

# Agenda

# GRAND COUNTY Planning Commission

March 23, 2016  
6:00 P.M. Regular Meeting  
Grand County Courthouse  
Council Chambers  
125 E Center, Moab, Utah

|                         |  |
|-------------------------|--|
| <b>Type of Meeting:</b> | Regular Meeting  |
| <b>Facilitator:</b>     | Dave Tubbs, Chair                                      |
| <b>Attendees:</b>       | Planning Commissioners, interested citizens, and staff |

## 6:00 PM

Citizens to be heard *Chair*

### Workshop

Review and discussion of Land Use Code Amendments.

- Sec. 3.2.3 D. Bed and Breakfast
- Use of non-IRC structures (RV) as tiny homes
- Notice requirement changes and clarifications
- EOC Heliport
- Sec. 3.2.4 G use of Briny Water addition to Production Water Disposal and Recycling Facilities

*Staff*

### Action Item

Approval of March 9, 2016 Meeting Minutes

*Chair*

Future Considerations

*Chair*

Community Development Department Update

*Staff*

County Council Update – Mary McGann

*Council Liaison*

**ADJOURN**

#### DEFINITIONS:

**Public hearing** = a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

**Public meeting** = a meeting required to be open to the public pursuant to the requirements of Title 52, Chapter 4, Open and Public Meetings; the public may or may not be invited to participate.

**Legislative act** = action taken by the County Council or Planning Commission; amending ordinances, adopting general plan, Annexations, zoning and rezoning; a reasonable debatable action that could promote the general welfare of the community.

**Administrative act** = action taken by the Planning Commission, County Council or staff interpreting ordinances and regulations, conditional uses, approving subdivision, site plans, issuing building permits; an administrative decision must satisfy the requirements prescribed under state law or the County Land Use Code, whichever is stricter.

Citizens wanting to submit information to the Planning Commission for inclusion in the Planning Commission record regarding any application will need to provide 10 complete copies to the Grand County Community Development Department by 5:00 PM the Thursday before the Planning Commission meeting. All documents, including electronically transmitted material, shall be submitted directly to the Planning office. Materials sent to individual commission members will not be considered.

## **Grand County Bed & Breakfast Ordinance**

### **General staff suggestions:**

- Hold 1-2 community workshop to discuss the regulations surrounding B&Bs. County residents, realtors, B&B owners, property management companies, outfitters, local government staff, and others should be invited.
- B&B regulations MUST be enforced. A code enforcement officer could oversee overnight rental regulations, general LUC regulations, and affordable housing deed restrictions.
- Create an amortization period for nonconforming B&Bs to come into compliance with current standards, as appropriate.

### **General staff questions:**

- Should the County require applicants to provide a notice to adjacent property owners (within 100 ft. in all directions) of their intent to operate a B&B?
- Should the County increase the B&B permit fee to between \$250 and \$750 in lieu of a (illegal) retroactive commercial impact fee? A County business license only costs \$100 for a B&B.
- Should the County encourage GWSSA to charge commercial user rates for water and sewer in overnight accommodations (B&B and/or standard vacation rental)?
- Should the County create a minimum buffer distance between bed and breakfasts (in a subset of [small lot] zone districts)? Additionally, should the ordinance could B&Bs on cul-de-sacs and dead-end streets?
- Should the County create minimum lot dimensions for B&Bs, such as lot size and/or street frontage?
- Should the County prohibit construction solely for B&B uses? For instance, a structure within the City is not eligible for use as a B&B until 2 years after the Certificate of Occupancy is signed.

### **Draft changes:**

3.2.3

D. Bed and Breakfast

Bed and breakfast establishments shall comply with the standards of this section:

1. Applicant shall submit a site plan drawn to scale and clearly show the location and dimensions of existing and proposed structures, parking, access ways including driveways, and outdoor lighting.

a. Bed and breakfast site plans shall be reviewed and approved by the building official, fire department, travel council, GWSSA, and health inspector.

3. Lodging and breakfast may be provided for temporary overnight occupants in no more than 5 separate bedrooms for compensation. Guests may only occupy rooms that are designated as bedrooms in the residential construction plan.

a. All guest rooms shall be located in the principal structure.

~~3. One (1) off-street parking space shall be provided per bedroom offered for use for temporary overnight accommodations, in addition to off-street parking otherwise required pursuant to Section 6.1, off-street parking standards;~~

~~3. There shall be a~~An on-site resident manager shall reside in the principal structure.

4. Bed and breakfast facilities shall meet the minimum performance standards for off-street parking as specified in Section 6.1, including reasonably expected extraordinary parking demands.

a. On-street parking by bed and breakfast guests is expressly prohibited;

b. Driveways and other access ways to the principal structure do not satisfy the off-street parking requirements for bed and breakfast guests.

~~6. Structures shall not be altered in a way that changes their general residential appearance;~~

7. One (1) sign shall be allowed, in accordance with the requirements of Section 6.5, Signs, of this LUC;

~~8. Earth-tone colors shall be utilized that minimize contrast with the surrounding landscape;~~

8. A restricted use covenant, provided by the Community Development Department, shall be signed and recorded by the owner prior to issuance of a business license for a bed and breakfast.

9. The zoning administrator may revoke a bed and breakfast permit if it is determined that:

a. The applicant has misrepresented any material fact on his or her application, or supporting materials;

b. The bed and breakfast fails or ceases to comply with applicable standards, conditions or criteria for issuance of a permit;

c. The operation of the bed and breakfast violates any statute, law, ordinance or regulation; and/or

d. The operation of the bed and breakfast constitutes a nuisance or poses a real or potential threat to the health, safety or welfare of the public.

## **Accommodating Tiny Houses in the Grand County Land Use Code (LUC)**

### **Key Terms:**

IRC = International Residential Code; adopted statewide as the standard for residential construction

HUD = Department of Housing and Urban Development; less stringent construction standard for manufactured homes

ANSI = American National Standards Institute (ANSI) A119.5 Standard - A certification that a unit complies with requirements of the Recreation Vehicle Industry Association (RVIA), including park models.

### **Objective:**

The objective for this conversation is two-pronged:

- 1) To enable the development of housing that is not IRC or HUD approved, but can otherwise be viewed as safe, accessible, and affordable for Grand County's workforce; and,
- 2) To enable the development of IRC approved structures on small lots.

### **Background:**

"Tiny houses" emerged on the planning scene several years ago, and the popularization of this housing type occurred rapidly. The emerging market is attributable to at least the following factors:

- Large-scale economic conditions that have forced households to identify cheaper alternatives to regulated building construction
- Cultural dynamics that have led to changes in housing and lifestyle preferences
- Decreasing land availability in rapidly growing or urbanizing regions
- Improvements in the design and construction quality of non-regulated, mobile, and permanently affixed homes smaller than 800 sq. ft.
- Media coverage, which is increasing the prominence of the "tiny home movement"

Despite all the fanfare for "tiny homes," the term remains unclear and undefined for many people, and certainly from the perspective of zoning and construction codes. As a result, very few jurisdictions have found a way to accommodate this class of housing within their land use regulations. As is usually the case, regulations have not kept pace with rapidly evolving market changes.

### **Regulatory Issues:**

"Tiny homes" is best described as an umbrella term for a group of housing structure types (see Table 1). First, a tiny home could simply mean a primary residence that is very small, stick-built or manufactured/modular, and IRC approved. Second, a tiny home could be a secondary or accessory residence (i.e. "mother-in-law") that is very small, stick-built or manufactured/modular, and IRC approved. Third, a tiny home could be either a primary or secondary residence that is permanently affixed to a foundation, very small, stick built or manufactured/modular, but does not meet the IRC or HUD construction standard. Fourth, a tiny home could be either a primary or secondary residence that is not affixed to a foundation, very small, stick built or manufactured, and meets the HUD construction standard. And fifth, a tiny home could be either a primary or secondary residence that is not affixed to a

foundation, very small, stick built or manufactured, and meets either the ANSI standard for highway capable auto-trailers or no standard at all. Grand County’s land use code easily accommodates the first and second sub-categories. Three through five are more challenging.

**Table 1: Tiny Home Sub-Categories**

| Tiny Home Sub-Category | Description   | Regulatory Considerations  | Visual Example  |
|------------------------|---|--|---|
| 1                      | Primary structure<br>Stick built or modular<br>affixed to ground<br>IRC approved  | <u>None:</u> In GC, the minimum building size is set by IRC  |    |
| 2                      | Secondary or accessory structure<br>Attached or detached<br>Stick built or modular<br>affixed to ground<br>IRC approved   | <u>Minimal:</u> Renter only as an ADU with use-specific standards  |   |
| 3                      | Primary or accessory structure<br>Stick built or modular<br>affixed to ground<br>Non-IRC, Non-HUD approved                | <u>Moderate to Severe:</u><br>Only commercial RV/CGs can accommodate these units                             |  |
| 4                      | Primary or accessory structure<br>Stick built or modular<br>NOT affixed to ground until installed on-site<br>HUD approved | <u>Moderate:</u> GC permits HUD approved “tiny homes” using the same regulations as other manufactured homes |  |
| 5                      | Primary or accessory structure<br>Stick built or modular<br>NOT on a foundation<br>ANSI approved or no standard at all    | <u>Moderate to Severe:</u><br>Only commercial RV/CGs can accommodate these units<br>(includes Park Model RV) |  |

**Solutions:**

Although certain sub-categories of “tiny homes” can be permitted in Grand County as primary residences on approved lots (1 or 4 in Table 1), ADUs with use-specific standards (2 or 4 in Table 1), or within commercial campgrounds (3 or 5 in Table 1), there is potential to further specify, and in some cases modify, regulations in order to better accommodate “tiny homes” in the LUC (see Table 2). The purpose for doing so is to provide households more housing options, reduce land and construction costs, and ease our area’s housing crisis.

Table 2: LUC Amendments to Better Accommodate “Tiny Homes”

| <b>Solution</b>  | <b>Impact</b>  | <b>Comments</b>  |
|--|--|--|
| Relax regulations in Sec. 3.2.2B, Accessory Dwelling Unit                            | Increase infill development<br>Expand rental market<br>Decrease housing costs for owners and renters | Grand County is in the process of amending its LUC to create more opportunities for ADUs.  |
| Create a “tiny home” zone designation and associated use-specific standards          | Enable IRC or HUD approved “tiny homes” on “tiny lots”   | A “tiny house” is still expensive if it is placed on an expensive, large lot<br>Without tiny lots, tiny houses don’t reduce inefficient/expensive land use (sprawl)        |
| Create a non-commercial RV/CG zone designation and associated use-specific standards | Enable non-IRC, non-HUD approved units on parcels without commercial zoning                          | Grand County doesn’t necessarily need more commercial RV/CGs.<br>Long-term occupancy in a commercial RV/CG can still be expensive, and doesn’t provide a neighborhood feel |
| Add dormitories to Sec. 3.3.2D Employee Housing, Accessory                           | Enable high density, deed-restricted workforce housing for seasonal and service-industry employees   | Grand County is in dire need of housing for this population group  |
| Add non-IRC units to Sec. 3.3.2D, and regulate the same as non-commercial RV/CGs     | Better regulate outfitters’ on-site employee housing, and expand employee housing options            | Currently, only IRC approved housing may be constructed on-site<br>Illegal on-site camping may be prevalent throughout the County  |

Each of the solutions in Table 2 require further analysis and discussion. However, this solution set represents a good starting place for Grand County. There are at least two guiding questions going forward:

- 1) How and where should Grand County accommodate non-IRC, non-HUD “tiny houses?”
- 2) How and where should Grand County accommodate IRC approved “tiny houses?”



# Park Model RVs (aka Recreational Park Trailers): Definition and Use

## What a Park Model RV is:

A park model RV (PMRV) is a unique trailer-type RV that is designed to provide temporary accommodation for recreation, camping or seasonal use. PMRVs (also sometimes referred to as recreational park trailers) are built on a single chassis, mounted on wheels and have a gross trailer area not exceeding 400 square feet in the set-up mode. They are certified by their manufacturers as complying with the ANSI A119.5 standard for recreational park trailers.

PMRVs are most often used in recreational vehicle campgrounds. They may be owned by the campground and rented to guests or they may be brought in and used exclusively by their owners on a site rented or leased from the campground. They can also be placed by their owners on private property. These units are designed and built to be used for recreational/camping purposes only. They are not meant to be affixed to the property in any way, they do not improve property values in any way, and they are neither designed nor intended by their manufacturers to be used as permanent residences. Park model RVs are titled as motor vehicles by the various states just like other RV types.

What makes PMRVs unique is that they are up to 15 feet in width or 36 feet long with a peaked and shingled or metal roof. Some offer gabled windows, and siding choices of cedar, aluminum, vinyl, masonite or even split logs for a rustic look, while others are made of full solid logs. They are often designed with built-in porches, decks and/or storage areas. Many look like tiny summer cottages. Others look more like traditional but slightly longer RV travel trailers.

Most park model RV owners (67%) locate their unit within several hours of drive time from their primary residences and use them for weekend camping get-aways. Some owners may place their PMRV in a warm climate location and use them as a seasonal/temporary get-away to escape the cold gray winter weather, while others place their PMRVs in cooler climate locations to escape the summer heat and humidity back home.

In the off-season, these units are typically winterized (i.e. have antifreeze in the water lines; and are unusable because water and sewage facilities are not operational). These units are left in “onsite storage” when not being used.

The Recreation Vehicle Industry Association (RVIA) operates a safety standards and inspection program that requires member manufacturers of all recreation vehicles, including park model RVs, to affix a RVIA standards program seal to every unit they build in their factories. This seal indicates the manufacturer’s certification that the unit complies with the requirements of the applicable standards. A park model RV can always be identified by the blue and gold RVIA ANSI A119.5 certification seal (or its predecessor green RPTIA seal) affixed to the right of main door of the unit.



**RECREATION VEHICLE INDUSTRY ASSOCIATION**

1896 Preston White Dr. P.O. Box 2999 Reston, VA 20195-0999 Tel: 703/620-6003 Fax: 703/620-5071 [www.rvia.org](http://www.rvia.org)

### **What a Park Model RV is Not:**

Although the distinctive appearance of park model RVs may sometimes lead people to think they look like small manufactured homes, appearances can be deceiving. PMRVs are actually titled and registered just like any other RV. Due to their design, small size and use as recreation, vacation and seasonal units, PMRVs are explicitly excluded from being considered or used as a manufactured home under the codes and regulations of the U.S. Department of Housing and Urban Development (HUD) specifically because they are a type of recreation vehicle (Title 24 § 3282.8(g)).

Park model RVs are built in accordance with the national safety standards set forth under a nationally recognized standard, the American National Standards Institute (ANSI) A119.5 Standard, not the HUD requirements that manufactured homes are mandated to comply with. The key distinction is that manufactured homes are single-family dwellings that are designed and built for *permanent* residency under standards set by the Department of Housing and Urban Development. Park models RVs, as noted, are designed and built to be used by families as a recreational, camping, or seasonal accommodation. PMRVs are not intended for, nor should they be used for, anything other than recreational camping or seasonal use. **They are not permanent residences and should never be used as such.**

Like RV motor homes, travel trailers and fifth-wheel trailers, park model RVs are built to ensure safety but are not required to meet the building codes or installation codes that stick-built or manufactured homes are required to meet. Although they are sometimes stabilized and/or skirted, they are designed to remain on their axles and wheels, ready for movement and are not connected to the ground by footers, foundations, or columns (some local units of government do require them to be anchored to the ground due to excessive local winds, but even then they can easily be detached in minutes with only hand tools).

PMRVs are not housing. There is no practical difference in the use of PMRVs than travel trailers or fifth-wheel trailers. They are not 'improvements' to campgrounds any more than a travel trailer placed and used in a campground is. They are simply one choice among many in the RV camping environment.

For more information about park model RVs, contact Matt Wald, RVIA Executive Director of Park Model RVs at (703) 620-6003 x. 313 or mwald@rvia.org.

