of this Ordinance, and the County’s other Land Use Ordinances, and Administrative Manual, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances, including the Act.
- 8) The County shall process and render a decision on each Application required by this Ordinance with reasonable diligence.

Section 116—County Imposed Requirements and Exactions on Application Approval:

The County shall not impose any requirement(s) or exaction(s) on any Application approval required by this Ordinance unless:

- 1) An essential link exists between a legitimate governmental interest and each requirement or exaction; and
- 2) Each requirement or exaction is roughly proportionate, both in nature and in extent, to the impact of the proposed subdivision.

Section 117—Acquiring Property:

- 1) The County may acquire property through purchase, gift, voluntary dedication, or eminent domain.
- 2) A Land Use Authority may require the public dedication and improvement of a road, street, or other infrastructure or facility if the road, street, or other infrastructure or facility is found necessary by the County because of a proposed use activity, or development.

Section 118—Appeals:

Any person, including the Applicant for any approval or permit required by this Ordinance and any board or officer of the County, adversely affected by a decision of a Land Use Authority administering or interpreting this Ordinance may appeal that decision to the Appeal Authority, as identified by Chapter 13 of the Zoning Ordinance.

CHAPTER 2

LAND USE APPLICATIONS—DECISION MAKING STANDARDS

Section 201—Various Applications Provided:

- 1) This Ordinance provides for a number of Land Use Applications including, but not limited to Land Use Ordinance Amendment Application, Concept Subdivision Application, Preliminary Subdivision Application, Final Subdivision Application and Appeal Application.
- 2) The Land Use Applications required by this Ordinance shall be reviewed and approved or denied by the Land Use Authority, as applicable, and in compliance with all requirements and standards of this Ordinance and the Administrative Manual, as applicable

Section 202—Decision Making Standards:

The decision-making standards set forth in this Chapter are provided, based on the distinction between legislative and administrative proceedings. Legislative proceedings establish public law and policy that is applicable generally, while administrative proceedings apply public law and policy to factually distinct, individual circumstances.

1) Legislative Proceedings.

The BOCC is hereby identified as the only Land Use Authority of the County authorized to render a decision on any application determined to be a legislative matter and subject to a legislative proceeding. The following applications and actions, under this Ordinance, are declared to be legislative matters and subject to legislative proceedings:

- a) Land Use Ordinance adoption.
- b) Land Use Ordinance Amendment Application.
- c) Official Map adoption.
- d) Official Map Amendment Application.
- e) Temporary Land Use Regulations.

2) Legislative Proceedings - Decision Standards.

A decision regarding a legislative matter shall be based on the "reasonably debatable" standard, as identified by Section 302, Zoning Ordinance.

3) Administrative Proceedings.

The following types of applications are hereby declared to be administrative matters and subject to administrative proceedings:

- a) Preliminary Subdivision Application.

- b) Final Subdivision Application.
- c) Determination of Application Completeness.
- d) All other applications for any necessary approval or permit required by the provisions of this Ordinance, and not identified to be a legislative matter, subject to legislative proceedings, as identified by this Chapter.

4) Administrative Proceedings - Decision Standards.

All decisions regarding an administrative matter shall be based on the "substantial evidence" standard, as identified by Section 302, Zoning Ordinance.

CHAPTER 3
LAND USE APPLICATIONS – PROCEDURES

Section 301—Purpose:

Land Use Applications, and their accompanying procedures, are formulated to achieve the purposes of this Ordinance. The County may provide a Land Use Ordinances Administrative Manual (hereinafter “Administrative Manual”) identifying the administrative requirements to be followed by the Land Use Authorities and Appeal Authorities for the processing and review of all Land Use Applications, and other administrative matters required for the compliance with the provisions of the County’s Land Use Ordinances, including this Ordinance.

Section 302—Application Forms:

The BOCC may provide application forms and may identify submittal requirements and processing procedures for the acceptance and filing of all Land Use Applications and Building Permit Applications. Such requirements and procedures may be contained in the Administrative Manual.

Section 303—Land Use Application Procedures:

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

Section 304—Determination of Completeness of Land Use Applications:

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

Section 305—Scope of Land Use Application Approvals:

- 1) The rights conferred by a Land Use Application approval by the Land Use Authority shall be limited to those rights granted in the applicable provisions of this Ordinance and subject to any requirements or conditions.
- 2) A Land Use Application approval shall be considered void and invalid one hundred and eighty (180) calendar days after approval by the Land Use Authority, unless the Applicant has proceeded with reasonable diligence to submit the necessary subsequent application or recorded the approved Final Subdivision Plat in the Office of the Wayne County Recorder, as provided herein.

