Title 10 Development and Subdivision

## 10.05 General Provisions and Administration

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This title shall be known as the *NEWTON SUBDIVISION ORDINANCE,* hereinafter, “this title” and may also be so cited and pleaded. The chapters and sections hereinafter referred to shall be chapters and sections of this title, unless the context clearly indicates otherwise.

1. **What this Chapter Does**

This chapter established the purpose of this title, identifies the enabling statute pursuant to which it is adopted, requires approvals for all land divisions, land development, and construction activities except those that are specifically exempted. It establishes application and review procedures, an appeal procedure, and other processes needed for the review of applications and the administration of this title.

1. **Purpose and Authority**

The Newton Town Council adopts this title pursuant to the Municipal Land Use Development and Management Act (LUDMA) Title 10, Chapter 9a, Utah Code Annotated, for the purposes and set forth therein. The purposes of this ordinance are:

* 1. To promote the health, safety, and general welfare of present and future residents of Newton.
  2. To provide for the efficient and orderly growth of Newton.
  3. To provide standards for the physical development of subdivisions of land, construction of buildings, and improvements within Newton including but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water and sewer systems; accesses to public rights-of-way and to establish fees and charges for the authorizing of a subdivision.
  4. To establish procedures for creating a subdivision and the approval thereof by the Town.
  5. To protect or minimize the impacts of development on sensitive land.
  6. To encourage the preservation of land through the dedication of open

Spaces to enhance neighborhoods and the community.

1. **Definitions and Applicability**

For the purposes of this title, all terms shall have the same definitions as provided by section 10-9a-103, Utah Code annotated and as defined by Newton in Title 11 Chapter 2 of this Code.

1. **Interpretation**

When interpreting and implementing the provisions of this title, these provisions shall be considered as minimum requirements for the purposes set forth. Where the provisions of this title impose greater restrictions than any statute, other regulation, ordinance, or covenant, the provisions of this title shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this title, the provisions of such statute, other regulation, ordinance or covenant shall prevail. In the case of Covenants, Conditions and Restrictions (CC&Rs) that may have been recorded within subdivisions and that contain greater restrictions than those imposed by the provisions of this title, those restrictions shall be enforced by the homeowners’ association or other enforcement body as established and set forth in the CC&Rs.

1. **Scope**

All lots, plots, tracts of land, or parcels located within a subdivision shall be subject to this ordinance whether the tract is owned by the subdivider or a subsequent purchaser, transferee, or holder of the land.

1. **General Considerations**

When subdividing or developing land, applicants and the town of Newton shall consider the following general criteria:

1. General Plan. The General Plan shall guide the use and future development of all land within the corporate boundaries of the town. The size and design of lots, the location and sizes of utilities, the design and construction of streets and other public facilities, the type and intensity of land uses and the provisions for any other facilities within a subdivision shall be considered against the projections of the general plan, the provisions of this title, and any other applicable title relating to the development, land use or public utilities.
2. Natural Conditions. Trees, native land cover, natural watercourses, and topography shall be preserved wherever possible. Master development plans and subdivisions shall be designed so as to prevent excessive grading and scarring of the landscape in conformance with the town’s ordinances.
3. Community Facilities. Community facilities, such as parks, recreation areas, public utilities, open space, trails, and transportation facilities shall be provided in all developments in accordance with the general plan, the town’s ordinances, and adopted construction policies and standards.
4. **Jurisdiction and Penalty**

This title shall govern and apply to the subdivision, platting, and recording of all lands lying within Newton:

* 1. No person shall subdivide any land, nor shall any building permit, other required development approval, or any other license or permit be issued for any lot or parcel of land which is wholly, or partly within Newton except in compliance with this title, the Newton zoning ordinance, and all applicable State and Federal laws.
  2. Any plat of a subdivision, or any survey description, filed or recorded without the approvals required by this title is deemed to be void, for the purposes of development or issuance of a building permit.
  3. Any owner or agent of the owner of any land located in a “subdivision”, as defined herein, who transfers or sells any land located within the subdivision before the subdivision has been approved and recorded consistent with the requirements of this title, and applicable State and Federal requirements is guilty of a violation of this title for each lot or parcel transferred or sold.
  4. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots, plots, parcels, sites, units, or other divisions of land for the purpose, whether immediate or future, for the offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions does not exempt the transaction from the requirements of this title and such action from the penalties or remedies provided by this title, the Newton zoning ordinance, or the laws of the state of Utah.
  5. It shall be a Class C misdemeanor for any person to fail to comply with the provisions of this title. In addition to any criminal prosecution, the town may pursue any other legal remedy to ensure compliance with this title, including but not limited to injunctive relief.