## Article 9 Administration and Procedures

### Section 9.1 Common Procedure

#### 9.1.1 Conformity with Land Use Code

Every official and employee of Grand County vested with the duty or authority to issue a permit or certificate shall not issue a permit or certificate for any use, building, or purpose that conflicts with any provision of this LUC. Any permit, approval, or certificate issued in conflict with the provisions of this LUC shall be null and void.

#### 9.1.2 Preapplication Conference

Prior to the submission of an application required by this LUC, a preapplication conference with the Zoning Administrator may be required as follows.

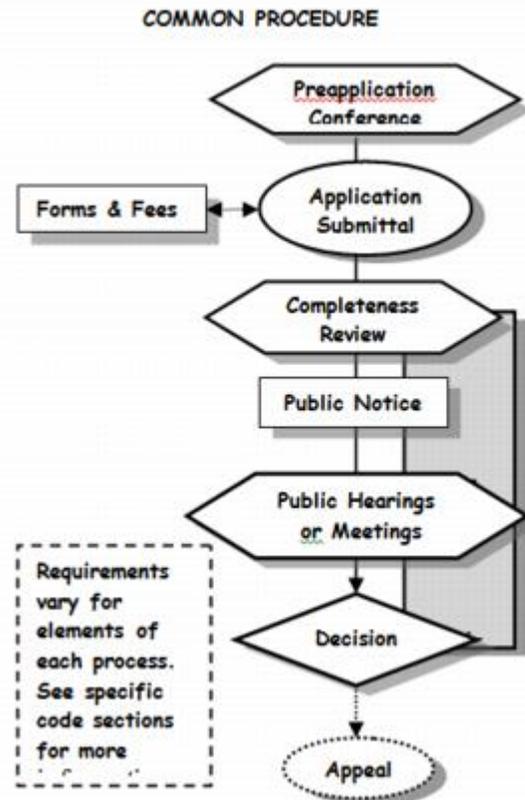
##### A. Preapplication Mandatory Conference

A mandatory Preapplication Conference with the Zoning Administrator to discuss procedures, standards, or regulations shall be required for:

1. **Subdivision Sketch Plan;**
2. **Preliminary Plat;**
3. **Minor Subdivision Plat;**
4. **Recreational Subdivision; and**
5. **Conditional Use Permits;**

##### B. Optional Conference

A preapplication conference is recommended for all other applications. Applicants are encouraged to attend an optional preapplication conference with the Zoning Administrator prior to submitting any application. (The preapplication conference provisions of this section do not apply where the application or action is initiated by the County Council or Commission.)



#### 9.1.3 Minimum Submission Requirements

The following regulations shall apply to all applications.

##### A. Property Owner Endorsement

All applications shall include the name and signature of the current property owner of all property within the boundaries.

**B. Preliminary Title Report**

All applications required under this LUC shall include a preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property.

**C. Forms and Content**

Applications required under this LUC shall be submitted on forms, with any requested information and attachments and in such numbers as required by the Zoning Administrator. The Zoning Administrator shall have the authority to request any pertinent information required to ensure compliance with this LUC. Likewise, the Zoning Administrator may waive any submittal requirements deemed irrelevant in a given application.

**D. Electronic Submission**

Plats shall be prepared and submitted in digital format acceptable to the Zoning Administrator and compatible with the County's geographic information system. Plats shall be submitted in the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Zoning Administrator (currently preferred in State Plane Coordinates - Utah Central Zone or the Valley Coordinate System) with all measurements stated in feet.

**E. Fees**

1. Filing fees shall be established periodically by resolution of the County Council commensurate with the level of service. Such fees may include all costs occasioned to the County, including publication of notices, public hearing, and review costs, planning and engineering, legal, and other professional review and inspection costs.
2. All required fees shall be made payable to "Grand County."
3. All required fees shall be non-refundable.

**F. Vicinity Map**

A vicinity map [which may be a USGS one inch equals 2000 feet scale] shall locate the property relative to surrounding areas.

**9.1.4 Application**

All applications shall be completed and submitted to the Zoning Administrator at least 30 days prior to any desired agenda date. An application shall not be considered as officially submitted until it has been found to be complete in accordance with Section 9.1.6.

**9.1.5 Summary of Land Use Authority**

Land use authority for the respective land use review procedures is described below

| SUMMARY OF LAND USE AUTHORITY          |                      |               |
|--|----------------------|---------------|
| Application Type                       | Land Use Authority   | Reference     |
| Interpretations of Text and Zoning Map | Zoning Administrator | Section 9.2.8 |

|  |                      |              |
|--|----------------------|--------------|
| Zoning Map (Rezoning) and Text Amendments          | County Council       | Section 9.2  |
| Sketch Plan  | Planning Commission  | Section 9.3  |
| Preliminary Plat                                   | County Council       | Section 9.4  |
| Final Plat   | County Council       | Section 9.5  |
| Minor Record Surveys                               | Zoning Administrator | Section 9.7  |
| Recreational Subdivisions                          | County Council       | Section 9.8  |
| Replats and Exemption Plats                        | County Council       | Section 9.9  |
| Lot Line Adjustments                               | Zoning Administrator | Section 9.10 |
| Conditional Use Permits                            | County Council       | Section 9.11 |
| Appeals of Administrative Decisions                | Board of Adjustment  | Section 9.13 |
| Variances  | Board of Adjustment  | Section 9.14 |
| Variances (in conjunction with Subdivision Review) | County Council       | Section 9.14 |
| Sign Permits                                       | Zoning Administrator | Section 9.15 |
| Temporary Use Permits                              | Zoning Administrator | Section 9.16 |
| Site Plan Reviews                                  | Zoning Administrator | Section 9.17 |
| Zoning Development Permits                         | Zoning Administrator | Section 9.18 |
| Building Permits                                   | Building Official    | --           |
| Certificates of Occupancy                          | Building Official    | Section 9.19 |

**9.1.6 Certification of Completeness**

An application shall be considered submitted only after the Zoning Administrator certifies that it is complete, provided in the required form, includes all mandatory information and exhibits, and is accompanied by the applicable fee. A determination of application completeness shall be made by the official responsible for accepting the application within 5 working days of application filing. If an application is determined to be incomplete, the Zoning Administrator shall contact the applicant to explain the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 15 days, the application shall be considered withdrawn.

**9.1.7 Vested Development Rights**

Complete applications shall be considered complete when the requirements in place at the time have been met and certified by the Zoning Administrator. However, such application shall be subject to pending amendments to the LUC that are initiated prior to such certification.

**9.1.8 Required Public Notices**

**A. Summary of Notice Requirements**

Notice shall be required for development review as shown in the table below.

| Application Type                    | Published | Posted |
|-------------------------------------|-----------|--------|
| Appeals of Administrative Decisions | X         |        |
| Conditional Use Permits             | X         | X      |
| Preliminary Plat                    | X         | X      |
| Replats                             | X         | X      |
| Text Amendments                     | X         |        |
| Zoning Map Amendments (Rezoning)    | X         | X      |
| Variances                           | X         | X      |

**B. Notice Requirements**

All required public notices shall be accomplished in accordance with the following requirements:

**1. Publication**

The County shall cause notice of the public hearing to be given by publication in a newspaper of general circulation (with distribution of the notice to all other local news media without any requirement for publication) in Grand County not less than 10 calendar days prior to the hearing for the purpose of notifying the public of the time and place of such public hearing; ~~and,-~~

**2. Mailing**

As an alternative or complement to the above publication requirements, ~~the County staff~~ may mail notice of the public hearing not less than 3\_10 days prior to the hearing to the recorded owner of each parcel within 100 feet in all directions of the property that is the subject of a land use application.

**3. Posting**

- a. The Applicant shall post a sign, provided by the County, noticing the public hearing in a prominent and visible place within five (5) feet of each property line with street frontage on the land area proposed for a rezoning, subdivision amendments, or conditional use with a notice of the hearing at least 10 days prior to the hearing.

b. The County shall post notice ~~in 3 public places or~~ on the official County website.

**C. Content of Notice**

All published, posted, or mailed notices shall at a minimum state the time and place of such hearing and the nature of the subject to be considered, and the name, address, and phone number of the Applicant.

**9.1.9 Required Public Hearings**

The following table summarizes the types of applications requiring public hearings and the review body responsible for conducting the hearing.

| REQUIRED PUBLIC HEARINGS                           |                     |                                |                |
|--|---------------------|--------------------------------|----------------|
| Application Type                                   | Board of Adjustment | Planning and Zoning Commission | County Council |
| Appeals of Administrative Decisions                | X                   |                                |                |
| Conditional Use Permits                            |                     | X                              | X              |
| Preliminary Plats                                  |                     | X                              | X              |
| Zoning Map (Rezoning) and Text Amendments          |                     | X                              | X              |
| Variances  | X                   |                                |                |
| Variances in conjunction with Subdivision Approval |                     |                                | X              |

**9.1.10 Required Applicant Notices**

**A. Notice of Meetings and Hearings**

1. The County shall provide written notice to each land use applicant of the date, time and place of each public meeting and public hearing at which the applicant's application is to be considered.

2. All affected entities, including but not limited too; school districts, utilities, special districts, UDOT, and the AOG state planning coordinator shall be notified when considering the general plan or amendments to the general plan or multi-unit residential, commercial, industrial or subdivision approvals.

**B. Notice of Decision**

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the final decision on each land use application.

### **9.1.11 Required Municipal Notice of Urban Development**

Proposed residential development with more than 15 dwelling units and an average density greater than one residential unit per acre, or any proposed commercial development with a cost projection of greater than \$750,000, that is in the municipality's proposed annexation area is subject to municipal review according to the requirements of this section:

- A.** The County shall provide written notice to the municipality of the proposed development; and
- B.** Within 90 days after the County's written notice of the proposed development, the municipality shall either:
  - 1.** Consent in writing to the development; or
  - 2.** Submit a written objection to the County's approval of the proposed development.
- C.** Where the municipality chooses to submit a written objection, within a reasonable time after receiving said objection, the County shall respond in writing to the municipality's objections and make a diligent attempt to reasonably reconcile said objections.

### **9.1.12 Simultaneous Processing of Applications**

Whenever 2 or more forms of review and approval are required under this LUC, the applications for those development approvals may be processed simultaneously at the Zoning Administrator's option and with the approval of the applicant. The simultaneous processing of applications shall be at the applicant's risk.

## **Section 9.2 Text and Zoning Map Amendments (Rezoning)**

### **9.2.1 General**

Text and Zoning Map Amendments are discretionary legislative decisions. This is true even when a proposed map amendment otherwise conforms to the applicable requirements of this code

### **9.2.2 Initiation of text amendment**

Any person having a proprietary interest in any property may submit an application to the County Council for a change or amendment to the provisions of this LUC, or the Planning Commission may on its own motion or on request from the County Council, institute study and proposal for changes and amendments in the public interest.

### **9.2.3 Application for Zoning Map Amendment**

Any person having a proprietary interest in any property within Grand County, Utah, requesting a change or amendment to the zoning classification of such property shall ~~file 5-copies (neatly folded and ready for mailing) of the~~ submit an application for such change or amendment with the Zoning Administrator. The application shall be submitted at least 30 days prior to any desired agenda date and, at a minimum, shall include the following information:

- A.** The name, address, and telephone number of the Applicant shall be provided;
- B.** The application shall clearly state the requested change or amendment and describe the property to be affected by such request by metes and bounds or by other legal description;

- C.** The application shall be accompanied by a preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record that affect the title to the subject property;
- D.** A statement from the County Treasurer showing the status of all current taxes due on said parcel;
- E.** Certified boundary survey of land area to be rezoned, along with an indication of the existing zoning, predominant existing uses, and existing zoning designations within 100 feet in all directions of the boundary of the land area to be rezoned;
- F.** A list of surrounding property owners and their legal mailing addresses within 100 feet of the exterior boundary of the parcel proposed to be zoned or rezoned;
- G.** A statement by the Applicant explaining the rationale for the rezoning request relative to the issues for consideration imposed by Section 9.2.7, below; and
- H.** A filing fee shall be submitted to cover the cost of review and processing with every application in accordance with the fee schedule adopted by resolution of the County Council.

#### **9.2.4 Review by Planning Commission**

Before taking action on any proposed amendment, supplement or change, the County Council shall submit the same to the Planning Commission for its recommendation and report.

##### **A. Public Hearing Required**

The Planning Commission shall hold a public hearing on any proposed amendment permit prior to making its recommendation to the County Council.

##### **B. Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

##### **C. Notice of Decision**

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the Commission's decision.

#### **9.2.5 Action by County Council**

The County Council shall act on the zoning map or text amendment in a public hearing within 30 days after the recommendation and report of the Planning Commission.

##### **A. Public Hearing Required**

The County Council shall hold a public hearing on any application for amendment or change prior to making its decision. If County Council approves the ordinance amendment on first reading in a public hearing, a second reading shall be held by the County Council before adopting any proposed amendment, supplement or change. Following the second reading, such amendments shall become effective upon the favorable vote of a majority of the quorum of the County Council present and voting.

##### **B. Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

**C. Exception**

When the zoning district map in any way is to be changed or amended incidental to, or as a part of a general revision of this LUC, whether such revision be made by repeal of the existing zoning and/or land use regulations and enactment of a new zoning and/or land use regulations, or otherwise, posting of notice on the land area proposed for rezoning shall not be required.

**9.2.6 Notification Requirements for Text Amendment**

When any such amendment relates to a change of a regulation or to the text of this LUC not affecting specific property, the County shall cause notice of the public hearing of the County Council to be given in a newspaper of general circulation in Grand County. Such notice shall state the time and place of such hearing and the nature of the subject to be considered, which time shall not be earlier than 10 days from the date of publication.

**9.2.7 Issues for Consideration**

In making its determination, the Planning Commission and the County Council shall consider the recommendation of the Planning Commission, staff reports, and the written and oral testimony presented, and the following criteria:

- A.** Was the existing zone for the property adopted in error?
- B.** Has there been a change of character in the area (e.g. installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.)?
- C.** Is there a need for the proposed use(s) within the area or community?
- D.** Will there be benefits derived by the community or area by granting the proposed rezoning?
- E.** Is the proposal in conformance with the policies, intents and requirements of Grand County General Plan, specifically the Plan's zoning map amendment guidelines (see pages 44-48 of the Grand County General Plan)?
- F.** Should the development be annexed to a city?
- G.** Is the proposed density and intensity of use permitted in the proposed zoning district?
- H.** Is the site suitable for rezoning based on a consideration of environmental and scenic quality impacts?
- I.** Are the proposed uses compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be adequately mitigated?
- J.** Are adequate public facilities and services available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended? Is the applicant willing to pay for the extension of public facilities and services necessary to serve the proposed development?

~~**K.** Does the proposed change constitute "spot zoning"?~~

## **9.2.8 Interpretations of Text and Zoning Map**

### **A. Authority**

The Zoning Administrator shall have the authority to make all interpretations of the text of this LUC, and the boundaries of the Official Zoning Map.

### **B. Requests for Interpretation**

An interpretation may be requested by any affected person, any resident or real property owner in Grand County, or any person having a contractual interest in real property in Grand County.

### **C. Procedures**

#### **1. Submission of Request for Interpretation**

Before an interpretation shall be provided by the Zoning Administrator, a request for Interpretation shall be submitted to the Zoning Administrator in a form established by the Zoning Administrator.

#### **2. Determination of Completeness**

Within a reasonable amount of time after a request for Interpretation has been received, the Zoning Administrator shall determine whether the request is complete. If the Zoning Administrator determines the request is not complete, he shall serve written notice on the Applicant specifying the deficiencies. The Zoning Administrator shall take no further action on the request for Interpretation until the deficiencies are remedied.

#### **3. Rendering of Interpretation**

After the Request for Interpretation has been determined complete, the Zoning Administrator shall render an interpretation within a reasonable amount of time. The Zoning Administrator may consult with the County Administrator and the County Attorney, review this LUC and the Official Zoning Map, whichever is applicable, before rendering an interpretation.

#### **4. Form**

The interpretation shall be in writing and shall be sent to the Applicant by certified mail.

#### **5. Official Record**

The Zoning Administrator shall maintain an official record of all interpretations in the County Hall, which shall be available for public inspection during normal business hours.