Section 306—Land Use Permits Required to comply with Land Use Authority Decision:

The approval of a Land Use Application shall comply with all requirements, conditions, terms and standards of approval.

Section 307—Vesting of Subdivision Rights:

On the date of a determination of a complete application by the Treasurer/Recorder, an Application for any Land Use Application approval or permit, as may be required by this Ordinance, shall vest pursuant to the terms of this Ordinance in effect, unless such vesting is affected by a pending amendment to this Ordinance, or a temporary zoning regulation.

Section 308—Procedural Irregularities:

Any irregularities to the procedures set forth by this Ordinance and/or the Administrative Manual shall be considered as required by Section 410, Zoning Ordinance.

CHAPTER 4

APPLICATIONS TO AMEND THE WAYNE COUNTY LAND USE ORDINANCES

Section 401—Purpose:

This Chapter and the Administrative Manual provides the standards and procedures for the review of Applications to amend the County’s Land Use Ordinances, including Applications to amend this Ordinance.

The Wayne County Land Use Ordinances, including this Ordinance, is considered the County’s land use laws for the purposes of land use decision-making.

Section 402—BOCC the Land Use Authority for Land Use Ordinance Amendment Applications:

The BOCC is authorized as the Land Use Authority responsible to review and approve, approve with revisions, or deny all Land Use Ordinance Amendment Applications.

Section 403—Procedures and Review Standards for Land Use Ordinance Amendment Applications:

- 1) The procedures for the review of a Land Use Ordinance Amendment Application, including any amendment to this Ordinance, are identified by Chapter 10 and 15, Administrative Manual.
- 2) In considering a Land Use Ordinance Amendment Application, including any amendment to this Ordinance, the Commission in formulating a recommendation and the BOCC in deciding a Land Use Ordinance Amendment Application shall consider the standards identified by Section 603, Zoning Ordinance.

Section 404—Findings Required for Approval of a Land Use Ordinance Amendment Application:

The Commission in making a recommendation, and the BOCC in deciding a Land Use Ordinance Amendment Application, shall find that all the procedural requirements and review standards of Section 403 have been met.

Section 405—Effect of Approval of a Land Use Ordinance Amendment Application:

The approval of a Land Use Ordinance Amendment Application shall not authorize the division of land. After the BOCC has approved a Land Use Ordinance Amendment Application, including this Ordinance, by Ordinance, no division of land shall occur until the required Land Use Application approvals or permits have been issued by a Land Use Authority, as applicable,

consistent with the requirements of the County's Land Use Ordinances, including this Ordinance, and other Ordinances, as amended and as applicable.

Section 406—Appeals:

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

Section 407—Temporary Land Use Regulations:

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

CHAPTER 5
CONCEPT SUBDIVISION APPLICATIONS

Section 501—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Concept Subdivision Applications and required to determine compliance with this Ordinance.

Section 502—Concept Subdivision Application Required:

A property owner proposing to subdivide any lands located within the boundaries of the County shall present a Concept Subdivision Application to the County 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 an understanding of the County's subdivision requirements and to obtain Ordinance and Application processing and review information.

Section 503—Zoning Administrator and Commission the Land Use Authorities for Concept Subdivision Applications:

The Zoning Administrator and the Commission are authorized as the Land Use Authorities responsible to review all Concept Subdivision Applications.

Section 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 in Chapter 15, Administrative Manual.

Section 505—Concept Subdivision Applications – Not an Application for any Subdivision Approval:

A Concept Subdivision Application does not constitute a Land Use Application for any subdivision approval and is in no way binding on the County or the Applicant(s). Any discussion before the Zoning Administrator and Commission, meeting when the Concept Subdivision Application is discussed, shall not be considered by the Applicant as any indication of approval or disapproval, either actual or implied of any subsequent Land Use Application required by this Ordinance.

Section 506—Possible Actions following a Concept Subdivision Application Meeting:

Following the Concept Subdivision Application discussion with the Zoning Administrator and Commission, a Preliminary Subdivision Application may be filed by the Applicant with the Treasurer/Recorder.