1. **Severability (Effect)**

If any provision of this title is held to be invalid by a court, the remainder shall continue to be in effect.

1. **General Responsibilities**
   1. **Applicant’s Responsibilities:** The applicant shall prepare all concept plans, subdivision plats, site plans, conditional uses materials, or any other applications as indicated in this title. Applicants shall pay for the design and inspection of the public improvements required. The Town shall process all development applications in accordance with the regulations set forth herein. No developer, subdivider, or property owner shall alter the terrain, remove any vegetation, excavate, or otherwise engage in any site development until they obtain the necessary permits and approvals as outlined in this title.
   2. **Town Staff:** Town shall prepare application forms for development processes outlined herein. Upon receipt of a completed development application, shall refer the application to Town departments, consultants, public or private agencies, governmental boards, and committees, or any other group or individual having responsibility for the review of such applications. The town staff is responsible for coordinating and receiving comments or recommendations regarding development applications and the proper distribution or sharing of such comments and recommendations.
   3. **Planning Commission:** The Planning Commission shall have the powers and duties defined by state law and Newton ordinances. The Planning Commission is generally charged with making investigations, reports, and recommendations on development applications for conformance to the general plan, this title and Title 11, or other related requirements that fall under the Planning Commissions responsibilities. After reviewing development applications, the Planning Commission shall generally make a recommendation to the Town Council for approval, approval with conditions, disapproval based upon findings of facts and conclusions of law, or the Planning Commission may table applications for reasonable periods of time to complete further investigations, conduct work meetings, or otherwise more completely consider all aspects of a development application.
   4. **Town Council:** The Town Council has final jurisdiction in the approval of the Newton’s General Plan/General Plan Amendments, Land Use Ordinances, and zoning of the property.
2. **Site Preparation Work Prohibited**

No excavation, grading or regrading, or removal of vegetation for a proposed subdivision shall take place and no building permits shall be issued until a proposed subdivision has received approval, and the plat has been recorded, or a warranty bond has been paid.

1. **Incomplete Application**

The lack of any information required by this title, or improper information supplied by the applicant shall be cause to find a subdivision application incomplete. Newton shall allow 60 days from the date of notification of an incomplete application for the applicant to provide the required information and provide a complete application. If the application remains incomplete after 60 days from the notification, the entire incomplete application shall be returned to the applicant accompanied by application fees paid, less any administrative expense incurred by the town of Newton to process the application.

1. **Compliance Required**

The following general requirements and standards apply to the development of property within the corporate boundaries of Newton Town:

1. Subdivision of Property. It shall be unlawful for any person to subdivide any tract or parcel of land that is located wholly or in part in the town except in compliance with this title. No plat of any subdivision shall be recorded until it has been submitted, reviewed, and approved as provided herein.
2. Conveyance of Property. Land to be subdivided shall not be transferred, sold, or offered for sale, nor shall a building permit be issued for a structure therein, until a final plat has been recorded in accordance with this title and the provisions of any applicable state statutes, and until the improvements required in connection with the development have been guaranteed as provided herein. No building dependent on public utilities or services shall be permitted to be occupied until such facilities are fully provided and operational.
3. Compliance of Owner. All lots, plots, or tracts of land located within a subdivision shall be subject to this title whether the tract is owned by the subdivider or a subsequent purchaser, transferee, or contract purchaser of the tract or any other person.
4. Installation of Utilities. It shall be unlawful for any person to receive a building permit on a parcel or tract of land in a subdivision until all the required improvements are installed, which may include: (1) Water and all other underground utilities located under the street surface are installed; (2) All streets in the subdivision are rough-graded; and (3) curb and gutter (where required) have been installed. It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable. These improvements shall include paved streets and sidewalks (when required) which connect to street systems outside and adjacent to the subdivision. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the plat is recorded and until the prospective buyer or builder has been advised that the occupancy will not be permitted until all required improvements are completed. Recorded plats shall contain a notice to all potential buyers of this provision.