#### **6. Appeal**

Any person who has made a request for Interpretation may appeal interpretation of the Zoning Administrator to the County Council by filing an application within 30 days of the Zoning Administrator's decision. The date of the decision shall be the postmark date of the certified mail notifying the Applicant of the interpretation. The application shall be considered by the County Council within 30 days of its filing, and the interpretation of the Zoning Administrator affirmed or modified.

## Section 9.3 Subdivision Sketch Plan

### 9.3.1 Preapplication Conference

Prior to the filing of a subdivision sketch plan, the subdivider shall meet with the Zoning Administrator or his or her designated agent to acquaint himself or herself with the requirements of the County and the relationship of the proposed subdivision to the General Plan. As such meeting, the application contents, referral agencies, review procedures, density standards, use and area standards, street requirements, utility service and the general character of the development may be discussed. At the preapplication conference, the subdivider may be represented by a land planner, engineer or surveyor.

### 9.3.2 Submittal Requirements

~~14 copies (neatly folded and ready for mailing) of the Subdivision Sketch Plan application submittal.~~ The subdivision sketch plan shall include conceptual plans for the entire parcel on two (2) 18 X 24 plats, two (2) 11 X 17 copies, and in an electronic file ready for printing. Such plan shall be accompanied by or show the following information:

- A. A preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the property.
- B. Conceptual drawing
- C. A conceptual drawing of the lot and street layout drawn at a scale of not less than 1 inch = 200 feet and including the following:
- D. Proposed number of lots and the approximate area of the individual lots;
- E. Topographic contours at 5 foot intervals and all easements or rights-of-way necessary for drainage within or without the boundaries of the subdivision;
- F. Significant natural features of the site including streams, lakes, natural drainage lines, vegetation type, and other similar features;
- G. Man-made features such as existing buildings, irrigation ditches, utility lines and easements, bridges, culverts, drainage systems, mines or mine dumps;
- H. Zone district boundaries;
- I. General land use divisions into residential types, commercial, industrial, community facilities, and open space including proposed boundaries of public use or common areas; parking area, total number of dwelling units and total square footage of non-residential space;
- J. Type and layout of water supply and sewage treatment system proposed;
- K. Acreage of the entire tract and the area to the nearest one-half acres and percent of total area to be devoted to open space;
- L. The name and location of a portion of adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivisions in sufficient detail to show actually the existing streets and alleys and other features that may influence the layout and development of the proposed subdivisions; where adjacent land is not subdivided, the name of the owner of the adjacent tract shall be shown;

**M.** A vicinity-topography map (which may be a USGS one (1) inch equals 2000 feet scale) shall locate the property relative to surrounding areas; and

**N.** A filing fee shall be submitted to cover the cost of review and processing with every subdivision sketch plan in accordance with the fee schedule adopted by resolution of the County Council.

### **9.3.3 Application Review Procedures**

#### **A. Date of Filing**

~~14 copies (neatly folded and ready for mailing) of the Subdivision Sketch Plan application~~ All submittal requirements shall be submitted to the Zoning Administrator 30 days prior to the Planning Commission meeting at which consideration is desired. The Subdivision Sketch Plan shall be considered officially filed after application review fees which are established by resolution of the County Council have been paid and after it is examined and found to be in compliance with the general provisions of these regulations by the Zoning Administrator.

#### **B. Distribution of Subdivision Sketch Plans**

The Zoning Administrator shall distribute the Subdivision Sketch Plans immediately upon receipt to appropriate referral agencies which may include the following:

1. Zoning Administrator: ~~2 copies~~;
2. Grand County Engineer: ~~1 copy~~;
3. Grand Water and Sewer Service Agency: ~~1 copy~~;
4. Moab Fire Protection District: ~~1 copy~~;
5. Grand County Administrator: ~~1 copy~~;
6. Grand County Recorder: ~~1 copy~~;
7. Grand County Road Superintendent: ~~1 copy~~; and
8. Remaining Additional copies shall be provided to the Planning Commission prior to the Commission meeting at which the Subdivision Sketch Plan is considered.

#### **C. Comments; Written Report**

~~At least 10 days p~~Prior to the meeting of the Planning Commission at which the plat is to be considered, each agency listed above shall submit their written recommendations concerning the plat in question to the Zoning Administrator. The recommendations shall be given to the Planning Commission with the plat for their consideration. A written report shall be prepared by the Zoning Administrator and submitted to the Planning Commission at the next regular meeting. Such report should include comments relative to the proposed subdivision's compliance to these regulations, the General Plan or other master plans such as utility plans. The report may include comments from other County departments, county, or state agencies concerned with urban development.

#### **D. Review by Commission**

##### **1. Action by Commission**

Following review of the Subdivision Sketch Plan and other materials submitted for conformity thereof to these regulations, and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the Planning Commission shall act on the Subdivision Sketch Plan in a regular meeting within 30 days after the official filing date or within a reasonable time thereafter. If approved, the Planning Commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.

## **2. Items for Consideration by Commission**

The Planning Commission shall, in its action on the Subdivision Sketch Plan, consider the physical arrangement of the subdivision, and determine the adequacy of street rights\_of\_way and alignment, the street standards of Grand County, the existing street pattern in the area and with all applicable provisions of the General Plan. The Planning Commission shall also ascertain that adequate easements for proposed or future utility service and surface drainage are provided, and that the lot size and area are adequate to comply with the minimum requirements for the underlying zone district and for the type of sanitary sewage disposal proposed.

### **Section 9.4 Preliminary Plat**

#### **9.4.1 Preapplication Conference**

Prior to the filing of a preliminary plat, the subdivider shall meet with the Zoning Administrator or his or her designated agent to acquaint himself or herself with the requirements of the County and the relationship of the proposed subdivision to the General Plan. At such meeting, the application contents, referral agencies, review procedures, density standards, use and area standards, street requirements, utility service and the general character of the development may be discussed. At the preapplication conference, the subdivider may be represented by a land planner, engineer or surveyor.

#### **9.4.2 Submittal Requirements**

The subdivider or owner shall ~~file 14 copies (neatly folded and ready for mailing) of submit~~ an application requesting preliminary plat approval, a preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property, and ~~of the preliminary plat~~ on two (2) 18 X 24 plats, two (2) 11 X 17 copies, and in an electronic file ready for printing. The preliminary plat shall include plans for the entire parcel. The following notice shall be stamped on the face of each preliminary plat: "Preliminary Plat for inspection purposes only, and in no way official or approved for record purposes." Such plat shall be accompanied by or show the following information:

##### **A. Boundary Lines and Bearings**

Boundary lines, bearings, and distances sufficient to locate the exact area proposed for subdivision. At least one (1) subdivision corner shall be referenced to a survey (abstract) corner. The area, in acres, of the subdivision shall also be shown.

##### **B. Adjacent Subdivisions**

The name and location of a portion of adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivisions in sufficient detail to show actually the existing lots, streets, alleys and other features that may influence the layout and development of the proposed subdivisions. Where

adjacent land is not subdivided, the name of the owner of the adjacent tract shall be shown.

**C. Intersecting Streets**

The angle of intersection of the centerline of all intersecting streets.

**D. Proposed Streets, Alleys and Easements**

The names, location and widths of all streets, alleys and easements proposed for the subdivision, and all known rightsofway and/or easements within or affecting the area to be subdivided.

**E. Proposed Blocks, Lots and Parks**

The subdivision shall show all proposed streets and alleys, easements, blocks, lots, parks, etc., with principal dimensions.

**F. Contours**

Existing topographic contours at 5 foot intervals and all easements or rights-of-way necessary for drainage within or without the boundaries of the addition.

**G. Subdivision Title and Planner**

The title under which the proposed subdivision is to be recorded, the name of the owner and the name of the engineer or land planner who prepared the plat.

**H. Dedicated Parks, Playgrounds and Other Public Uses**

Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.

**I. Scale, North Point**

1. Scale, north point, date and other pertinent data
2. The scale of the preliminary plat may be at one (1) inch equals 200 feet.
3. Name, address and telephone number
4. Property owner's name, address, and telephone number.
5. Proposed layout of utilities
6. A proposed preliminary layout of sanitary sewer and water lines to serve the subdivision.

**J. Drainage Report**

A general drainage report or drainage statement shall accompany the preliminary plat. This study or report shall show the acreage draining into the subdivision, points of runoff through and away from the subdivision.

**K. Protective Covenants**

Draft of any protective covenants where the subdivider proposes to regulate land use or development standards in the subdivision.

**L. Proposed Land Uses**

A designation of the proposed uses of land within the subdivision and any zoning amendments proposed to be requested.

**M. Vicinity Map**

A vicinity map on a smaller scale showing the proposed subdivision and its relationship to the surrounding area and County limits.

**N. Application Fee**

A filing fee shall be submitted to cover the cost of review and processing with every preliminary plat in accordance with the fee schedule adopted by resolution of the County Council.

**O. Preliminary Master Plan**

If the proposed subdivision is a portion of a tract that is later to be subdivided in its entirety, then a tentative master plan of the entire subdivision shall be submitted with the preliminary plat of the portion first to be subdivided. The master subdivision plan shall conform in all respects to the requirements of the preliminary plat; except, it may be on a scale of not more than one (1) inch to 100 feet, or other staff-approved scale.

**P. Optional Architectural and Landscaping Plan**

1. The County Planning Commission may require that an architectural and landscaping plan be submitted as part of a preliminary subdivision plat application. An architectural and landscaping plan may include:

- a. An architectural plan depicting elevation drawings of the proposed development from public use area perspectives or as specified by the Planning and Zoning Commission; and
- b. A landscaping plan depicting treatment of exterior spaces to include the species of vegetation, their size and siting.

**9.4.3 Application Review Procedures**

**A. Date of Filing**

~~14 copies (neatly folded and ready for mailing)~~ Two (2) 18 X 24 plats, two (2) 11 X 17 copies, and an electronic file ready for printing of the preliminary plat application ~~submittal (neatly folded and ready for mailing)~~ shall be submitted to the Zoning Administrator 30 days prior to the Planning Commission meeting at which consideration is desired. The preliminary plat shall be considered officially filed after application review fees which are established by resolution of the County Council have been paid and after it is examined and found to be in general compliance with the provisions of these regulations by the Zoning Administrator.

**B. Conformance with Subdivision Sketch Plan**

The preliminary plat shall conform substantially to the subdivision sketch plan as approved.

**C. Distribution of Preliminary Plat**

1. The Zoning Administrator shall distribute the preliminary plat immediately upon receipt to appropriate referral agencies which may include the following:
2. Zoning Administrator: ~~2 copies~~;
3. Grand County Engineer: ~~1 copy~~;
4. Grand County Water and Sewer Service Agency: ~~1 copy~~;
5. Moab Fire Protection District: ~~1 copy~~;
6. Grand County Administrator: ~~1 copy~~;
7. Grand County Recorder: ~~1 copy~~; and
8. Grand County Road Superintendent: ~~and, 1 copy~~;
9. ~~The remaining~~ Additional copies shall be provided to the Planning Commission prior to the Commission meeting at which the preliminary plat is considered.

#### **D. Comments; Written Report**

~~At least 10 days prior~~ Prior to the meeting of the Planning Commission at which the plat is to be considered, each agency listed above shall submit their written recommendations concerning the plat in question to the Zoning Administrator. The recommendations shall be given to the Planning Commission with the plat for their consideration. A written report shall be prepared by the Zoning Administrator and submitted to the Planning Commission at the next regular meeting. Such report should include comments relative to the proposed subdivision's compliance to these regulations, the General Plan or other master plans such as utility plans. The report may include comments from other County departments, county, or state agencies concerned with urban development.

#### **E. Review by Planning Commission**

Before taking action on any proposed amendment, supplement or change, the County Council shall submit the same to the Planning Commission for its recommendation and report.

##### **1. Public Hearing Required**

The Planning Commission shall hold a public hearing prior to making its recommendation to the County Council.

##### **2. Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

##### **3. Action by Commission**

Following review of the preliminary plat and other materials submitted for conformity thereof to these regulations, and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the Planning Commission shall, at the first regular meeting occurring at least 30 days after the official filing date, act thereon as submitted or modified, and if approved the Planning Commission shall express its approval as conditional

approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.

**4. Notice of Decision**

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the Commission's decision.

**F. Action by County Council**

**1. Public Hearing Required**

The County Council shall hold a public hearing on any preliminary plat change prior to making its decision. Following the public hearing and the resolution of relevant issues such preliminary plan shall be approved upon the favorable vote of a majority of the quorum of the County Council present and voting.

**2. Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

**9.4.4 Issues for Consideration**

The Planning Commission and County Council shall, in their action on the preliminary plat, consider Article 7, Subdivision standards, the physical arrangement of the subdivision, and determine the adequacy of street rightsofway and alignment, the street standards of Grand County, the existing street pattern in the area and with all applicable provisions of the General Plan. The Planning Commission and County Council shall also ascertain that adequate easements for proposed or future utility service and surface drainage are provided, and that the lot size and area are adequate to comply with the minimum requirements for the underlying zone district and for the type of sanitary sewage disposal proposed.

**9.4.5 Effect of Preliminary Plat Approval**

**A. Not Approval of Final Plat**

Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat.

**B. Lapse of Approval**

Preliminary approval of the subdivision shall be valid for a period of 12 months from the date of approval and the general terms and conditions under which the preliminary approval was granted will not be changed. The preliminary approval of the subdivision shall be deemed voided unless a final plat is submitted within the 12 month period or unless the 12 month period is extended by the County Council at the request of the subdivider. Provided, however, that the approval of the preliminary plat for a multi-phase subdivision shall be deemed voided unless at least one (1) phase of the subdivision is submitted within 12 months following approval of the previous final plat for the subdivision, unless the 12 months period is extended by the County Council. The County Council may extend the approval period for one (1) or more times for good cause.

## **Section 9.5 Final Plat**

### **9.5.1 Final Plat Submittal Requirements**

The owner of land on which preliminary plat approval has been obtained shall prepare and submit: (a) a non-erasable Mylar copy, and (b) a digital copy of the final plat (including all lines, bearings, corners, and etc. necessary to describe the subject lot(s) or parcel(s), and all easements), in the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Zoning Administrator (currently preferred in State Plane Coordinates - Utah Central Zone or the Valley Coordinate System) with all measurements stated in feet, and (c) ~~14 hard copies (neatly folded and ready for mailing).~~ two (2) 24 x 36 copies, or more if specified by the Zoning Administrator. The plat shall be drawn to a scale of 100 feet to one (1) inch, or other scale approved by staff. ~~The hard copy drawing shall measure 24 inches by 36 inches.~~ When necessary the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in phases satisfactory to the Planning Commission. The final plat shall show or be accompanied by the following:

#### **A. Control Points; Acres**

The primary control points, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred shall be placed on the final plat. The area of the subdivision, in acres, shall be shown.

#### **B. Boundary Lines and Bearings**

Tract boundary line sufficient to locate the exact area proposed for subdivision, rights-of-way lines of streets, easements and other rightsofway, and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves shall be placed on the final plat.

#### **C. Streets**

Name and rights-of-way width of each street or other rights-of-way shall be placed on the final plat.

#### **D. Easements**

Location and dimensions of all easements shall be placed on the final plat.

#### **E. Lot and Block Numbers**

Number to identify each lot or site and each block, and the dimensions of lots and blocks, shall be placed on the final plat.

#### **F. Purpose of Sites**

The purpose for which sites, other than residential lots, are dedicated or reserved shall be indicated on the final plat.

#### **G. Building Lines**

Minimum building setback lines when required or approved by the Planning Commission shall be placed on the final plat.

#### **H. Monuments**

Location and description of monuments shall be placed on the final plat. Monuments shall include centerline monuments at all curve points and intersections.

**I. Adjacent Land**

References to recorded subdivision plats or adjoining platted land by record name shall be placed on the final plat.

**J. Surveyors Certificate and Legal Description**

A legal description and surveyor's certificate, to, in the following form, shall be placed on the final plat:

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, do hereby certify that I am a registered Utah Land Surveyor, and that I hold certificate No. \_\_\_\_\_ as prescribed under the laws of the state of Utah, and I further certify that under the authority of the owners, I have made a survey of those lands as shown here on and described below, and that I have subdivided said tract of land into lots and streets, hereafter to be known as \_\_\_\_\_ and that same has been correctly surveyed and staked on the ground as shown on this plat.