CHAPTER 6
PRELIMINARY SUBDIVISION APPLICATIONS (MAJOR)

Section 601—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Preliminary Subdivision Applications (Major) and required to determine compliance with this Ordinance.

Section 602—BOCC the Land Use Authority for Preliminary Subdivision Applications (Major):

The BOCC, following the receipt of a Commission recommendation, is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Preliminary Subdivision Applications (Major).

Section 603—Procedures and Review Standards for Preliminary Subdivision Applications proposing Five (5) or more Lots:

- 1) The procedures for the review of a Preliminary Subdivision Application (Major) are identified by Chapter 7, Administrative Manual, and the Preliminary Subdivision Application (Major) materials, as contained in Chapter 15, Administrative Manual.
- 2) In considering a Preliminary Subdivision Application (Major) the Commission in formulating a recommendation, and the BOCC in deciding a Preliminary Subdivision Application (Major) shall review the Application and shall determine:
 - a) The proposed subdivision complies with all requirements of this Ordinance and the Zoning District in which the subject property is located.
 - b) The proposed subdivision complies with all requirements of the County's other Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
 - c) 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.
 - d) 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.
 - e) The proposed subdivision complies with all requirements for fire protection and fire suppression services, as required by the Fire Authority.

- f) The proposed subdivision complies with all requirements as required by any Official Maps, as adopted.
- 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 County and provides the necessary infrastructure, services and amenities as required.

Section 604—Commission Recommendation – Reasonable Requirements Authorized:

- 1) The Commission may recommend approval of the Preliminary Subdivision Application (Major), as presented, recommend approval of the Preliminary Subdivision Application (Major) with revisions and requirements, or recommend denial of the Preliminary Subdivision Application (Major), with findings of compliance or non-compliance with this Ordinance, the County's other Land Use Ordinances and all other requirements, as applicable.
- 2) The Commission may recommend onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Major) approval, such improvements, facilities, services, and amenities being determined to be consistent with the requirements of Section 116 herein, including, but not limited to:
 - a) Road and street improvements, including layout, design, grading and surfacing.
 - b) Flood control facilities.
 - c) Culinary Water facilities.
 - d) Secondary and Irrigation Water facilities.
 - e) Sanitary Sewer facilities.
 - f) Storm Drainage facilities.
 - g) Erosion Control facilities.
 - h) Traffic Circulation and Access Management facilities.
 - i) Lot, Parcel, and/or Site drainage.
 - j) Park and open space areas and facilities.
 - k) Public features and recreational amenities.
 - l) Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
 - m) Electrical power and telecommunications facilities.
 - n) Fencing and buffering treatments.
 - o) Street lighting facilities.
 - p) Streetscape enhancements, including street trees and park strip improvements.

- q) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
 - r) 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.
- 3) The Commission in making a recommendation shall find that the procedural requirements and review standards of Section 603 have been met.

Section 605—BOCC Approval – Reasonable Requirements Authorized:

- 1) Following the consideration of the Preliminary Subdivision Application (Major), the recommendation of the Commission, and all information and materials presented, the BOCC acting as the Land Use Authority, may approve the Preliminary Subdivision Application (Major), as presented, approve the Preliminary Subdivision Application (Major) with requirements, or deny the Preliminary Subdivision Application (Major) with findings of compliance or non-compliance with this Ordinance and other Land Use Ordinances and requirements, as applicable.
- 2) The BOCC may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Major) approval, such improvements, facilities, services, and amenities being determined consistent with the requirements of Section 116 herein, including but not limited to:
 - a) Road and street improvements, including layout, design, grading and surfacing.
 - b) Flood control facilities.
 - c) Culinary Water facilities.
 - d) Secondary and Irrigation Water facilities.
 - e) Sanitary Sewer facilities.
 - f) Storm Drainage facilities.
 - g) Erosion Control facilities.
 - h) Traffic Circulation and Access Management facilities.
 - i) Lot, Parcel, and/or Site drainage.
 - j) Park and open space areas and facilities.
 - k) Public features and recreational amenities.
 - l) Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
 - m) Electrical power and telecommunications facilities.
 - n) Fencing and buffering treatments.
 - o) Street lighting facilities.
 - p) Streetscape enhancements, including street trees and park strip improvements.

- q) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
 - r) 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.
- 3) The BOCC in deciding a Preliminary Subdivision Application (Major) shall find that the procedural requirements and review standards of Section 603 have been met.