In the case of model homes, building permits may be issued prior to the completion of the improvements required by this title if the Town Council determines that access to the building site may be provided for the purposes of inspections and determines that there is adequate water flow for fire suppression. All other utilities shall be provided and operating prior to the issuance of a Certificate of Occupancy.

1. **Vested Rights**

Vested rights to proceed with development under the provisions of this title, as it existed at the time an application for a permit was approved, shall be established by a development approval in full compliance with its provisions. In accordance with 10-9a-509 of Utah Code, except as provided in Subsection (4) (b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit application for a single-family dwelling located within the subdivision and land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded. (Effective May 5, 2021).

1. **Most Restrictive Standards Apply**

Newton Town adopts uniform codes to provide minimum standards for protecting the public health, safety, and welfare through regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all private and public buildings, infrastructure, and public facilities. These codes include International Fire Code (IFC); International Building Code (IBC); International Residential Code (IRC); Manual of Uniform Traffic Control Devices (MUTCD); American Association of State highway and Transportation Officials (AASHTO) Standards; and Newton Town Construction Specifications and Standards. When these codes along with state or federal laws impose additional requirements on activities governed by this title, the most restrictive shall apply.

1. **Burden of Proof**

The burden of demonstrating compliance with this title rests with the developer or the property owner.

1. **Public Meetings**

All public meetings shall comply with the requirements of this section. Any challenge regarding notice of a public meeting shall occur within 30 days of the meeting or action, otherwise, notice is considered to have been adequate and proper.

1. Post the agendas in a public place and submit a copy to the Utah Public Notice Website in advance of the public meeting.
2. Notify all applicants on the agenda of the date, time, and place of the meeting.
3. **Public Hearings**

All public hearings shall comply with the notice requirements contained in Utah State Code. Public Notice, and contained in the individual chapters of this title and title 11. Any challenge regarding notice of the public hearing shall occur within 30 days of the meeting or action, otherwise, notice is considered to have been adequate and proper.

1. **Land Use Authority**

Table 10.05.0210(b), Land Use Authority, summarizes the person, board, commission, agency, or other body designated by the Town Council to act upon an application or land use application. Individual chapters of this Title and Title 11 contain the specific process for the approval. In those cases where the Planning Commission has been identified as the land use authority, the Town Council reserves the right to become the land use authority by requesting that the item be scheduled for review and action by the Council within 30 calendar days of the Planning Commission’s action. In cases where the Town Council exercises this option, then the Planning Commission is not the land use authority unless the Town Council remands the application back to the Planning Commission. In taking final action, the council may approve, approve with conditions, disapprove based upon findings of fact, table the application for further study, and review or remand the application with changes back to the Planning Commission.

1. **Appeal Authority**

Aggrieved applicants may appeal the decision of the land use authority to the appeal authority within the specified time in table 10.05.0210(c), Appeal Authority, identifies the appeal authority and time to appeal for the various applications.

Appeals shall be filed by a written statement submitted to the town recorder detailing the grounds upon which the aggrieved applicant is appealing the land use authority’s decision. Upon receipt of such an appeal, it shall be placed on the next available appeal authority’s agenda for which the item may be reasonably scheduled.

The appeal authority shall review the decision of the land use authority and their Findings of Facts to determine if the land use ordinances were correctly applied to the application or decision. During this review, the appeal authority shall determine if the original decision was valid or invalid. If it is determined that the decision is invalid then the appeal authority may eliminate the offending condition of approval or remand the application with their findings back to the land use authority for further action. The following provisions generally apply to appeals to development approvals and decisions:

1. The appellant may only allege that the land use authority erred in administering or applying the ordinance.
2. The appellant has the burden of proof.
3. All theories whereby an appellant would appeal are raised to the appeal authority before appealing to the district court.
4. Legislative decisions shall be valid if reasonably debatable and not illegal.
5. Administrative or quasi-judicial decisions shall be valid if supported by substantial evidence and not illegal.
6. **Tables**