\_\_\_\_\_

Signature

**K. Approval Certification**

Certification of approval by the Planning Commission and County Council, in the following form, shall be placed on the final plat.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Planning and Zoning Commission of Grand County, Utah

\_\_\_\_\_

Chairman

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Grand County Council

\_\_\_\_\_

Chairman

\_\_\_\_\_

County Recorder

**L. Title; Scale**

A title, scale, and north point shall be placed on the final plat.

**M. Street Intersections**

The location of the point of intersection and points of tangency of street intersections, and the bearing and distance of each street rights-of-way center line shall be placed on the final plat.

**N. Plat Identification**

A positive reference and identification of the plat and date of plat shall be placed on the final plat.

**O. Dedication Certificate**

1. The property owner's certificate or deed of dedication shall be placed on the final plat. The dedication deed or certificate of dedication shall be executed by all persons, firms or corporations owning an interest in the property subdivided and platted, and shall be acknowledged in the manner prescribed by the laws for the State of Utah for conveyances of real property. In the case of surface lien holders, they may execute a subordination agreement subordinating their liens to all public streets, alleys, parks, school sites and any other public areas shown on the plat of such subdivision as being set aside for public uses and purposes. The dedication deed or certificate of dedication shall, in addition to the above requirements, contain the following:
2. An accurate description of the tract of land subdivided.
3. A statement and express representation that the parties joining in such dedication are the sole owners of such tract of land.
4. An express dedication without reservation to the public for public use; the streets, trails, rightsofway, school site and any other public areas shown on the attached plat.
5. A positive reference and identification of the plat of such subdivision, date of plat and surveyor or engineer responsible for the survey.

**P. Tax Certificates**

Tax certificates indicating that all taxes on the land being subdivided have been paid to the current year shall be submitted with the final plat.

**Q. Construction Plans and Cost Estimate**

Three sets of plans for required improvements and a set of reproducible transparent sheets, 24" x 36" in size along with all data and calculations related to utilities, drainage or other construction in the subdivision and a cost estimate shall be submitted with the final plat. The construction plans shall conform to all requirements of the current Construction Design Standards for Grand County. The cost estimate shall bare the signature and seal of the design engineer. Such plans shall also show all existing or proposed surface and subsurface improvements and obstruction.

**R. Subdivision Improvements Agreement and Performance Guarantee**

A subdivision improvements agreement and performance guarantee for all required public improvements in accordance with the requirements of Section 9.5.1A.

**S. Title Report**

An updated title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property shall be submitted within 15 days immediately prior to final review by the County Council.

**T. Filing Fee**

1. A filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the County Council.
2. Additional submission requirements for condominium subdivisions. In addition to the above submission requirements, applications for condominium subdivisions shall be subject to the applicable provisions of Title 57-8-1 et seq., of the Utah Code.

**9.5.2 Application Review Procedures**

**A. Date of Filing**

After approval of the preliminary plat by the County Council and within 12 months of the approval date unless extended for up to one (1) additional year by action of the County Council, the subdivider may submit for approval the final plat. The application, meeting all the requirements of subsection (1) above, shall be submitted to the Zoning Administrator at least 30 days prior to the meeting at which consideration is desired. The official filing date of the final plat shall be the date upon which the plat and construction drawings are found to be in full compliance with the provisions of the preliminary approval after examination by the Zoning Administrator and the review fees which are established by resolution of the County Council have been paid.

**B. Conformance with Preliminary Plat**

The final plat shall conform substantially to the preliminary plat as approved and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat that he or she proposes to record and develop at the time, provided however, that such portion conforms to all requirements of these regulations.

**C. Review of Final Plat**

After the presentation of the final plat application for a subdivision to the Zoning Administrator, the Zoning Administrator shall submit the application to the County Engineer, any district providing utility service for review and to any other appropriate referral agencies for review. The County Engineer and other referral agencies shall review the plans and submit comments to the Zoning Administrator for inclusion in the final plat presentation. The developer shall pay the reasonable cost of review of the construction plans before the final plat is presented to the County Council.

**D. Review by Commission**

**a. Action by Commission**

The final plat shall be presented to the Planning and Zoning Commission along with any appropriate recommendation by the Zoning Administrator. The Planning and Zoning Commission shall act on the final plat within 30 days after the official filing date, or within a reasonable time thereafter.

**b. Review in Stages**

An owner or subdivider, at his or her option, may obtain approval of a portion or a section of a subdivision provided he or she meets all the requirements of this LUC with reference to such portion or section in the same manner as is required for a complete subdivision. In the event a subdivision and the final plat thereof is approved by the Planning and Zoning Commission in sections, each final plat of each section is to carry the name of the entire subdivision, but is to bear a distinguishing letter, number or subtitle.

**c. Approval by Commission**

After the Planning and Zoning Commission has determined that the plat is in proper form, that the arrangement of the development proposed for the property being subdivided is consistent with zoning regulations and that the subdivision complies with the provisions of this LUC, it shall act to approve the plat, subject to action by the County Council.

**d. Disapproval by Commission**

Final plats that are disapproved by the Planning and Zoning Commission shall be returned to the subdivider by the Zoning Administrator with an attached statement of the reasons for such action.

**e. Notice of Decision**

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the Commission's decision.

**E. Review by County Council**

**1. Action by County Council**

The Zoning Administrator shall submit the final plat to the County Council, along with any preliminary plat conditions established by the Planning Commission preliminary plat and an appropriate recommendation. The County Council shall consider all proposals with respect to the dedication of rights-of-way for public use, the construction of utilities, streets, drainage, and other improvements, and when satisfied with the proposals, shall authorize the establishment of agreements for same. The County Council shall act on the final plat within 30 days after the Planning Commission makes a recommendation, or within a reasonable time thereafter.

**2. Approval by County Council**

After the County Council has determined that the plat is in proper form, that any conditions of the preliminary plat are satisfied, that the arrangement of the development proposed for the property being subdivided is consistent with zoning regulations, and that the subdivision complies with the provisions of this LUC, it shall act to approve the plat.

**3. Disapproval by County Council**

Final plats that are disapproved by the County Council shall be returned to the subdivider by the Zoning Administrator with an attached statement of the reasons for such action.

#### **4. Action Following Approval**

##### **a. Certification of Approval**

(1) The County Council's approval and execution of the County Council certificate of approval on the final plat shall authorize the Chairman of the Planning Commission to execute the Planning Commission certificate of approval on the plat.

(2) In no case shall additions, corrections, or modifications of any kind be made to the preliminary plat other than signatures required after the preliminary plat has been approved by the County Council.

##### **b. Recordation of Plats**

(1) The final plat for any subdivision located within Grand County shall then be caused to be filed of record by the subdivider in the plat records of Grand County, but only after the County Council has officially acted upon the final plat with reference to improvements, dedications and utilities and all fees (including recording and review fees) shall be paid by the developer.

(2) If for any reason the final plat has not been recorded within 15 days of County Council approval, the approving actions shall be deemed void.

#### **9.5.3 Responsibility for Payment for Installation Costs**

The subdivider shall provide for costs of materials, installation, and maintenance of all required improvements in accordance the Grand Construction Standard or the most recent County construction standards, and the following requirements:

##### **A. Required Improvements**

1. The subdivider shall pay all costs of materials and installation of the following:
2. Setting of survey monuments and markers
3. Streets and road construction for all street improvements including base, grading, curbs, gutters, sidewalks, pavement, street name signs, road regulatory signs, culverts, and bridges;
4. Water and sewer lines installations including fire hydrants and manholes;
5. Required storm water system and/or other drainage improvements;
6. All field density and related testing of base, sub-base and other compacted backfill, gradation tests, concrete cylinder tests, asphalt tests, and/or other related tests required to insure minimum standard requirements; and
7. Electric, gas, and other utilities.

##### **B. Improvement Agreements and Guarantees**

Prior to the recording of a final plat, a subdivider shall submit for approval to the Zoning Administrator an improvements agreement and financial guarantee for construction of any required improvements designated on the approved final plat or construction plans in accordance with the requirements of this Section.

**1. Form of Agreement**

All improvement agreements shall utilize the standard County template (guide) for the format and content of such Agreements. The template may be obtained from the Zoning Administrator.

**2. Engineered Cost Estimate**

The improvements agreement shall include a cost estimate for all required improvements prepared by a professional Utah-registered, professional engineer.

**3. Financial Guarantees**

The subdivider shall utilize one (1) of the following methods of posting security to cover to the cost of installing all required improvements; provided, however, that nothing in this section shall preclude the County Council from approving other forms of liquid financial security in a form approved by the County. No expiration of the guarantee shall be permitted.

**a. Escrow Agreement**

Place on deposit in an approved bank in the name of Grand County, a sum of money equal to 125 percent of the estimated cost (100 percent of cost plus 25 percent contingency) of all improvements required by this Section. Selection of the trustee shall be subject to approval by the County. The escrow agreement shall be approved as to form and legality in writing by the County Attorney. The escrow agreement shall state the name of the subdivision and shall list the improvements the subdivider is required to provide. The County Clerk shall certify in writing that the securities are a satisfactory guarantee for the County.

**b. Performance Bond**

File with the County Clerk a bond executed by a surety company holding a license to do business in the State of Utah, and acceptable to Grand County on a form approved by the County, in an amount of 125 percent of the estimated cost (100 percent of cost plus 25 percent contingency) of all improvements required by this Section. The Performance Bond shall be approved as to form and legality in writing by the County Attorney. The County Clerk shall certify in writing that the securities are a satisfactory guarantee for the County.

**C. Engineering Inspection and Tests**

1. Grand County Engineer, applicable service district, or other inspection agent designated by the Zoning Administrator, shall be notified 3 days before any construction is begun on such public improvements in order that proper supervision and inspection may be provided. All construction work, such as street grading, street paving, storm sewers, curb and/or gutter work, sanitary sewers or water mains performed by the owner, developer or contractor, shall be subject to inspection during construction by the proper authorities of the County and shall be constructed in accordance with the approved standards and specifications, and in accordance with the provisions of any other applicable ordinance of Grand County.

2. The County will charge fees for engineering inspection during construction and for final inspection commensurate to the value of services rendered or costs incurred; however, it is to be understood that the County will do no layout work or

daily inspection. Where a special trip(s) to Grand County by the County Engineer are required, the subdivider shall reimburse the County for the costs of such trip(s).

3. The County may require compaction tests on embankments and flexible bases, and depth tests on flexible bases and pavements, and pressure tests on piping systems, before final inspection and approval.

#### **9.5.4 Plat Approval and Dedication**

Approval of the plat and acceptance of dedication on a final plat shall not be effective until the final plat is recorded in the office of the County Clerk. Approval of the plat and acceptance of a dedication by the County shall not imply the maintenance by the County of such dedication. Acceptance for maintenance of roads, parks, trails and other public dedications requires a separate action of the County Council in accordance with the requirements of Section 9.5.5D, Final Acceptance.

#### **9.5.5 Acceptance of Subdivision Improvements**

##### **A. Time Frame for Completion**

##### **1. Plan Re-Submittal**

If construction has not commenced within one (1) year after approval of the plans, the Zoning Administrator may require re-submittal of plans for meeting current standards and engineering requirements.

##### **2. Expiration and Extension of Approval**

If the public improvements for a subdivision have not been constructed and accepted by the County within 36 months of the recordation of the final plat, said final plat shall be null and void and shall conclusively be deemed to be withdrawn, without further action by the County. An approved, unexpired final subdivision plat may be extended once for a period not to exceed 36 months, pursuant to the following provisions:

a. The County Council may extend the approval of the final plat, for good cause shown by the Applicant, if there has been no significant change in development conditions affecting the subdivision plan and the plat continues to comply with all applicable standards and ordinances.

b. A request for an extension of time to complete final public improvements for a subdivision pursuant to these provisions shall be submitted to the Zoning Administrator no later than the date the final subdivision plat expires. The request shall be in writing, and the application shall state the reason and justification for the requested extension.

##### **B. Partial Acceptance and Reduction of Security**

1. As public improvements are completed, a subdivider may apply from time-to-time to the Zoning Administrator for partial release of the collateral deposited with the County Clerk in accordance with the procedures of Section C, Release Procedure.

2. If the County Engineer and/or Zoning Administrator determine that any of the required improvements are not constructed in substantial compliance with approved standards and specifications, it shall furnish the Applicant a list of deficiencies and shall be entitled to withhold collateral sufficient to insure substantial compliance.

3. If the County Engineer and/or Zoning Administrator determines that the subdivider will not construct any or all of the improvements in accordance with all of the approved standards and specifications, the Zoning Administrator may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the approved standards and specifications.

4. The County Engineer shall independently inspect the construction of improvements while in progress, and, shall likewise inspect such improvements upon completion of construction. The design engineer shall certify that construction was completed to plan, and shall have approved any change(s) to the approved plan in consultation with the County Engineer. After final inspection, the County Engineer shall notify the subdivider and the Zoning Administrator in writing as to its acceptance or rejection. The Zoning Administrator shall reject such construction only if it fails to comply with the approved standards and specifications contained or referred to herein. If the Zoning Administrator rejects such construction, the Zoning Administrator shall advise the County Attorney and the County Attorney shall enforce the guarantees provided in this Section.

5. The design engineer for the subdivider shall submit to the Zoning Administrator a complete set of as-built drawings in "reproducible" hard copy and digital format showing all subdivision improvements, including utility locations (gas, water, sewer and telephone), paving and drainage improvements, and all changes made in the plans during construction. Each hard copy sheet shall contain an "As-Built" stamp bearing the signature of the engineer and the date. Digital information shall be provided in the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Zoning Administrator with all measurements stated in feet.

6. The subdivider shall require his construction contractors, with whom he contracts for furnishing materials and for installation of the improvements required under this Section, and shall himself be required to furnish to the Zoning Administrator a written guarantee that all workmanship and materials shall be free of defects for a period of 2 years from the date of acceptance by the Zoning Administrator.

7. Prior to the final acceptance of a subdivision by the County Council, the subdivider shall furnish a good and sufficient, unconditional warranty bond, or certified check payable to "Grand County", in the amount of 10 percent of the contract price with a reputable and solvent corporate surety in favor of the County, to indemnify the County or any applicable service district(s) against any repairs that may become necessary to any part of the construction work performed in connection with the subdivision arising from defective workmanship or materials used therein, for a full period of 2 years from the date of final acceptance of the work being warranted.

### **C. Collateral Release Procedure**

1. From time to time, as the improvements are completed, subdivider may apply in writing to the County for a partial or full release of the letter of credit or substitute collateral; and shall utilize the standard County-approved form for this purpose. Such release requests shall be complete at least 14 days prior to any desired release date; and must show, or include all of the following:

- a. Dollar amount of commitment guarantee;
  - b. Improvements completed, including dollar value;
  - c. Improvements not completed, including dollar value;
  - d. Amount of previous releases;
  - e. Amount of commitment guarantee requested released;
  - f. Release or waivers of mechanics liens of all parties who have furnished work, services, or materials for the Improvements;
  - g. Certification by the design engineer that the improvements have been completed according to approved standards and specifications; and
  - h. Reasonable fee to cover the cost of administration and inspections.
- 2.** Upon receipt of the application, the Zoning Administrator shall promptly refer the application to the County Engineer. The County Engineer shall inspect the required improvements, both those completed and those uncompleted, at his earliest convenience. If the County Engineer determines from the inspection that the required improvements shown on the application has been completed as provided herein, the County Engineer shall so advise the Zoning Administrator, and the Zoning Administrator shall release that portion of the collateral supporting the commitment guarantee relative to the completed improvements.
- 3.** All collateral releases shall be made in writing signed by the Zoning Administrator. Such releases shall be made in all cases as soon as practical, following the submission of a complete request, as described above.
- 4.** The County may release 115 percent of the amount of the collateral for the required improvements completed to date, less 125 percent of the costs of the required improvements not completed; thus retaining 10 percent of the amount of the collateral for the required improvements completed to date as identified by the approved cost estimate shall be retained pending satisfaction of the warranty bond requirements of Section 7. Alternatively, the amount to be released may be 125 percent of the amount of the collateral for the required improvements completed to date, upon submission of a warranty bond in accordance with the requirements of Section 7.