Section 606—Restrictions for Solar and other Energy Devices:

The Commission may refuse to recommend, and the BOCC may refuse to approve a Preliminary Subdivision Application (Major), or the dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the Preliminary Subdivision Application (Major) have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the Preliminary Subdivision Application (Major).

Section 607—Effect of BOCC Preliminary Subdivision Approval and Effective Period:

The approval of a Preliminary Subdivision Application (Major), with or without requirements, by the BOCC shall not constitute a final approval of the proposed subdivision. A Preliminary Subdivision Application (Major) 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 for the subject property.

As provided by the Act, the continuing validity of a Preliminary Subdivision Application (Major) 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 approval of a Preliminary Subdivision Application (Major) shall be effective for a period of one hundred eighty (180) calendar days from the date of approval by the BOCC at the end of which time the Applicant(s) shall have submitted a Final Subdivision Application to the Treasurer/Recorder. If a Final Subdivision Application is not received by the Treasurer/Recorder within one hundred eighty (180) calendar days of approval, the Preliminary Subdivision Application (Major) approval shall be rendered void and invalid.

Section 608—Site Preparation Work Prohibited:

No excavation, no grading, or regrading, shall take place on any of the subject property, and no building permits shall be issued by the County, until a Final Subdivision Application has been approved and the Final Subdivision Plat has been recorded in the Office of the Wayne County Recorder.

Section 609—Appeal of Preliminary Subdivision Application (Major) Decisions:

Any person(s) aggrieved by a decision of the BOCC for a Preliminary Subdivision Application (Major) may appeal the BOCC decision to District Court, as provided by Chapter 13, Zoning Ordinance.

CHAPTER 7
PRELIMINARY SUBDIVISION APPLICATIONS (MINOR)

Section 701—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Preliminary Subdivision Applications (Minor) and required to determine compliance with this Ordinance.

Section 702—Commission the Land Use Authority for Preliminary Subdivision Applications (Minor):

The Commission is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Preliminary Subdivision Applications (Minor).

Section 703—Procedures and Review Standards for Preliminary Subdivision Applications (Minor):

- 1) The procedures for the review of a Preliminary Subdivision Application (Minor) are identified by Chapter 7, Administrative Manual, and Preliminary Subdivision Application (Minor) materials, as contained in Chapter 15, Administrative Manual.
- 2) In considering a Preliminary Subdivision Application (Minor) the Commission shall review the Application and shall determine:
 - a) The proposed subdivision;
 - i) Is not traversed by the mapped lines of a proposed road or street as shown in the County's general plan.
 - ii) Does not require the dedication of any land for a road or street or 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 complies with all requirements of the County's other Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
- c) The proposed subdivision has received a written recommendation of fire protection, suppression, and fire access facilities, as provided by the Fire Authority.
- 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.

Section 704—Commission Approval – Reasonable Requirements Authorized:

- 1) The Commission may approve the Preliminary Subdivision Application (Minor), as presented, approve the Preliminary Subdivision Application (Minor) with revisions and requirements, or deny the Preliminary Subdivision Application (Minor), with findings of compliance or non-compliance with this Ordinance, the County's other Land Use Ordinances and all other requirements, as applicable.
- 2) The Commission may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Minor) approval, such improvements, facilities, services, and amenities being determined to be consistent with the requirements of Section 116 herein, including, but not limited to:
 - a) Road and street improvements, including layout, design, grading and surfacing.
 - b) Flood control facilities.
 - c) Culinary Water facilities.
 - d) Secondary and Irrigation Water facilities.
 - e) Sanitary Sewer facilities.
 - f) Storm Drainage facilities.
 - g) Erosion Control facilities.
 - h) Traffic Circulation and Access Management facilities.
 - i) Lot, Parcel, and/or Site drainage.
 - j) Park and open space areas and facilities.
 - k) Public features and recreational amenities.
 - l) Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
 - m) Electrical power and telecommunications facilities.
 - n) Fencing and buffering treatments.
 - o) Street lighting facilities.
 - p) Streetscape enhancements, including street trees and park strip improvements.

- q) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
 - r) 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.
- 3) The Commission in deciding a Preliminary Subdivision Application (Minor) shall find that the procedural requirements and review standards of Section 703 have been met.