**Advisory Body**

**Land Use Authority**

**Concept Plan**

None

Planning Commission

**Final Plat (Minor**

**Subdivision)**

Planning Commission

Town Council

**Preliminary Plat (Major**

**Subdivision)**

Planning Commission

Town Council

**Final Plat (Major)**

Planning Commission

Town Council

**Lot Splits**

None

Planning Commission

**Rezone**

Planning Commission

Town Council

**Site Plan**

Planning Commission

Town Council

**Annexation**

Planning Commission

Town Council

**Building Permit**

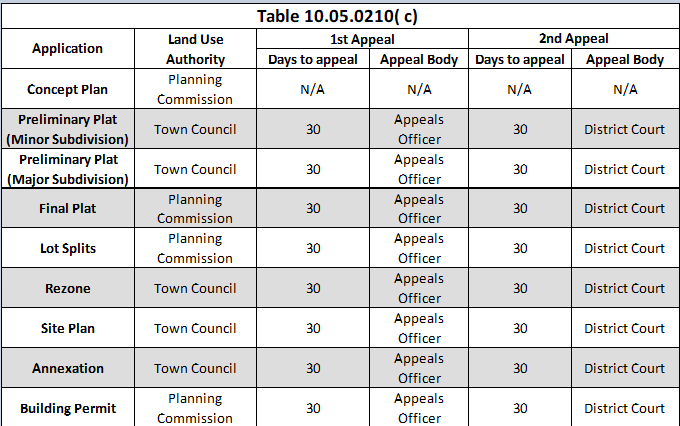
None

Planning Commission

**Application Type**

**Land Use Authority**

**Table 10.05.0210(a) Land Use Authority**



## 10.10 Subdivision Process

Sections:

1. **Purpose**
2. **Procedures**
3. **Minor Subdivision Process**
4. **Standards and Lot Size**
5. **General Requirements for All Subdivisions**
6. **Preliminary Plats**
7. **Final Plats**
8. **Purpose**

This chapter establishes the review process, submittal requirements, and the duties of the Planning Commission and Town Council in the review and processing of Concept Plans, Preliminary Plats (Minor and Major), Final Plats, Lot Splits, Site Plans, and Annexations.

**10.10.020 Procedures**

Reference Minor and Major Subdivision checklists for procedures.

1. **Minor Subdivision Process**

Purpose: In an effort to reduce the expense of developing relatively small residential subdivisions that meet certain conditions, residential subdivisions of three (3) lots or less may be considered and approved under this section. A subdivision approved under this section shall be known as a “Minor Subdivision.” Minor subdivisions, when approved, are exempt from platting requirements for preliminary and/or final plats and may also be exempt from the requirements for some engineering reports and construction drawings as determined by the Newton Town Engineer and as provided in this section.

1. Minor Subdivision Requirements: To be considered for approval as a Minor Subdivision, the proposed subdivision must meet all the following requirements:
   1. Notice is provided as required by ordinance;
   2. The proposed parcel is not traversed by the mapped lines of a proposed street or trail as shown in the General Plan.
   3. The proposed subdivision does not require the dedication of any land for street or other public purposes;
   4. The proposed subdivision has been approved by the culinary water authority and the Bear River Health Department or Utah Department of Environmental Quality;
   5. The proposed subdivision is located in a residentially zoned area;
   6. The proposed subdivision conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance;
   7. The proposed subdivision contains three (3) lots or less total;
   8. The parcel being divided has not had other lots separated from it within the past five years, provided that if another lot or lots have been separated from the parcel that is the subject of the request for Minor Subdivision within the past five years, then the previously separated lots and the subject parcel will all be counted towards the three (3) lot limit for the purposes of the application for a Minor Subdivision under this section;
   9. The proposed subdivision does not require or contemplate the creation or dedication of open space land for the purpose of receiving higher density and/or smaller lot size; and
   10. The proposed subdivision complies with all other applicable requirements under Newton Town Code for a subdivision, including zoning, infrastructure improvements and bonding thereof, providing for drainage needs, providing required utility easements, and protecting sensitive land issues, etc.
2. Minor Residential Subdivision Application Procedure: The application procedure for a minor subdivision shall be as follows:
   1. Pre-Application Meeting-The applicant must meet with Newton Town Staff to determine if the proposed subdivision meets the requirements of a Minor Subdivision. The staff shall provide a copy or access to this section of the Newton Town Ordinances and inform the applicant of their options. The staff shall review with the applicant any requirements for construction drawings that may be needed and required for approval.
   2. Minor Subdivision Plat-Minor Subdivisions shall be exempt from preliminary plat application and shall file a final plat in compliance with all Newton Town standards on the plat as unless noted in this section and the applicant may only submit a final Minor Subdivision plat after a Pre-Application Meeting with Newton Town staff and a determination from the staff that the proposed subdivision meets the requirements for a Minor Subdivision.
   3. The Planning Commission shall recommend to the Town Council to either approve, modify, or reject the final plat. After receiving a recommendation from the Planning Commission, the developer or applicant shall present their final plat or record of survey to the Town Council. The Town Council shall approve an application for a Minor Subdivision if the plat and development agreement meets all of Newton Town ordinances, general plan, master plans, and all requirements for a final plat.
3. Recording of the final plat: Final approval shall be valid for three (3) years. If an applicant fails to record the final plat within that time, the approval of the plat is void.
4. Notice to proceed and process after final approval:
   1. All Minor Subdivisions shall follow the Newton Town subdivision code and process as outlined after final approval.
5. Minor Subdivision standards:
   1. All Minor Subdivision shall comply with Newton Town Ordinances, as listed in Newton Town Code, and engineering design standards, unless otherwise listed in this section.
6. Construction Drawings and Engineering Reports:
   1. The applicant shall submit all reports as required by the Newton Town code unless otherwise exempted by the Planning Commission.
   2. Applicants shall submit detailed stormwater plans at the request of the Newton Town Engineer.
7. **Standards and Lot Size**