#### **D. Final Acceptance**

Final acceptance of the required improvements and release of the warranty bond shall be made by resolution of the County Council in accordance with the requirements of this subsection.

#### **E. Completion of Required Improvements**

Completion of the required improvements shall be verified by the following findings:

- 1.** Certification by the Design Engineer that the required improvements have been completed according to the approved standards and specifications;
- 2.** Verification of the County Engineer that the required improvements have been completed according to the approved standards and specifications;

3. Presentation of signatures of final acceptance by any applicable service district(s); and
4. Submission of as-built drawings in "reproducible" hard copy and digital format in accordance with the requirements of Section 9.1.3D.

**F. Maintenance of Improvements.**

Upon final acceptance, maintenance of the completed improvements shall be assumed by one (1) of the following as determined by the County Council:

1. Grand County and/or other applicable service district(s); or
2. A homeowners' association formed in accordance with the requirements of Section 9.6, Mandatory Homeowners' Association.

**G. Warranty Bond Release**

Release of the warranty bond required by Section 9.5.5B.7, shall occur following final acceptance of the required improvements in accordance with the approved standards and specifications.

**Section 9.6 Mandatory Homeowners' Association**

**9.6.1 Applicability**

When a residential subdivision contains any physical facilities, structures, improvements, systems, areas or grounds held in common and necessary or desirable for the welfare of the area or subdivision, or that are of common use or benefit and that are not or cannot be satisfactorily maintained by the County or another public agency, the County may require the establishment and creation of a mandatory homeowners' association to assume and be responsible for the continuous and perpetual operation, maintenance and supervision of such facilities, structures, improvements, systems, areas or grounds.

**9.6.2. Approval**

If the establishment and creation of a mandatory homeowners' association is required by the County, a copy of the agreements, covenants and restrictions establishing and creating the association must be approved by the Zoning Administrator and County Council prior to the approval of the final plat of the subdivision and must be filed of record with said final plat in the Map and Plat Records of Grand County, Utah. Said final plat shall clearly identify all facilities, structures, improvements, systems, areas or grounds that are to be operated, maintained and/or supervised by said association.

**9.6.3 Responsibilities**

Such mandatory homeowners' associations shall be responsible for the continuous and perpetual operation, maintenance and/or supervision of landscape systems, features or elements located in parkways, common areas, between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainage ways or drainage structures, or at subdivision entryways. Subdivision entryway treatments or features shall not be allowed unless a mandatory homeowners' association as required herein is established and created.

**9.6.4 Dedications to Association**

All facilities, structures, improvements, systems, areas or grounds that are to be operated, maintained and/or supervised by a mandatory homeowners' association, other than those located in public easements or rights-of-ways, shall be dedicated by easement or deeded in

fee simple ownership interest to said association. Such easements or ownership shall be clearly identified on the final plat of the applicable subdivision.

#### **9.6.5 Contents of Agreements**

At a minimum, the agreements, covenants and restrictions establishing and creating a mandatory homeowners' association required herein shall contain and/or provide for the following:

- A.** Definitions of terms contained therein;
- B.** Provisions acceptable to the County for the establishment and organization of the mandatory homeowners' association and the adoption of bylaws for said association, including provisions requiring that the owner(s) of any lot or lots within the applicable subdivision and any successive buyer(s) shall automatically and mandatorily become a member of the association;
- C.** The initial term of the agreements, covenants and restrictions establishing and creating the association shall be for a 25 year period and shall automatically renew for successive 10 year periods, and the association may not be dissolved without the prior written consent of the County;
- D.** Provisions acceptable to the County to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the responsibility of the association and to establish a reserve fund for such purposes;
- E.** Provisions prohibiting the amendment of any portion of the association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, areas or grounds that are the responsibility of the association without the prior written consent of the County;
- F.** The right and ability of the County or its lawful agents, after due notice to the association, to remove any landscape systems, features or elements that cease to be maintained by the association; to perform the responsibilities of the association if the association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the association or of any applicable County codes or regulations; to assess the association for all costs incurred by the County in performing said responsibilities if the association fails to do so; and/or to avail itself of any other enforcement actions available to the County pursuant to state law or County codes or regulations;
- G.** Provisions indemnifying and holding the County harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the County's removal of any landscape systems, features or elements that cease to be maintained by the association or from the County's performance of the aforementioned operation, maintenance or supervision responsibilities of the association due to the association's failure to perform said responsibilities;
- H.** Provisions stating that the association shall indemnify and holding the County harmless for claims based on the county's inaction, and

- I. Provisions stating that Grand County shall have neither the right nor the responsibility to enforce private covenants except in accordance with the provisions of Section 9.6.1 above.

## **Section 9.7 Minor Record Survey**

### **9.7.1 Purpose**

A. Minor record survey is intended to provide an expeditious, one-time only process for small, low impact developments no more than 3 lots, where all roads and utilities necessary to serve the subdivision are in place consistent with all applicable county standards at the time of application and the resulting lots are in compliance with the underlying zoning. Minor record survey also allows property to be subdivided where such property was lawfully and fully developed in accordance with previous County regulations. Upon approval of a minor record survey, applicants shall be authorized to sell lots within the subdivision that is the subject of the minor record survey by deed with metes and bounds description.

B. These procedures may be utilized only one (1) time for each parcel of land, thereafter subdivision of such parcels shall be subject to preliminary and final plat review procedures.

### **9.7.2 Land Use Authority**

The Zoning Administrator shall be the land use authority for minor record surveys, subject to the requirements of this section.

### **9.7.3 Application and Completeness Determination**

Application must be made for minor record surveys in accordance with the requirements of Section 9.1.3, Minimum Submission Requirements. The Zoning Administrator is responsible for determining the completeness of an application submitted, pursuant to Section 9.1.6.

### **9.7.4 Review Process**

The Zoning Administrator shall take final action to approve, approve with conditions or deny such applications.

#### **A. Approval by Administrator**

The Zoning Administrator shall prepare findings of fact on the minor record survey within 15 days or within a reasonable time thereafter. At that time, the Zoning Administrator may approve the application and authorize the Chairman of the County Council to sign the survey.

#### **B. Disapproval by Administrator**

Minor record surveys that are disapproved shall be returned to the developer by the Zoning Administrator with an attached statement of the reasons for such action.

#### **C. Review by Planning Commission**

In the event of a denial of a minor record survey by the Zoning Administrator, such application shall be placed on the next Planning Commission agenda, upon request of the applicant, for final review and action in accordance with the requirements of this section.

### **9.7.5 Items for Consideration**

The Administrator shall, in taking action on the minor record survey, consider consistency with the criteria for approval of minor record surveys, consider the physical arrangement of

the lots in the minor record survey, and determine the adequacy of street rights-of-way or easements, improvements and alignment relative to the street standards of Grand County, the existing street pattern in the area, the need for connections between neighborhoods and developments and with all applicable provisions of the General Plan. The Administrator shall also ascertain that adequate rights-of-way for future roads are provided, easements for proposed or future utility service and surface drainage are provided, and that the lot size and area are adequate to comply with the minimum requirements for the underlying zone district and for the type of sanitary sewage disposal proposed.

#### **9.7.6 Criteria for Approval**

Major subdivision review, including Preliminary and Final Plat, shall not be required where all of the following conditions exist:

- A.** Each minor record survey shall include no more than 3 lots, each for single-family residential use.
- B.** All roads and trails needed to serve the new lots are in place adjacent to the proposed lots, and either:
  - 1.** The property was fully developed in compliance with applicable County standards prior to the adoption of the LUC [January 4, 1999] and building permits were issued for a single-family dwelling on each lot, and access easements and driveways are in place that provide adequate access for residents and emergency vehicles; or
  - 2.** The property has frontage on a street or road that is either improved to County standards or accepted for County maintenance, and no new streets, roads or extensions need to be widened, dedicated or constructed.
- C.** Where sidewalk, curb and gutter are required, such improvements shall be installed by the applicant prior to Administrator's approval.
- D.** No utilities, other than individual service lines, need to be extended to serve the parcel and the necessary utilities are in place immediately adjacent to the parcel.
- E.** Drainage improvements required by Section 6.7, Drainage, are in place; or such required drainage improvements will be installed prior to the issuance of a Building Permit(s) for the subdivision lot(s), and the minor record survey includes the following note:

Note: No Building Permit(s) shall be issued for a structure(s) on any lot(s) approved by this resolution prior to the completion of drainage improvements in accordance with the requirements of Grand County Land Use Code, Section 6.7A, Drainage Detention Basin.
- F.** There are no other problems of public concern.

#### **9.7.7 Recordation**

If the Zoning Administrator has approved and signed a certificate of written approval on the minor record survey, the minor record survey becomes the instrument to be recorded in the office of the County Recorder when all requirements have been met. The subdivider shall pay the record filing fee. If for any reason the minor record survey has not been recorded within 90 days of the Zoning Administrator's signature, the approving actions shall be deemed void.

## **Section 9.8 Recreational Subdivisions**

### **9.8.1 Purpose**

The recreational subdivision procedure is intended to greater design flexibility for seasonal subdivision development with respect to otherwise applicable subdivision standards, where there is a reasonable expectation that the resulting lots will be occupied exclusively on a seasonal basis.

### **9.8.2 Preapplication Conference**

Prior to the filing of a recreational subdivision plat application, the Applicant shall meet with the Zoning Administrator to acquaint himself or herself with the requirements of the County. At such meeting, the application contents, applicable referral agencies, criteria for approval of recreational subdivisions, review procedures, use and area standards, and the general character of the development may be discussed.

### **9.8.3 Submittal Requirements**

The submittal requirements for a recreational subdivision shall be the same Sketch Plan, Preliminary Plat and preliminary plat submittal requirements as specified for other subdivisions in Section 9.3.2, Section 9.4.2 and Section 9.5.1.

### **9.8.4 Application Review Procedures**

The review procedures for recreational subdivisions shall be the same Sketch Plan, Preliminary Plat and preliminary plat procedures as specified for other subdivisions in Section 9.3.3, Section 9.4.3, and Section 9.5.2.

### **9.8.5 Criteria for Approval**

- A.** The resulting lots will not be occupied long-term, but rather they will be only be occupied on a seasonal basis; and year-round, vehicular access is not available;
- B.** The proposed subdivision is sufficiently removed from other areas served by public facilities and public road maintenance as to make the extension of such public facilities and maintenance unlikely in the foreseeable future;
- C.** The proposed subdivision shall conform with the subdivision standards of Article 7, of this LUC; provided, however, where appropriate and at the discretion of the Planning Commission:
- D.** A Private Access Tract may be permitted to serve up to 6 lots in a Recreational Subdivision; and
- E.** Water hauling or an on-site cistern may be allowed for a single recreational property with water storage capacity of at least 1,000 gallons in a tank that is approved for culinary water storage; and
- F.** Each dwelling unit shall be designed and sited in conformance with the wildfire standards of Section 6.9.6 of this LUC.

## **Section 9.9 Replats and Exemption Plats**

### **9.9.1 Replats**

Replats shall be subject to all requirements of this LUC regarding final plats. The County Council may, following a public hearing and recommendation of the Planning Commission, approve a replat that is for the purpose of vacation, alteration, or amendment of a subdivision plat, of any lot, street or alley contained in a plat, provided that the replat does not remove any covenants or restrictions or increase the number of lots. Replats that remove any covenants or restrictions or increase the number of lots shall be subject to all of the requirements of this LUC regarding preliminary plats and final plats.

### **9.9.2 Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

### **9.9.3 Exemption Plats**

Exemption plats shall meet all requirements of this LUC for Final Plat, provided, however, that the County Council may approve such exemption plat without notice or hearing where the boundary or plat amendment is solely for one (1) or more of the following purposes and does not remove any covenants or restrictions or increase the number of lots.

- A.** The purpose is to correct an error in any course or distance shown on the prior plat.
- B.** The purpose is to add any course or distance that was omitted on the prior plat.
- C.** The purpose is to correct an error in the description of the real property shown on the prior plat.
- D.** The purpose is to indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor responsible for setting the monuments.
- E.** The purpose is to show the proper location or character of any monument that has been changed in location or character or that originally was shown at the wrong location or incorrectly as to its character on the prior plat.
- F.** The purpose is to correct any other type of clerical error or omission in the previously approved plat.
- G.** The purpose is to correct an error in courses and distances of lot lines between 2 adjacent lots where both lot owners join in the application for amendment and neither lot is abolished, provided that such amendment does not have a material adverse effect on the property rights of the owners in the plat.
- H.** The purpose is to relocate a lot or boundary line in order to cure an inadvertent encroachment of a building or improvement on a lot or boundary line or on an easement.

### **Section 9.10 Lot Line Adjustments**

Application to adjust lot lines between adjacent properties may be executed upon recordation of an appropriate deed if:

- A.** No new lot results from the lot line adjustment;
- B.** The adjoining property owners consent to the lot line adjustment;
- C.** The lot line adjustment does not result in a remnant of land that did not previously exist;
- D.** The adjustment does not result in a violation of applicable zoning requirements; and
- E.** The application has been reviewed and approved by the Zoning Administrator prior to recordation in Grand County Recorder's office.

## **Section 9.11 Conditional Use Permits**

### **9.11.1 General**

A conditional use is a use that, because of its unique characteristics or potential impact on the county, surrounding neighbors or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that reasonably mitigate or eliminate the detrimental impacts. Pre-existing uses that are permitted as a Conditional Use pursuant to this LUC shall be deemed to have already received conditional use permit approval; provided, however, that any change or expansion of a conditional use, whether pre-existing or otherwise, shall require a new conditional use permit pursuant to the terms of this section.

### **9.11.2 Pre-Application Conference**

Prior to the filing of a conditional use permit application, the Applicant shall meet with the Zoning Administrator or his or her designated agent to acquaint himself or herself with the requirements of the County. As such meeting, the application contents, referral agencies, review procedures, use and area standards, and the general character of the development may be discussed.

### **9.11.3 Procedure**

#### **A. Submittal Requirements**

~~14 copies (neatly folded and ready for mailing) of the A~~ conditional use permit application shall be submitted to the Zoning Administrator 30 days prior to the Planning Commission meeting at which consideration is desired. The application shall be accompanied by or show the following information on two (2) 18 X 24 plats, two (2) 11 X 17 copies, and in an electronic file ready for printing:

1. The street address and legal description of the property affected;
2. A preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property;
3. A site plan drawn to a scale deemed necessary by the Zoning Administrator. The site plan shall include:
  - a. Drives, streets, and rights-of-way;
  - b. Easements;
  - c. Location and dimensions of structures and signs;
  - d. Typical elevations of such buildings;
  - e. Access ways, including points of ingress, egress;
  - f. Landscaping;
  - g. Topography; and
  - h. Specific areas proposed for specific types of land use.
4. Any and all information, operating data and expert evaluation necessary to clearly explain the location, function and characteristics of any building or use proposed;

5. A filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the County Council.

**B. Distribution of Conditional Use Applications**

The Zoning Administrator shall distribute the conditional use application immediately upon receipt to appropriate referral agencies which may include the following:

1. Zoning Administrator: ~~2 copies~~
2. Grand County Engineer: ~~1 copy~~
3. Grand County Water Conservancy District or Spanish Valley Water and Sewer Improvement District: ~~1 copy~~
4. Moab Fire Protection District: ~~1 copy~~
5. Grand County Administrator: ~~1 copy~~
6. Grand County Recorder: ~~1 copy~~; and
7. Grand County Road Superintendent: ~~and, 1 copy~~.
8. ~~The remaining~~ Additional copies shall be provided to the Planning Commission prior to the Commission meeting at which the conditional use permit is considered.

**9.11.4 Review by Planning Commission**

Before taking action on any proposed conditional use permit, the County Council shall submit the same to the Planning Commission for its recommendation and report.

**A. Public Hearing Required**

The Planning Commission shall hold a public hearing on any application for conditional use permit prior to making its recommendation to the County Council.