Section 705—Restrictions for Solar and other Energy Devices:

The Commission may refuse to approve a Preliminary Subdivision Application (Minor), if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the Preliminary Subdivision Application (Minor) have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the Preliminary Subdivision Application (Minor).

Section 706—Effect of Commission Preliminary Subdivision (Minor) 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) 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 approval of a Preliminary 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 to the Treasurer/Recorder. If a Final Subdivision Application is not received by the Treasurer Recorder within one hundred eighty (180) calendar days of approval, the Preliminary Subdivision Application (Minor) approval shall be rendered void and invalid.

Section 707—Site Preparation Work Prohibited:

No excavation, no grading, or regrading, shall take place on the subject property, and no building permits shall be issued by the County, until a Final Subdivision Application (Minor) has been approved and the Final Subdivision Plat has been recorded in the Office of the Wayne County Recorder.

Section 708—Appeal of Preliminary Subdivision Application Decisions:

Any person(s) aggrieved by a decision of the Commission for a Preliminary Subdivision Application (Minor) may appeal decision to the BOCC, as provided by Chapter 13, Zoning Ordinance.

CHAPTER 8

FINAL SUBDIVISION APPLICATIONS (MINOR OR MAJOR)

Section 801—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Final Subdivision Applications and required to determine compliance with this Ordinance.

Section 802—BOCC and Commission the Land Use Authorities for Final Subdivision Applications:

- 1) The BOCC is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Final Subdivision Applications (Major).
- 2) The Commission is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Final Subdivision Applications (Minor).

Section 803—Procedures and Review Standards for Final Subdivision Applications:

- 1) The procedures for the review of a Final 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 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 BOCC or the Commission, 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 BOCC or Commission, as applicable, as required for Preliminary Subdivision Application approval, as authorized by Section 603 or Section 703, 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 County'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.

- 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 has received a written recommendation of fire protection, suppression, and fire access facilities, as provided by the Fire Authority.
- g) The proposed subdivision complies with all requirements as required by any Official Maps, as adopted.
- 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 County and provides the necessary infrastructure, services and amenities as required, as applicable for Final Subdivision Applications (Major).

Section 804—Recordation of Final Subdivision Plat and associated Subdivision Documents.

- 1) After a Final Subdivision Application has been approved by the BOCC or Commission, as applicable, with or without requirements, and signed by all County Officers and service providers, as required, and including any necessary acknowledgments required for the conveyances of real property to a public agency, including the County, or private entity, the Final Subdivision Plat shall be presented to the Office of the Wayne 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 County 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.

Section 805—Dedication of Roads, Streets and other Public Places:

- 1) When the Applicant is proposing, or is required, to provide dedications for any public or quasi-public infrastructure, utilities, or improvements, as applicable, the owner or operator of the infrastructure, utilities, improvements, and underground and utility facilities shall approve:
 - a) The boundary, course, dimensions, and intended use of the right-of-way and easement grants of record.

- b) The location of existing underground and utility facilities; and
 - c) Any conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision. Such approval shall be provided in writing by the owner or operator of the infrastructure, utilities, improvements, and underground and utility facilities, as applicable. When land within the subdivision is to be purchased by a public or quasi-public agency, a letter of intention to purchase shall be provided.
- 2) Subdivision Plats, when made, acknowledged, and recorded according to the procedures specified by this Ordinance, operate as a dedication of all roads, streets and other public places, and vest the fee of those parcels of land with the County for the public for the uses named or intended in those plats.
 - 3) The dedication established by this section does not impose liability upon the County for streets and other public places that are dedicated in this manner but are unimproved.

Section 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 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 for recording as required by Section 804. If the Final Subdivision Plat is not presented for recording within one hundred eighty (180) calendar days, the Final Subdivision Application (Major) or (Minor) shall be rendered void, and the Applicant shall 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 County requirements for such permits.

Section 807—Site Preparation Work Prohibited:

No excavation, no grading, or regrading shall take place on the Subject Property, and no building permits shall be issued by the County, until the Final Subdivision Plat has been approved and the Final Plat has been recorded in the Office of the Wayne County Recorder, as provided herein.

Section 808—Appeal of Final Subdivision Application Decisions:

- 1) Any person(s) aggrieved by a decision of the BOCC concerning a Final Subdivision Application (Major) may appeal the decision to District Court, as provided by Chapter 13, Zoning Ordinance.
- 2) Any person(s) aggrieved by a decision of the Commission concerning a Final Subdivision Application (Minor) may appeal the decision to the BOCC, as provided by Chapter 13, Zoning Ordinance.