All subdivisions must meet the minimum lot and development standards as outlined in each zone of the Newton Zoning Ordinance and within this title.

1. **General Requirements for Subdivisions**

The subdivision layout shall conform to Newton’s General Plan, this title, and all other requirements of State Code and this code.

* 1. **Lots:** All subdivisions shall result in the creation of lots that are:
     1. Capable of being built upon, a subdivision shall not create any lots that would make improvements impractical due to size, shape, and steepness, location of watercourses, problems of sewerage, access grades, or other physical conditions.
     2. Provide physical and legal access to the subdivision.
     3. Minimum lot areas and dimensions as defined in the applicable zone in Title 11.
     4. Lot numbers shall begin with the number “1” and shall continue consecutively throughout the subdivision. If a subdivision is being built in phases, lot numbers should begin with the number that corresponds to the phases. (e.g. 101, 201, 301, 401)
  2. **Roads:** All roads shall be designed and constructed in accordance with adopted standards of this code
     1. Road patterns shall be in conformity with the most advantageous development of adjoining areas, and comply with connectivity standards found in this title.
     2. Roads should provide legal access through a public street or road under the jurisdiction of the city, the county, or the state. In the alternative, the applicant or subdivider has obtained adequate and appropriate easements from a public road to the subdivision.
  3. **Protection Strips:** Protection strips shall not be permitted under any circumstances, nor shall remnant parcels be permitted which may act as protection strips. A protection strip is any piece of ground created to inhibit access to a road, right-of-way, and/or easement as determined by the Town Council.
  4. **Utilities and Easements:** Utility easements shall be provided within the subdivision as required for public utility purposes. Easements shall be dedicated along all front, rear, and side setbacks as deemed necessary by Town Council and/or utility providers.
  5. **Suitability requirements for subdivisions:**

The following information is required as part of a subdivision review to establish the availability of basic services required to provide for the public health, safety, and welfare of citizens