**B. Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

**9.11.5 Action by County Council**

The County Council shall act on a conditional use permit within 30 days of the Planning Commission's recommendation or within a reasonable time thereafter.

**A. Public Hearing Required**

The County Council shall hold a public hearing on any application for conditional use permit prior to making its decision.

**B. Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

### **9.11.6 Conditional Use Criteria**

Conditional Use Permits shall be approved where the County determines that there will be no significant negative impact upon residents of surrounding property or upon the public. The following criteria shall be considered in the application review:

#### **A. Effect on Environment**

The location, size, design and operation characteristics of the proposed use shall not be detrimental to the health, welfare, and safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property, nor cause substantial or permanent interference with the right to peaceful enjoyment of property.

#### **B. Compatible with Surrounding Area**

The proposed site plan, circulation plan and schematic architectural designs shall be complementary with the character of the surrounding area with relationship to scale, height, landscaping and screening, building coverage, and density.

#### **C. External Impacts Minimized**

The proposed use shall not have negative impacts on existing uses in the area and in the county through the creation of noise, glare, fumes and odors, dust, smoke, vibration, fire hazard, excessive light, or other injurious or noxious impact. The applicant shall provide adequate mitigation responses to these impacts.

#### **D. Infrastructure Impacts Minimized**

The proposed use shall not have negative impacts on existing uses in the area and in the county through impacts on public infrastructure such as roads, parking facilities and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to provide services adequately.

#### **E. Consistent with LUC and General Plan**

The proposed use will be consistent with the purposes of this LUC, the General Plan, and any other statutes, ordinances or policies that may be applicable, and will support rather than interfere with the uses otherwise permitted in the zone in which it is located.

#### **F. Parcel Size**

The proposed use may be required to have additional land area, in excess of the lot area otherwise allowed by the underlying zoning district, as necessary to ensure adequate mitigation of impacts on surrounding land uses and the zoning district.

### **9.11.7 Conditions of Approval**

**A.** The County may, in the interest of the public welfare and to assure compliance of this LUC, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any use listed as a Conditional Use Permit, the County may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property, the neighborhood and the county from noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, traffic circulation or other

undesirable or hazardous conditions. In addition, where conditional uses involve significant alteration of the landscape or pose potential threats to the scenic quality of the county, reclamation bonds may be required as deemed necessary to ensure reclamation of disturbed sites to their natural, original or other substantially beneficial condition consistent with local plans to the extent practicable, and to protect the county's recreation-base economy, as determined by the County Council. Applicant's may be required to post sufficient security, as deemed reasonably necessary by the County Council, to guarantee that the final reclamation shall be accomplished within one year of the cessation of the permitted activity/facility; a surety bond approved by the County Attorney may be acceptable.

**B.** Conditional use permits may be denied if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with the criteria of Section 9.11.6.

**C.** Conditions of approval may include a requirement that the applicant submit an annual statement of compliance detailing how the applicant has complied with terms of the permit, including a detailed and specific report on steps taken in the prior year to comply with other applicable local, state and federal requirements and laws. The Administrator shall review and approve such annual statement where the applicant is continuing to comply with the applicable requirements of the Conditional Use Permit. Where the Administrator determines that the applicant is in violation of any requirement of this LUC or conditions of approval, the Administrator shall revoke said permit in accordance with the requirements of Section 9.11.8. Alternatively, and at the discretion of the Administrator, such permit may be referred to the County Council for review.

#### **9.11.8 Revocation**

The Zoning Administrator may revoke a Conditional Use Permit if it is determined that:

**A.** The applicant has misrepresented any material fact on his or her application, or supporting materials;

**B.** The Conditional Use fails or ceases to comply with applicable standards, conditions or criteria for issuance of a permit;

**C.** The operation of the Conditional Use violates any statute, law, ordinance or regulation; and/or

**D.** The operation of the Conditional Use constitutes a nuisance or poses a real or potential threat to the health, safety or welfare of the public.

#### **9.11.9 Records**

Final action on Conditional Use Permits shall be documented by Resolution of the County Council and a file containing all documents relevant to the application and disposition of such Conditional Use Permits shall be maintained by the County Recorder.

#### **9.11.10 Maximum Density**

The maximum density allowed by Conditional Use Permit shall be no greater than that permitted in the underlying zone district, unless specifically authorized in this LUC.

#### **Section 9.12 Constitutional Takings Review and Appeal**

In order to promote the protection of private property rights and to prevent the physical taking or exaction of private property without just compensation, the County Council, the

Planning Commission, and the Zoning Administrator shall adhere to the following before authorizing the seizure or exaction of property:

### **9.12.1 Appeal**

Any owner of private property who believes that his/her property is proposed to be "taken" by an otherwise final action of the County Council, the Commission or the Zoning Administrator may appeal the decision to the ~~Takings Appeal Board Hearing Officer~~ within 30 days after the decision is made. The appeal must be in filed in writing with the County Recorder. The Takings Appeal Board shall hear and approve and remand or reject the appeal within 14 days after the appeal is filed. The ~~Takings Appeal Board Hearing Officer~~, with advice from the County Attorney, shall review the appeal pursuant to the guidelines in Section 9.12.4. The decision of the ~~Takings Appeal Board Hearing Officer~~ shall be in writing and a copy shall be given to the appellant and to the County Council, the Commission, or Zoning Administrator that took the initial action. The ~~Takings Appeal Board's Hearing Officer's~~ rejection of an appeal shall constitute final County action.

### **9.12.2 Submission Requirements**

The Applicant shall file ~~4 copies (neatly folded and ready for mailing)~~ of two (2) hard copies and one (1) electronic copy of a petition requesting a constitutional takings review and of a preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property. The petition shall be accompanied by or show the following information:

- A.** The street address and legal description of the property affected;
- B.** A detailed description of the grounds for the claim that there has been a constitutional taking and of the property taken;
- C.** Evidence and documentation as to the value of the property, including the date and cost at the date the property was acquired, both before and after the alleged constitutional taking. This should include the name of the party from whom the property was purchased, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired;
- D.** Nature of the prosecutable interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest;
- E.** Terms (including sale price) of any previous purchase or sale or a full or partial interest in the property in the 3 years prior to the date of application;
- F.** All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the 3 years prior to the date of application;
- G.** The assessed value of ad valorem taxes on the property for the previous 3 years;
- H.** All information concerning current mortgage or other loans secured by the property, including the name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan or other significant provisions, including but not limited to, right of purchasers to assume the loan;
- I.** All listings of the property for sale or rent, price asked, and offers received, if any, within the previous 3 years;

- J. For income producing property, an itemized income and expense statements from the property for the previous 3 years;
- K. The County Council or their designee may request additional information reasonably necessary in their opinion, to arrive at a conclusion concerning whether there has been a constitutional taking; and
- L. A filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the County Council.

### **9.12.3 Takings Review Procedure**

Prior to any proposed action to exact or seize property by the County Council, the Commission or the Zoning Administrator, the County Attorney shall review the proposed action to determine if a constitutional taking requiring "just compensation" would occur. The County Attorney shall review all such matters pursuant to the guidelines established in subsection (b) herein. Upon identifying a possible constitutional taking, the County Attorney shall, in a confidential, protected writing, inform the County Council, the Planning Commission, or the Zoning Administrator of the possible consequences of its action. This opinion shall be advisory only and no liability shall be attributed to the County for failure to follow the recommendation of the County Attorney.

### **9.12.4 Takings Guidelines**

The County Attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendment to the Constitution of the United States, or under Article I, Section 22 of the Utah Constitution. The County Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The County Attorney shall also determine whether the action deprives the private property owner of all reasonable use of the property. These guidelines are advisory only and shall not expand or limit the scope of the County's liability for a constitutional taking.

### ~~9.12.5 Takings Appeal Board~~

~~There is hereby created a 3 member Takings Appeal Board. The County Administrator shall appoint 3 current members of the Board of Adjustment to serve on the Takings Appeal Board. If, at any time, 3 members of the Board of Adjustment cannot meet to satisfy the time standards stated in subsection (3), the County Manager shall appoint a member or sufficient members to fill the remaining vacancies.~~

### **9.12.56 Annual Review**

The County Attorney shall review these guidelines annually and recommend changes as warranted by the current status of the law. Nothing herein shall prevent the County Attorney from considering subsequent legal standards established by the legislature or case law after the adoption of this section.

## **Section 9.13 Appeals of Administrative Decisions**

### **9.13.1 Authority of ~~Hearing Officer~~Board of Adjustment**

The Board of Adjustment shall have powers and be subject to the limitations of 8.2 of this LUC.

### **9.13.2 Application for Appeal**

Appeals to the ~~Board of Adjustment~~Hearing Officer can be taken by any person aggrieved by any officer, department or board of the County or affected by the decision of the Zoning Administrator. Such appeal shall be taken within 30 days after the decision has been

rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the ~~Board of Adjustment~~Hearing Officer, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the ~~Board of Adjustment~~Hearing Officer all the papers constituting the record upon which the action appealed from was taken.

### **9.13.3 Filing Fee**

A filing fee shall be submitted to cover the cost of review and processing with every appeal in accordance with the fee schedule adopted by resolution of the County Council.

### **9.13.4 Stay of Proceedings**

An appeal shall stay all proceedings of the action appealed from unless the officer from whom the appeal is taken certifies to the ~~Board of Adjustment~~Hearing Officer after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order that may be granted by the ~~Board of Adjustment~~Hearing Officer or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

### **9.13.5 Hearing and Notice**

The ~~Board of Adjustment~~Hearing Officer shall fix a reasonable time for the hearing of an appeal, and give the public notice as follows.

### **9.13.6 Public Notification**

Public notice shall be made in accordance with the requirements of Section 9.1.8, Required Public notices.

### **9.13.7 Appeals to Court**

Every decision of the ~~Board~~Hearing Officer shall be subject to review by Certiorari, as provided by Rule 106(a)(4) Utah Rules of Civil Procedure. Such appeal may be taken by any person aggrieved or by an officer, department, or board the County. Such appeal shall be taken within such time as provided by the Utah Rules of Civil Procedure. A notice of appeal, in writing, specifying the grounds for such an appeal, shall also be filed with the ~~Board~~Hearing Officer within 30 days of the final written ~~Board~~Hearing Officer decision.

## **Section 9.14 Variances**

### **9.14.1 Purpose**

Variances are deviations or modifications of dimensional standards of Article 5, Lot Design Standards, including front-, side- and rear-yard (setbacks), lot width, area, and height, of the applicable zone district where development is proposed that would not be contrary to the public interest and, due to special physical site conditions, a literal enforcement of the provisions of Article 5, would result in unnecessary hardship. Variance or modification of such dimensional standards may be permitted as may be necessary to secure appropriate development of a parcel of land that differs from other parcels in the district by being of such restricted area, shape or slope so that it cannot be appropriately developed without such variance or modification.

### **9.14.2 Authority**

The ~~Board of Adjustment~~Hearing Officer, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions or disapprove an application for a variance after receiving a recommendation from the Zoning Administrator.

### **9.14.3 County Council Approval of Variances**

Alternatively and in conjunction with the review of subdivision applications, the County Council shall be authorized to grant variances subject to the requirements of this Section 9.14, Variances.

#### **9.14.4 Procedure**

##### **A. Submittal Requirements**

1. The Applicant shall file ~~3 copies (neatly folded and ready for mailing)~~ two (2) hard copies and one (1) electronic copy of an application, or more if specified by the Zoning Administrator, requesting a variance. The application shall be accompanied by or show the following:
  2. The street address and legal description of the property affected;
  3. A site plan and any and all other information necessary to clearly demonstrate eligibility for the requested variance based upon the required findings in Section 9.14.5. below; and
  4. A filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the County Council.

##### **B. Notification Requirements**

Notification requirements for variances shall be as follows:

###### **1. Publication**

The County shall cause notice of the public hearing to be given by publication in a newspaper of general circulation (with distribution of the notice to all other local news media without any requirement for publication) in Grand County. Such notice shall state the time and place of such hearing and the nature of the subject to be considered, which time shall not be earlier than 15 days from the date of publication.

###### **2. Posting**

The Applicant shall post a sign, provided by the County, noticing the public hearing in a prominent place on the land area proposed for a variance with a notice of the hearing at least 15 days prior to the hearing. Such notice shall describe the change proposed; the time, date, and place of the public hearing; and the name, address, and phone number of the Applicant.

###### **3. Public Hearing**

A public hearing shall be held on an application for a variance. At the public hearing the ~~Board of Adjustment~~Hearing Officer shall consider the application, the staff report, the relevant support materials and the public testimony given at the public hearing. After the close of the public hearing, the ~~Board of Adjustment~~Hearing Officer shall vote to approve, approve with conditions or disapprove the application for a variance, pursuant to the requirements of Section 9.14.5.

###### **4. Notice of Decision**

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the final decision.

#### **9.14.5 Required Findings**

In exercising its power to grant a variance in accordance with this LUC, the ~~Board of Adjustment~~Hearing Officer shall make finding and show in its minutes that:

- A.** There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the same area and zone district;
- B.** That a variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed under this LUC, by other properties in the vicinity and zone, but which rights are denied to the subject property;
- C.** That the granting of the variance on the specific property will not be inconsistent the General Plan of Grand County;
- D.** That the variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity;
- E.** That such unnecessary hardship has not been created by the applicant; and
- F.** That the proposed use is a permitted use in the underlying zone district.

#### **9.14.6 Conditions**

The Zoning Administrator may recommend, and the ~~Board of Adjustment~~Hearing Officer may impose, such conditions on a Variance Permit as are necessary to accomplish the purposes of this LUC, to prevent or minimize adverse impacts upon the public and neighborhoods and to ensure compatibility. These conditions may include but are not limited to limitations on size, bulk and location; standards for landscaping, buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of deposit; other on-site improvements; and limitations on the duration of the permit or hours of operation.

#### **9.14.7 Effect of Variance Permit**

##### **A. General**

Issuance of a Variance Permit shall authorize only the particular variation that is approved in the Variance Permit. A Variance Permit shall run with the land.

##### **B. Time Limit**

Unless otherwise specified in the variance approval, an application to commence construction of the improvements that were the subject of the variance request must be applied for and approved within 12 months of the date of the approval of the variance; otherwise the variance shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, only one extension of the 12-month time frame may be granted by the ~~Board of Adjustment~~Hearing Officer for a period not to exceed 12 months for good cause shown.

### **Section 9.15 Sign Permits**

#### **9.15.1 Permits**

- A.** It shall be unlawful to erect, construct, reconstruct, alter, paint, or repaint, or change the use of any sign as defined in this section without first obtaining a sign

permit; however, a sign permit shall not be required to repaint a sign exactly as it was permitted for the purpose of maintenance.

**B.** A one-time sign permit fee according to the International Building Code Permit Fee schedule shall be charged for each sign.

### **9.15.2 Sign Permit Application**

Application for a sign permit, where such permit is required by Section 6.5, Signs, shall be made upon forms provided by the Grand County and shall include the following information:

**A.** A drawing to scale of the proposed sign.

**B.** A drawing to scale of the site plan or building facade showing the proposed location of the sign.

**C.** Name, address and telephone number of the Applicant.

**D.** Name, address and telephone number of the owner.

**E.** Name, address and telephone number of the person or firm responsible for the erection of the sign.

**F.** Location of the building, structure or tract to which, or upon which, the sign is to be attached or erected.

### **9.15.3 Sign Permit Standards**

Sign permits shall be approved upon determination that the proposed sign(s) will be consistent with the standards of Section 6.5, Signs.

## **Section 9.16 Temporary Use Permits**

### **9.16.1 General**

Temporary use permits shall be issued by the Planning Commission, subject to the following provisions.

### **9.16.2 Zoning**

The use for which the permit is requested shall be authorized as a temporary use in the district in which the use is to be located.

### **9.16.3 Application**

Application for a temporary use permit shall be made on forms provided by the zoning administrator.

### **9.16.4 Conditions**

The Applicant shall meet all conditions for such temporary use permit set forth in this LUC.

### **9.16.5 Time Limit**

A time limit for the discontinuance of the temporary use shall be specified on the temporary use permit.