**CHAPTER 9
NOTICE REQUIREMENTS**

Section 901—Purpose:

As required and provided by the Act, the County is required to provide notice of all public hearings and public meetings for adoption or modification of this Ordinance and when an Application required by this Ordinance is considered by the Commission or BOCC.

Section 902—Notice of Public Hearings and Public Meetings required by this Ordinance:

The notice requirements of the County for public hearings and public meetings required by this Ordinance, and including required Applicant notice, and notice challenge shall be as required by Chapter 12, Zoning Ordinance.

**CHAPTER 10
BUILDING PERMITS**

Section 1001—Building Permit Issuance:

The County's Building Official shall not issue any building permit(s) for a proposed building or structure on a lot or parcel located within the boundaries of the County unless;

- 1) The lot is within a subdivision and the lot was legally created pursuant to this Ordinance, or prior its prior enactment(s).
- 2) The lot is a legal lot of record, such lot being created and recorded in the Office of the Wayne County Recorder prior to _____.

Section 1002—Building Permit Application:

All proposed buildings, structures, facilities and uses located within the boundaries of the County and requiring the approval and issuance of a building permit, as required by the building codes, as adopted, shall present a building permit application for review by the County's Building Official.

Section 1003—Certificate of Occupancy Required:

- 1) Unless exempted by the Building Code(s), as adopted, no building or structure shall be occupied, or used, until a Certificate of Occupancy has been issued by the County Building Official.
- 2) It is unlawful to occupy or use a building or structure until a Certificate of Occupancy has been issued for such building or structure.
- 3) Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and the Building Code(s), as adopted.
- 4) The occupancy or use of any building, structure for which a Certificate of Occupancy has not been issued is declared to be a public nuisance and may be cited and abated as such.

**CHAPTER 11
AMENDING OR VACATING A FINAL PLAT**

Section 1101—Amendment to Recorded Plats:

The BOCC may, with or without a petition, consider and resolve, any proposed vacation, alteration, or amendment of a recorded subdivision plat, any portion of a recorded subdivision plat or any road or lot, contained in a recorded subdivision plat by following and complying with all the requirements for vacating or changing a subdivision plat, as identified by the Act.

Section 1102—Vacating or Altering a Street or Alley:

The BOCC may vacate or alter a street or alley by following and complying with all the requirements for vacating or altering a street or alley, as identified by the Act.

Section 1103—Appeal of Subdivision Plat Amendment Decisions:

Any person(s) aggrieved by a decision of the BOCC concerning a vacation or amendment of a recorded Final Subdivision Plat, or any portion of a recorded Final Subdivision Plat, or the decision of the BOCC concerning the vacation or alteration of a street or alley may appeal the decision to District Court, as provided by Chapter 13, Zoning Ordinance.

CHAPTER 12
SUBDIVISION IMPROVEMENTS

Section 1201—Required Improvements and Guarantees:

- 1) The owner of any land to be part of a subdivision may be required to install all required improvements and guarantee the installation of such improvements, as required by the Land Use Authority, as provided by the County’s Development Standards and Construction Specifications and as inspected and approved by the County Engineer, or designee.
- 2) For the purposes of this Ordinance and this Chapter, the requirements of Section 1628—Adequate Public Facilities Requirements, Section 1629—Culinary Water, Sanitary Sewer, and Fire Protection Requirements, Section 1630—Required Roads, Streets, Fire Protection, and other Improvements, and Section 1631—Guarantee of Installation of Improvements, Zoning Ordinance shall apply.

**CHAPTER 13
DEFINITIONS**

Section 1301—Purpose and Conflicts:

- 1) This Chapter provides definitions of general terms used throughout this Ordinance for which a definition is considered necessary. Definitions shall be as provided by Chapter 16, Administrative Manual.
- 2) Words used in the present tense include the future, words in the singular number include the plural, and words in the plural include the singular. The word "shall" is mandatory the word "may" is permissive. The word "herein" means "in these regulations"; the word "regulations" means "these regulations"; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- 3) Words not defined herein shall have a meaning consistent with Webster's New Collegiate Dictionary, latest edition.
- 4) For the convenience of users of this Ordinance, certain terms may be illustrated. If a conflict arises between an illustration and a definition, the definition shall apply.