* + 1. Water Requirements: In all subdivisions, a culinary water supply, water lines, and fire hydrants shall be required as follows:
       1. The subdivider shall have prior approval for connections to a system or other source, and shall make such water available to each lot within the subdivided area. Sizes of water mains shall be subject to the approval of the Town Engineer and shall be based upon fire protection requirements, but in no case shall they have a diameter of less than eight (8) inches. Workmanship and details of construction shall be in accordance with Town specifications.
       2. Fire hydrants shall be installed at intervals within the subdivision in such a manner that no lot will be a distance greater than (330) three hundred and thirty feet from the closest hydrant, measured along the streets.
       3. The subdivider shall provide secondary water and a delivery system to each lot or parcel.
    2. Sewage Requirements:
       1. Subdivision applications, proposing individual on site wastewater disposal systems, shall include feasibility reports meeting the requirements of the Bear River Health Department or Utah Department of Environmental Quality, as applicable, for each lot proposed. All applicants for a subdivision where on site wastewater systems are proposed shall provide a septic tank permit or septic tank feasibility letter from the applicable authority for the entire subdivision and/or each lot proposed. The minimum lot size, as determined in each base zoning district, may be increased as required to ensure that each lot will be able to provide adequate on site sewer treatment.
       2. If a subdivision requires that off-site facilities be provided, appropriate easements and rights of way shall be required. Additionally, any engineering, site studies, or other requirements by the health department shall be conditions of approval for the proposed subdivision.
       3. Alternative sewage treatment may be required.
    3. Fire Control: A review provided by the Cache County Fire District identifying any items related to providing the proposed subdivision with adequate fire protection and suppression services including, but not limited to:
       1. Ability to meet the requirements of the International Fire Code.
       2. Suitable equipment access based on the needs of the proposed use including, but not limited to, sufficient roadway improvements (minimum width, structural stability, turnaround capabilities, year round maintenance, and other legal requirements).
       3. Access to suitable water supply for fire protection (water tenders, hydrants, storage tanks, residential fire sprinklers, or as otherwise required).
    4. School Bus Service: A review provided by the Cache County School District, identifying any items related to the provision of school bus services.
    5. Roads And Access: A review provided by the Planning Commission that identifies the following:
       1. Basic layout of the existing road(s) proposed to provide physical access to the subdivision.
       2. A basic analysis, to the extent possible, outlining if the existing roads meet current standards as outlined within this code.
       3. A review of the existing maintenance efforts, both summer (pavement preservation versus grading) and winter (snow removal services).
       4. Additional information that would impact access issues related to the proposed subdivision or the traveling public. Alternatively, if the proposed subdivision is accessed directly from a state highway, an access permit as required by the State of Utah Department of Transportation shall be provided with the application materials. A UDOT review through the Cache Access Management Program shall be provided prior to Planning Commission review of the plat.
    6. The Land Use Authority may require, with the reasons for such request being identified as either code requirements or items of concern as specified on the record, the applicant to provide additional information including, but not limited to, feasibility studies and/or evidence indicating the suitability of the area for the proposed subdivision.

**Pre-Application Meeting:**

A pre-application meeting is an optional process (minor and major subdivision) that is offered as a means for applicants, developers, or property owners to receive input from the Planning Commission and Town Council on a proposed development prior to incurring the costs associated with further stages of the approval process. A concept plan shall not be presented to the Town Council unless it has already been presented to the Planning Commission.

* + 1. **Supporting materials required** for a pre-application meeting are as follows:
       1. Proposed Concept Map. Drawn to scale showing:
          1. Property boundary and dimensions.
          2. Ownership of all adjacent tracts of land.
          3. Locations and width of existing and proposed streets showing access to the proposed subdivision.
          4. Configuration of proposed lots with minimum and lot sizes.
          5. Approximate locations, dimensions, and area of all parcels of land proposed to be set aside for park, playground, open space, or other public use.
          6. Portions of property designated as floodplain and/or slopes in excess of 25%.
          7. Total acreage of entire property.
          8. General topography.
          9. North arrow, scale, and date of survey or drawing.
  1. **Review.** Pre-application meeting shall include informal conference and review by the Planning Commission and/or Town Council. The Planning Commission shall not take any action on the concept review. Furthermore, any staff, Planning Commission, and/or Town Council comments shall not be binding, but shall only be used for informational purposes in the preparation of a future land development application.

1. **Preliminary Plats**

Preliminary Plat applications (req. for major subdivisions) are to review the specific layout of the lots created by a subdivision; ensure proper coordination of public and private street systems and circulation; review demand and availability of public utilities; and open spaces.