## **Section 9.17 Site Plan Review**

### **9.17.1 Applicability**

Prior to the issuance of a zoning development permit or building permit for any commercial or multi-family development in any zone district, there shall be submitted to the Planning Commission for its approval a site plan.

### **9.17.2 Purpose**

The purpose for Site Plan Review is to assist the building inspector with zoning review, which must be accomplished prior to the issuance of a zoning development permit and building permit. In this one-step review, the Planning Commission reviews proposed developments for conformance with the General Development Standards of Article 6, and applicable zoning requirements of this LUC.

### **9.17.3 Submission Requirements**

The developer or owner shall submit the site plan drawn to an acceptable scale and with adequate copies. The scale and number of copies shall be that deemed necessary by the Zoning Administrator. The site plan shall include the following:

- A.** Parking, loading, and refuse areas;
- B.** Access ways, including points of ingress, egress;
- C.** Sidewalks and trails;
- D.** Fences and walls;
- E.** Location and dimensions of structures and signs;
- F.** Location and type of outdoor lighting;
- G.** Typical elevations of such buildings;
- H.** Landscaping and screening;
- I.** Topography;
- J.** Specific areas proposed for specific types of land use;
- K.** Lots or plots;
- L.** Any areas with slopes in excess of 30 percent;
- M.** Any areas in a natural drainage or the 100 year floodplain;
- N.** Existing and proposed easements, areas proposed for public dedication; and
- O.** Building footprint(s), water and sewer lines, easements and drainage improvements in Digital Format; if available. Digital information shall be provided in the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Zoning Administrator (currently preferred in State Plane Coordinates - Utah Central Zone or the Valley Coordinate System) with all measurements stated in feet.

### **9.17.4 Action of Commission**

- A.** The Planning Commission consideration shall include the General Development Standards of Article 6, the requirements of the underlying zone district, and other aspect deemed by the County Planning and Zoning Commission necessary to consider in the interest of promoting the purposes of this LUC.
- B.** In the approval or disapproval of the site plan, the Planning Commission shall not be authorized to waive or vary conditions and requirements contained in this LUC.

C. Building permits in conformance with site plan. It shall be unlawful to issue a building permit prior to the approval of the site plan by the Planning Commission. No building permit shall be issued except in conformity with the approved site plan or in accordance with authorized minor changes, including all conditions of approval applied by the Planning Commission.

#### **9.17.5 Minor Changes**

Subsequent to approval of a site plan, minor changes may be authorized by the Zoning Administrator when such minor changes will not cause any of the following to occur:

- A. A change in the character of the development;
- B. An increase in the intensity of use;
- C. A reduction in the originally approved separations between buildings;
- D. An increase in the external effects, including that of outdoor lighting, on adjacent property;
- E. A reduction in the originally approved setbacks from property lines;
- F. An increase in the problems of circulation, safety and utilities;
- G. An increase in the height of such buildings;
- H. An increase of more than 20 percent or a 1,000 square feet, whichever is less, in ground coverage by structures;
- I. A reduction in the offstreet parking;
- J. A change in the subject, size, lighting or orientation of originally approved signs;  
or
- K. A decrease in the percentage of landscaping required.

### **Section 9.18 Zoning Development Permits**

#### **9.18.1 Applicability**

A. No building permit may be issued and no person(s) may engage in any development (including grading) within the incorporated area of Grand County without obtaining an appropriate Zoning Development Permit. The Zoning Administrator shall require that every application for a development permit be accompanied by two (2) copies of a plan or plat showing the building, structure, or sign in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed construction, reconstruction or conversion, moving and/or alteration is in conformance with the provisions of the applicable zone district and this LUC.

B. No Zoning Development Permit shall be issued for a building or structure on a lot which abuts a street and located on the side thereof from which all dedication has not been made according to the street plans and standards as adopted from time to time by Grand County.

#### **9.18.2 Revocation of Zoning Development Permits**

Failure to comply with any condition(s) of approval, as determined by the County Council, shall result in inability to obtain any rights granted conditionally thereunder, and County

revocation of the Zoning Development Permit upon 30 day notice to the Developer and opportunity for hearing and County determination of non-compliance with conditions.

### **9.18.3 Denial of Zoning Development Permit**

If an application for a Zoning Development Permit is not approved, the Zoning Administrator shall return the Zoning Development Permit to the applicant with a written statement detailing the reasons for such disapproval.

### **9.18.4 Conflict**

Any zoning permit or building permit issued in conflict with the provisions of this LUC shall be null and void, and may not be construed as waiving any provision of this LUC.

## **Section 9.19 Certificates of Occupancy**

### **9.19.1 Applicability**

No building hereafter erected, converted or structurally altered shall be used or occupied and no land or nonresidential building may be changed in use unless or until a certificate of occupancy shall have been issued by the Building Official of Grand County stating that the building or proposed use of land or building complies with the provisions of this LUC and other building and health laws of Grand County.

### **9.19.2 Application**

A certificate of occupancy shall be applied for coincident with the application for a Building Permit and will be issued within 10 days after the completion of the erection, alteration or conversion of such building or land provided such construction or change has been made in complete conformity to the provisions of this LUC.

### **9.19.3 Record**

A record of all certificates of occupancy shall be kept on file in the office of the Building Official, and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the land or building affected.

## Section 3.1 Use Table

| Principal Uses by Zoning District  |   |             |     |    |     |    |                |    |    |    |    |                        |                 |
|--|---|-------------|-----|----|-----|----|----------------|----|----|----|----|------------------------|-----------------|
| Use Category   | Specific Use                                      | RESIDENTIAL |     |    |     |    | NONRESIDENTIAL |    |    |    |    | Use-Specific Standards |                 |
|  |   | SLR         | LLR | RR | MFR | RG | INC            | GB | RC | RS | HC |                        | LI              |
| Key: P = Permitted by right C = Conditional Use Permit Required Not Permitted<br>(Use-specific Standards and descriptions of Use Categories are provided in Sec. 3.2 and Sec. 3.4, respectively) |   |             |     |    |     |    |                |    |    |    |    |                        |                 |
|  | <u>Airport and heliport, emergency operations</u> |             |     |    |     |    |                |    |    | P  |    |                        | <u>3.2.2A</u>   |
| Passenger Terminals  | <u>Airport and heliport, private</u>              |             |     |    |     | C  |                |    |    |    |    |                        | <u>3.2.2A</u>   |
|  | <u>Airport and heliport, public</u>               |             |     |    |     |    |                |    |    |    |    |                        | <u>SEC. 4.3</u> |
|  | <u>Bus station or terminal</u>                    |             |     |    |     |    | P              |    |    | P  | P  | P                      |                 |
|  | <u>Train Passenger Terminal</u>                   |             |     |    |     | C  |                |    |    |    |    |                        | <u>3.2.4N</u>   |
|  | <u>All other passenger terminals</u>              |             |     |    |     |    |                |    |    |    |    |                        |                 |

### 3.2.2 Public and Civic Use Standards

#### A. Airport and Heliport, Emergency Operations and Private

All private airports and heliports shall comply with the standards of this section:

1. A heliport associated with the Grand County Emergency Operations Command (EOC) Center shall be a permitted use in the Highway Commercial (HC) zone district. The EOC heliport shall be used strictly for life safety related emergency operations. Aircraft takeoffs and landings shall NOT be permitted if helicopter takeoffs or landings are conducted in any part for commercial aviation or "scenic flight" purposes.

12. Aircraft takeoffs and landings shall be limited to the following activities:

- a. Aviation activities conducted by or on behalf of governmental entities;
- b. Medical, search-and-rescue, or other emergency aviation activities;
- c. Aviation activities for agricultural purposes (farming or ranching);
- d. Aviation activities for the purpose of seismic or other oil, gas or mineral exploration;
- e. Aviation activities for the purpose of reaching an aircraft maintenance or repair facility that is in use, and has historically been in use, at the time this section becomes effective;
- f. Aviation activities for the purpose of maintaining and repairing public utility facilities;
- g. Aviation activities for commercial filming purposes; or
- h. Aviation activities in support of permitted construction activities.

23. Aircraft takeoffs and landings at private heliports shall NOT be permitted if helicopter takeoffs or landings are conducted in any part for commercial aviation or "scenic flight" purposes.

34. Aircraft takeoffs and landings for commercial filming activities shall:
- a. Be conducted at an airport or heliport that is currently in use, and has historically been in use for such activities;
  - b. Are not materially higher in volume or intensity than the highest level of such activity during 1993; and
  - c. Do not cause unreasonably frequent or continuous disturbances or other unreasonable negative impacts on the area or its inhabitants or on permitted uses within the area.

GRAND COUNTY, UTAH  
ORDINANCE \_\_\_\_\_

**PRODUCTION WATER AND FORMATION WATER DISPOSAL & RECYCLING  
FACILITIES AMENDMENT**

**WHEREAS**, the Grand County Council (County Council) adopted the Grand County General Plan Update (General Plan Update) on February 7, 2012 with Resolution No. 2976;

**WHEREAS**, the County Council adopted the Grand County Land Use Code (LUC) on January 4, 1999 with Ordinance No. 299 and amended February 19, 2008 with Ordinance No. 468 for the purpose of regulating land use, subdivision, and development in Grand County in accordance with the General Plan;

**WHEREAS**, Grand County serves to protect the health, safety, and welfare of all its citizens and visitors;

**WHEREAS**, Grand County seeks to ensure that production water and formation water disposal and recycling facilities are planned, located, designed, and operated to facilitate compatibility with surrounding uses;

**WHEREAS**, Grand County desires to adopt best management practices and regulations to provide clear guidelines and requirements for the development of said facilities;

**WHEREAS**, the Planning Commission reviewed the draft ordinance in a public hearing on (Month Day, 2016) and recommended approval;

**WHEREAS**, due notice was given that the County Council would meet to hear and consider this ordinance in a public hearing on (Month Day, 2016); and

**WHEREAS**, the County Council has heard and considered all evidence and testimony presented with respect to these amendments, and has determined that adoption of this ordinance is in the best interests of the citizens of the Grand County, Utah and that these amendments are consistent with the LUC Sec. 1.5, Purpose.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL** that the LUC is hereby amended by the repeal and re-enaction of Section 3.2.4.G Commercial Production Water and Formation Water Disposal and Recycling Facilities to read as follows:

**3.2.4.H Commercial Production Water and Formation Water Disposal and Recycling Facilities  
("Disposal Facilities")**

**1. General Requirements**

~~Commercial production water Disposal and recycling~~ facilities may be approved by Conditional Use Permit pursuant to Sec. 9.11, Conditional Use. Drilling muds and tank bottom waste shall not be accepted. Land Farms, as defined in Article 10, are not permitted. ~~Commercial production water Disposal and recycling~~ facilities shall comply with the following requirements:

**a. Site Plan**

A site plan shall be prepared in accordance with Section 9.17.

**b. Transportation Plan**

Selected transportation routes shall not result in a significant degradation of the level of service; "significant" shall be defined as a change in letter grade of the level of service. Where the level of service is unknown the applicant shall be responsible for the cost of traffic studies performed by a Utah-licensed engineer to establish such information. Traffic studies shall include an analysis of the traffic mix. Route selection to and from facilities shall consider the following:

- (1) Methods by which production water and formation water will be transported,

- (2) Road types, design, and service capacity, including future maintenance needs and costs,
- (3) Extent to which weather renders such roads and/or highways hazardous,
- (4) Load capacities, including during saturated inclement weather conditions,
- (5) Accident rates, to determine if proposed transportation routes are more or less hazardous than the average for similar types of roads and/or highways- the applicant shall mitigate any increased risk to such roads and/or highways, the traveling public, and any increased future maintenance and repairs costs to Grand County or the State of Utah,
- (6) Number and proximity of residences, schools, hospitals, and pedestrian routes,
- (7) Noise and traffic disruption,
- (8) Number and frequency of intersections per linear mile, or other measure as determined by Grand County during the application process, between the entrance of a facility and the nearest federal, state or county highway or road,
- (9) Where roads are inadequate, as determined by Grand County, to support the additional proposed traffic, road and/or highway improvements shall be provided at the applicant's expense, consistent with applicable County, state, and/or federal standards,
- (10) A Road Maintenance Agreement accepted and signed by the County Road Department and approved by the County Council,
- (11) Additional bonding may be required to adequately cover road maintenance costs during operation, and
- (12) A UDOT highway access permit shall be approved for each facility with direct access to a state highway. Turn lanes, frontage road(s), and curb and gutter shall be provided by the applicant if required by UDOT.

#### c. Operation

- (1) Sites-Disposal facilities shall be fully operational and have all applicable county, state, and federal permits prior to accepting production water or formation water. At a minimum, appropriate permits are required from Utah Division of Air Quality, Utah Division of Water Quality, Utah Division of Oil, Gas and Mining, and Utah Division of Waste Management and Radiation Control.

An operational certification letter shall be issued by the Community Development Department prior to receiving any production water or formation water. This operational certification letter must document the appropriate state agency permits.

- (2) An operator shall be on site during commercial operations.
- (3) Sites shall be used solely for production water or formation water disposal, condensate holding and hydrocarbon recovery tanks, and related structures. Injection or dumping into an injection well of any class, or holding at the site, of any other substance, waste or chemical is strictly prohibited without the necessary permits and prior approval of Federal, State, and County entities.
- (3) Federal, state, and county officials shall be allowed on the premises for the purpose of conducting site visits without prior notification.
- (4) Federal, state, and county documents shall be maintained on site and made available for federal, state, and county review.
- (5) Signs providing emergency contact information shall be provided at the facility entrance and receiving areas.
- (6) The applicant shall submit information regarding the proposed facility, wildlife protection measures, and type and height of perimeter fencing to the Utah Division of Wildlife Resources. The applicant's letter and agency response shall be provided to the County.

(7) Perimeter fencing shall be installed to keep wildlife and agriculture stock off the premises.

**d. Water Supply, Sewage Disposal, and Fire Protection**

Prior to approval the applicant shall demonstrate water supply, sewage disposal, and fire protection that is sufficient in terms of quality, quantity, and dependability for the proposed facility.

**e. Drainage Plan**

A drainage report and drainage plan, prepared by a Utah-licensed engineer, shall demonstrate compliance with Sec. 6.7, Drainage, with consideration of natural drainage and drainage during construction.

**f. Surface Discharge**

No ~~application of~~ production water or formation water shall be discharged to used on the ground for any purpose including construction, dust control, or agricultural use without prior written approval from the Utah Division of Oil, Gas, and Mining, the Division of Water Quality, and Grand County. No other fluids from such facilities shall ~~at no time~~ be discharged onto the ground, sold for off-site use, nor allowed to contaminate waters of the U.S. without prior written consent from all applicable local, state, and federal authorities. The applicant shall provide written copies of all approvals to the County prior to commencing any such activity.

**g. Waste Management Plan**

A detailed waste management plan shall describe the plans for handling and disposal of the expected wastes to be generated as a part of facility operations. This includes such items as hydrocarbons, concentrated brine, accumulated solids, treatment chemicals, and treatment media.

**h. Reclamation Plan**

A detailed reclamation plan shall demonstrate that upon cessation of operations restoration of the site shall be completed to a condition as natural as practical, or to the site's original or other beneficial condition as approved by the County Council and consistent with Sec. 6.9.9F, Restoration. At a minimum the reclamation plan shall include the following:

- (1) Removal of structures,
- (2) Removal and disposal of remaining waste including contaminated soils and liners,
- (3) Re-grading of the site to the approximate original contour or approved beneficial condition,
- (4) Erosion control and re-vegetation of disturbed areas, and
- (5) Conformance with state reclamation requirements.

**i. Bonding**

The applicant shall be financially capable of constructing, operating, and properly closing the site, including reclamation and any required post-closure monitoring to the satisfaction of the County. Final reclamation shall be accomplished within one year of the cessation of operations.

Each applicant shall post sufficient security based on a cost estimate to be prepared by a licensed engineer and approved by the Community Development Department. The cost estimate shall include all costs associated with facility closure and site remediation. The method of security shall be approved by the County Clerk, County Attorney, and County Council prior to the issuance of a Conditional Use Permit. Such Security shall be in accordance with state requirements found in Utah Administrative Code R649-9 Waste Management Disposal.