* 1. **Preliminary Plat Approval Required:** Major Subdivisions (four or more lots) proposed plats must receive Preliminary Plat approval by the Planning Commission prior to action on the Final Plat application. The approved Preliminary Plat vests the applicant with density for the subdivision, street configuration, ensure legal and physical access to the subdivision, and lot layouts.
  2. **Application:** Property owners (or their authorized agents) shall make an application for a preliminary plat. All applications shall be filed on forms prepared by Newton. No preliminary plat application shall be processed without the submission of the completed application and all supporting materials required by this chapter, including the processing fee. Incomplete applications shall not be processed under any circumstance.
     1. **Supporting Materials Required:**
        1. Preliminary Plat: A preliminary plat drawing that shows accurate alignments and boundaries as certified by a land surveyor registered in Utah. Preliminary plats shall be prepared at a scale no smaller than one inch equals 100 feet. Plats of large areas therefore may be prepared on multiple, serially numbered sheets with match lines and an index map. The vicinity and index maps shall appear on the first of the serially numbered sheets. The following information shall be required on preliminary plat:
           1. Title Block: Showing the name of proposed development, its location by lot, block, and subdivision, or quarter-quarter section, section, township, range, principal meridian, county, and state;
           2. Name and address of a registered engineer licensed in the State of Utah who prepared the plat, together with a professional registration number;
           3. North point and scale including both graphic and written scales;
           4. The exterior boundaries of the proposed development;
           5. The location, nature, and boundaries of existing public streets and public or private easements in or adjacent to the proposed development, and county book and page number references to the instruments establishing the easements;
           6. A vicinity map that locates the proposed development within Newton and its subdivision or section showing major streets, landmarks, and boundaries and recorded names of adjacent or nearby subdivisions;
           7. Existing contours at two-foot intervals. Elevations will be based on National Geodetic Survey area level data;
           8. The layout of streets, their proposed names, and grades;
           9. The location, exterior dimensions to the nearest foot, and number of proposed lots and blocks, or other parcels to be created by the proposed development;
           10. The acreage of each proposed lot or parcel, and a table showing the total number of lots, total acreage of the area proposed for development, the total buildable acreage (excluding slopes greater than 25%, major utility corridors, and wetlands), the total acreage in lots, the average lot size, the total acreage in streets, and the total acreage of open spaces.
           11. The location of irrigation structures and watercourses within or adjacent to the proposed development;
           12. The location and exterior dimensions of existing and proposed buildings; the locations on each lot of the buildable acreage when the natural grade is in excess of 25%. Sites, if any, to be reserved, dedicated for parks, playgrounds, schools, churches, public or natural open space, or other public purposes, together with proposed ownership of such sites
           13. An affidavit (certificate of clear title) that the applicant is the owner, the equitable owner, or authorized by the owner in writing to make an application for the proposed development.
           14. Documentation that all the taxes for the subject parcel have been paid to the Cache County tax commission.
           15. Water rights documentation showing availability of water rights sufficient to serve the development and proof of a secondary water share.
           16. Utility Plan. A map showing the proposed locations of utilities, including water, sewer, and storm drainage. The gas, electrical, and telecommunication lines are not a required element of the preliminary utility plans; however, off site capacity of these systems shall be provided. The location and size of existing and proposed utility lines and facilities in or adjacent to the proposed development shall also be shown.
           17. Grading, Drainage, and Erosion plan. A grading, drainage, and erosion plan shall be submitted. The report shall contain the drainage basin map and a plan view of the overall stormwater system. The grading, drainage, and erosion plan shall address the following issues: description of features and hydrological conditions; drainage basin and subbasin; drainage facility design criteria; infrastructure design criteria; grading plan; and erosion control. Specifically, the report shall contain at a minimum the following information:
           18. The existing roadways, drainage ways, vegetation, and hydrological conditions of a 10-year, 24-hour event and a 100-year 24- hour event.
           19. The major basin descriptions referencing all major drainage reports such as FEMA, major drainage planning reports, or flood insurance maps and the basin characteristics and planned land uses.
           20. The subbasin description showing the historical drainage pattern and off-site drainage patterns both up and downstream of the property.
           21. A general discussion of how the proposed system conforms to existing drainage patterns and off-site upstream drainage will be collected to protect development.
           22. Grading plan showing: soil map depicting unique soil features such as collapsible soil, rock features, etc.; a grading plan showing all cut and fill areas within development including the identification of slopes, fill and cut depths, and rock features within 10 feet of post grade soil surface.
        2. Easements. The proposed grants of easements to be imposed on any land within the development.
        3. Fee. The processing fee required by the current consolidated fee schedule approved by the Newton Town council.
  3. **Approval Process – Major Subdivision**

The developer shall file a completed preliminary plat application, which includes a proposed preliminary plat, all required supporting materials, and the required application fee at least 30 calendar days before the Planning Commission meeting at which a hearing on the application is requested.