Estimates shall be recalculated every 5 years and shall account for the value of bonds held by the State of Utah for a particular facility.

**j. Referral Agency**

Applications shall be referred to such agencies and persons as the Zoning Administrator deems appropriate, including, but not limited to, the Utah Department of Environmental Quality (Division of Air Quality, [Division of Waste Management and Radiation Control](#), and Division of Water Quality) and the Utah Department of Natural Resources (Division of Oil, Gas, and Mining and Division of Wildlife Resources) for review and comment.

**k. Notification**

The applicant shall supply a list of all property owners within a one-half mile radius of the proposed project site and an affidavit certifying that a copy of the application has been made available to said property owners.

**l. Operational Status**

Grand County shall be notified in writing at least 30 days prior to any change in ownership or operator status. Grand County shall be notified of any permit revisions, equipment upgrades or downgrades, and/or process changes integral to the operation of the facility.

**m. Technical Review**

If County staff does not have the technical expertise or the practical ability to devote the necessary time and effort for technical review, as determined by the County Council, the County may engage such additional expertise and/or consultants to assist the County and/or to provide technical review of an application under this section, including assessing the accuracy of technical reports and studies. The applicant shall reimburse the County for the cost of such assistance prior to approval of applicable County permits and before commencement of the activity. The County shall require that the applicant provide cash or equivalent security to guarantee that the costs of such consultants and expertise are borne by the applicant.

**n. Best Available Control Technology (BACT)**

Applicants shall install and operate emission control technology according to requirements of all applicable permits and orders issued by the State of Utah.

Applicants that are required by the State of Utah to provide best available control technology documentation to the Department of Air Quality shall furnish a copy of the proposed best control technology documentation to the County.

Commercial operations shall be suspended and Grand County notified within four hours any time the BACT equipment fails to operate properly for longer than fifteen minutes. In such cases, commercial operations shall not resume until the BACT equipment is operating properly.

**o. Existing Facilities**

Existing facilities shall not be deemed to be in noncompliance due to actions taken by adjacent landowners.

**p. Fees**

In addition to application fees, the applicant shall pay fees in accordance with the Grand County fee schedule as updated annually.

(1) Each ~~production water~~-disposal facility shall submit to the Office of the County Clerk a monthly summary report of barrels received by the 5<sup>th</sup> business day of the following month. Billing invoices for the monitoring fee shall be subject to a standard 30 day payment term.

(2) If the monthly summary report is not received by the Office of the County Clerk within thirty days of the due date, the Clerk shall bill the owners of the disposal facility based on the average of the twelve most-recently submitted monthly reports,

(3) Accrued Late Fees of 1.5% per month for past due balances will be billed upon receipt of the Annual Statement from the ~~production water disposal~~ facility OR on the due date of the Annual Statement, whichever is earliest.

(4) If the total barrels reported in the Annual Statement shows that less fees were due than were billed, the Office of the County Clerk will calculate the difference and issue a credit against future monitoring fees. If the total annual barrels reported in the Annual Statement shows that more fees were due than were billed, the Office of the County Clerk will bill the facility for any additional fees due, including any additional Late Fees due.

(5) Grand County may file a lien against the ~~production water disposal~~ facility for unpaid fees that are still past due on April 30<sup>th</sup> of the following year.

**q. Permit Review**

The applicant shall provide an annual statement of compliance to be reviewed by the County Council. Such statements shall include a detailed and specific report on steps taken in the prior year to comply with applicable local, state, and federal requirements and laws. This statement shall be due to the County by January 31<sup>st</sup> of each year.

**r. Permit Expiration**

If the facility has not been in operation within one year of obtaining the conditional use permit and a request for extension has not been received and approved by the County Council the conditional use permit shall expire. Additionally, if the facility shuts down at any time for a period of one year and a request for extension has not been received and approved by the County Council, the conditional use permit shall expire and site restoration shall be completed by the owner of the property or bond holder.

**s. Liability and Mitigation**

The permittee and property owner are legally liable for all environmental damage, including but not limited to health hazards, resulting from the construction, operation, use, and maintenance of any ~~water disposal and recycling~~ facility. If such damage occurs, the county, in addition to pursuing all other remedies available to it, may summarily require the permittee and property owner to develop and implement with due diligence a mitigation plan, including requirements of state and federal agencies, to remedy all such damage. Implementation of the plan will be required regardless of whether the county also revokes the permit.

**t. Contingency Plan**

The applicant shall provide a contingency plan, including material safety data sheets, to be maintained on-site and at the appropriate offices of the emergency service providers listed below for the purpose of describing what actions shall be taken in the event of unintentional release and/or exposure. The plan shall provide, at a minimum, communications protocol, including emergency responder notification. Copies shall be provided to the following service providers: Sheriff's department, fire department(s), local hospital(s), and Emergency Medical Services (EMS).

**u. Compliance with State and Federal Requirements**

The operator shall assure through appropriate sampling, testing and controls as required by applicable permits and regulations that all conditions in state and federal permits are met. The operator shall report to Grand County Community Development within 48 hours of discovery any exceedance of the pertinent state and federal limits (as defined by EPA) for radionuclide or heavy metal content

## 2. Commercial Evaporation Pond Facilities

In addition to complying with the general requirements of Sec. 3.2.4.H.1, commercial evaporation pond facilities for production water and/or formation water disposal shall comply with the following:

### a. Control of Air Emissions

Facilities that do not meet the “de minimis” air quality standards, as defined by the Utah Department of Environmental Quality (Division of Air Quality), shall be required to install and operate emission control technology as specified in all applicable permits and orders issued by the State of Utah.

### b. Location

~~Commercial evaporation pond Disposal facilities for production water disposal~~ shall only be considered on sites identified on the attached map entitled “Evaporation Pond Facilities Overlay Map”. In addition the following shall apply:

- (1) Sites shall be a minimum of 40-acres in size;
- (2) No site shall be located within a mile of: an existing residence, RR, SLR, LLR, or MFR zone district, irrigated farm land, or national or state park;
- (3) No site shall be located within one-half mile of a perennial or intermittent stream, as identified by USGS, surface waters, or regulatory wetlands;
- (4) No site shall be located within a Sole Source Aquifer designated area;
- (5) No site shall be located within sight of scenic by-way Highway 128;
- (6) All ponds shall be located a minimum of 500 feet from the down gradient property line to allow additional monitoring wells to be placed on the site if deemed necessary by the Community Development Department; and
- (7) Site soil and subsurface permeability shall be less than  $1 \times 10^{-5}$  centimeters per second, to a depth sufficient to span a ten year saturation period.

### c. Baseline Data

The applicant shall collect and submit baseline data to be approved by the Community Development Department prior to the issuance of a zoning development permit and /or building permit. Baseline air and water quality sampling plans shall be completed by an independent and state certified lab and, at a minimum, include:

- (1) Depth to groundwater,
- (2) Groundwater flow rates,
- (3) Direction of flow,
- (4) Soil and subsurface permeability to a sampling depth sufficient to span a ten year saturation period,
- (5) Wind patterns reflecting diurnal and seasonal changes,
- (6) Location of abandoned and/or active wells and surface water within a one-half mile radius of the proposed site,
- (7) Air quality sampling for sulfur containing compounds, Volatile Organic Compounds (VOCs), and hazardous air pollutants,
- (8) Water quality sampling for sulfur containing compounds, VOCs, total extractable petroleum hydrocarbons, pH, conductivity, Total Dissolved Solids (TDS), Total Suspended Solids (TSS), radionuclides and heavy metals.

### d. Operation and Safety

- (1) Any measurable or visible layer of hydrocarbons that accumulates on the surface of an un-netted evaporation pond shall be removed daily, weather permitting.

- (2) Spray evaporation systems shall be operated such that all spray-borne suspended or dissolved solids remain within the perimeter of a pond's lined area.
- (3) Smoking shall be allowed in designated areas only and appropriate signs shall be maintained.
- (4) Signs providing emergency contact information, stating non-potable water, and warning of potential drowning hazards shall be posted adjacent to all ponds.
- (5) Ropes, ladders, and/or other means of escape shall be provided along the perimeter of the ponds to allow a person to climb out of a pond in the event of an accident.
- (6) Ponds permitted for formation water shall have separate receiving and distribution systems and shall not be used for produced water from oil and gas production.
- (7) Pits or ponds intended to have hydrocarbon products on the surface shall be netted to prevent wildlife access. Netting structures shall be constructed so that the netting is prevented from sagging into the pit fluids and perimeter netting shall extend to the ground to prevent wildlife entry. Netting shall be monitored by the onsite operator to ensure proper working order. Hydrocarbon accumulation on the surface of any netted pond shall be removed at least once each month, weather permitting.
- (8) A wildlife deterrent device, such as a "hazing canon", shall be placed on site at strategic locations to keep wildlife away from open ponds.
- (9) All ponds shall have a 2-feet minimum freeboard.
- (10) The applicant shall provide calculations demonstrating adequate on-site pond volume for emergency emptying of any pond. Facilities shall provide a written emergency repair plan that clearly indicates the procedure for emptying a pond.
- (11) The applicant shall provide for prevention of loss of any production water or formation water from the ponds via wave action.
- (12) All holding tanks for materials associated with operations shall be constructed completely above ground and within a curbed or bermed containment area to provide a volume equal to 1.5 times the largest tank volume. No open top tanks shall be permitted.
- (13) Ponds shall be double lined in accordance with state regulations. Additionally, the top liner shall be synthetic and a minimum of 60 mils thick.
- (14) If a pond specific leak is detected, the water level in that pond shall be lowered emptied immediately below the level of the leak and the source of the leak repaired.
- (15) If contaminants are found to exceed permissible levels in perimeter monitoring wells or allowed volumes in any area of the facility are exceeded, the facility shall cease accepting new waste immediately and direct customers to another regional/state approved facility. The Community Development Department shall be notified within one working day of the occurrence and the cause shall be corrected to the satisfaction of the Community Development Department and applicable state agencies prior to resuming operations.
- ~~(16) Hydrocarbon accumulation on the surface of any netted pit or pond shall be removed at least once a month, weather permitting.~~

**e. On-going Monitoring**

The applicant shall conduct air and water monitoring as required by all applicable State of Utah permits and orders. Monitoring shall include testing for the presence and level of radionuclides.

**3. Commercial Class II Injection Wells**

In addition to complying with the general requirements of Sec. 3.2.4.H.1, commercial injection wells for production water or formation water disposal shall comply with the following:

**a. Location**

Commercial injection wells shall not be permitted within the boundaries of the Valley Aquifer impact zone as defined in the LUC Sec. 7.10.3 (Valley Aquifer Impact Zone map) or within any

sole source aquifer zone. Injection wells shall be located to ensure that Underground Sources of Drinking Water (USDWs) and surface waters are not being endangered.

**b. Underground Injection Control Permit**

The applicant shall submit copies of Underground Injection Control (UIC) permit application materials in order that the County may participate through written comment in the Utah Division of Oil, Gas, and Mining (UDOGM) permitting process.

**c. Operation and Safety**

Injection wells shall be completed, equipped, operated, and maintained in a manner that will prevent pollution and damage to any Underground Source of Drinking Water (USDW), or other resources and will confine injected fluids to the target injection zone approved by UDOGM.

**d. Monitoring**

A sampling port shall be provided post-treatment, prior to injection. The applicant shall provide continuous read Total Dissolved Solids (TDS) monitoring during pumping operations in 15 minute minimum intervals (with digital record copies of output) for each well in conjunction with daily manual water samples for purposes of comparison. The applicant shall submit quarterly reports providing TDS raw data and averages for each well displayed in a graphic format with a text summary. Access to the sampling port and the entire facility shall be provided to all regulatory agencies without prior notification.

e. Injection Well Disposal of Formation Water

Only permitted Class I injection wells may be used for disposal of formation water, and only with prior approval by Division of Oil, Gas and Mining. Class I injection wells may not be used for production water. A copy of such approval shall be provided to Grand County prior to beginning commercial disposal of formation water in the injection well.

f. Injection Well Disposal of Production Water

Only permitted Class II injection wells may be used for disposal of production water, and only with prior approval by Division of Oil, Gas and Mining. Class II injection wells may not be used for formation water. A copy of such approval shall be provided to Grand County prior to beginning commercial disposal of formation water in the injection well.

**BE IT FINALLY ORDAINED BY THE COUNTY COUNCIL** that LUC Article 10, Definitions is hereby amended by the adoption of the following definitions.

| Term  | Definition  |
|---|---|
| <u>Formation Water</u>                                  | <u>Brines brought to the surface from subsurface geologic formations during operations NOT associated with commercial extraction of oil or gas.</u>   |
| <u>Class I Injection Well</u>                           | <u>Wells defined in Rule 317-7-3 which are used to dispose wastes beneath the lowermost formation containing, within two miles of the well bore, an underground source of drinking water.</u> |
| Class II Injection Well                                 | A well used to inject brines and other fluids associated with the production of oil and natural gas as defined by the State of Utah.  |
| <u>Commercial Water Disposal and Recycling Facility</u> | <u>For this ordinance, a centralized facility accepting production water and/or formation water and related fluids not generated on site, for disposal and/or recycling</u>                   |
| Evaporation Pond  | Surface impoundment used for the purpose of containing, treating and evaporation <u>of production or formation</u> water.   |
| Hazardous Air Pollutants                                | As defined in the federal Clean Air Act, Section 112.   |
| Land Farming  | The controlled and repeated application of drilling mud, sludge, or any other wet non-water materials from reserve pits or the drilling process to the soil                                   |

|                               |   |
|-------------------------------|---|
|                               | surface.  |
| Produced (“production”) Water | The brines brought up from the hydrocarbon bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added down hole or during the oil/water separation process. |

**PASSED, ADOPTED, AND APPROVED** by the Grand County Council in open session this (Month day, 2016) by the following vote:

*Those voting aye:* \_\_\_\_\_

*Those voting nay:* \_\_\_\_\_

*Absent:* \_\_\_\_\_

ATTEST:

Grand County Council

\_\_\_\_\_  
Diana Carroll, County Clerk

\_\_\_\_\_  
Elizabeth Tubbs, Chairperson

## **DRAFT - unapproved**

# **Grand County Planning Commission Minutes**

March 9, 2016

A regular meeting of the Grand County Planning Commission convened on the above date in the Grand County Courthouse, 125 East Center.

**Members Present:** Dave Tubbs, Mike Duncan, Gerrish Willis, Cricket Green, Joe Kingsley, Ryan McCandless, and Bob O'Brien.

**Absent:** **Staff Present:** Mary Hofhine, Zacharia Levine

**Council Liaison:** Mary McGann,

The Chair convened the meeting at 6:00 PM and asked that all cell phones be turned off or silenced.

**Citizens to be Heard** – none

**Workshop – Code Amendments for review:**

- 1) *Sec. 3.3.2B Accessory Dwelling Units* – minimum lot or parcel size change from 9,000 to 5,000 square feet; maximum ADU size from 800 square feet 1000 square feet; and additional clarification of occupancy and design requirements.
- 2) *Sec. 4.4.10 Planned Unit Development Minimum Open Space* – Remove the requirement for 20% open space.
- 3) *Sec. 6.14 Affordable Housing* – Define Area Medium Income (AMI) and Median Family Income (MFI)

The Commission discussed the amendments at length, the Chair called for a motion.

Joe Kingsley moved to direct staff to make changes and advertise for public hearing on the code amendments as discussed. Ryan McCandless seconded.

No further discussion, the Chair asked for a vote. Mike Duncan, Dave Tubbs, Bob O'Brien, Ryan McCandless, Cricket Green, and Joe Kingsley voted "aye". Gerrish Willis vote "nay". Motion carries.

Staff updated the Commission on upcoming housing workshops, Area Sector Analysis Process (ASAP), CRMP data collection, also discussed social media policy.

**Approval of Minutes.** The February 17, 2016 minutes were approved as written.

**Future Considerations:**

**Community Development Department Update:**

**County Council Liaison report:** Ms. McGann was not in attendance.

**Adjournment** - meeting adjourned at 7:45 PM