* + 1. Complete Application. The clerk shall determine whether the application is complete within seven calendar days after its filing. The clerk shall notify the developer of additional materials that are required within one week of the submittal date.
    2. Public Hearing. The Town shall cause all property owners within 600 feet of the boundaries of the proposed application area to be notified by first-class mail of the time and place of the public hearing at least 10 days prior to the public hearing. A copy of the public notice of the hearing shall also be posted in the Town offices within the Town at least 10 days prior to the hearing.
    3. Planning Commission Approval. If the proposed development complies with all applicable development requirements and utility standards for the site, is in the public interest and is fully consistent with zoning ordinances, and the submission is complete in all respects, the planning commission shall take action on the proposed development application as allowed by this title.
    4. Additional Development Processes. Granting of preliminary plat approval by the Newton Town council, as applicable shall not constitute final acceptance of the subdivision by the Planning Commission or Newton Town council, nor shall approval of the preliminary plat relieve the subdivider of the responsibility to comply with all required conditions, ordinances, requirements or policies in order to meet all Town standards
  1. **Expirations and extensions of approvals.** Preliminary plat approvals shall expire two years from the date of approval if a final plat application has not been approved within that time. If the preliminary plat contains more than one phase, this plat will expire if each phased final plat application is not approved within two years of the most recent final plat approval.
     1. Extensions of Time. An extension of time may be requested by an applicant for any of the applications listed above with the following requirements:
        1. A written, signed request for an extension of time shall be received by the Clerk prior to the expiration date of the project.
        2. The request for an extension of time shall specify any progress made on the project’s conditions of approval and the reasons for the extension request, along with supporting documentation.
     2. Criteria for Approving Extensions of Time. It is the responsibility of the applicant to request an extension of time prior to a project’s expiration. Newton is not responsible to remind applicants of expiration dates. The Clerk shall approve or deny a request for an extension of time within a reasonable period of time after receiving the request. The Clerk may grant up to a single one-year extension of time to any project that meets one of the following criteria:
        1. The applicant must have shown a good faith effort to initiate the project by systematically completing predevelopment conditions.
        2. The applicant’s initiation of development activities is based on an action by Newton or other public agency which has not taken place or was delayed, resulting in a time delay beyond the permit holder’s control.
     3. Appeals. An applicant may appeal the Clerks decision to the Planning Commission within 15 days of the date of the decision. The applicant may then appeal a decision of the Planning Commission to the Newton Town council within 15 days of the Planning Commission’s decision. In no case shall the Planning Commission or Newton Town council approve more than a single one-year extension of time.
     4. A project that has expired may be resubmitted within two years of the expiration date for a fee to cover time and materials, not to exceed 50% of the original fee if the project is substantially similar to the expired plan. The resubmitted project must be in compliance with the current development code at the time of resubmittal.

1. **Final Plats**

This chapter establishes the final plat review and approval process. The purpose of the final plat process is to verify that the final plat and the accompanying construction plans submitted shall conform in all respects to those regulations and requirements set forth in the state statutes, Newton ordinances, and any other applicable regulations before the plat is recorded in the office of the Cache County recorder.

* 1. Final plat approval entitles the applicant to recordation of the final plat subject to compliance with Newton ordinances for installation of public improvements and dedication of water rights for the plat.
  2. Only the applicants or their authorized agents shall make an application for a final plat on forms prepared by Newton. No final plat application shall be processed without approval or submission of the preliminary plat, the submission of the application, all the supporting materials as required by this chapter, and the processing fee. Incomplete applications shall not be processed under any circumstance.
     1. Supporting Materials. The final plat application shall be submitted with the materials listed below
        1. The final plat prepared at a scale of not less than one inch equals 100 feet, with all dimensions shown in feet and decimals thereof, will be required for final approval prior to recordation. Final plats must show trails, roads, sidewalks, and other public facilities, which will be deeded to Newton in accordance with the requirements of this title. Newton shall provide a set of standard cross-sections for roads, trails, and sidewalks. The final plat submission must conform to the preliminary plat as previously reviewed and approved by the Planning Commission or Newton Town council as applicable (unless processed simultaneously). Final plat submissions shall include all information listed below, delineated in permanent ink on waterproof tracing cloth or Mylar for recordation (which can be submitted after the Newton Town council grants final approval) and submitted in an electronic format:
           1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, Town, county, and state;
           2. The name, address, telephone number, stamp, signature, and registration number of a land surveyor registered in the state of Utah who prepared or reviewed the final plat;
           3. A north arrow, and both graphic and written scales;
           4. A vicinity map that locates the proposed subdivision within its township and the section, shows major roads and watercourses adjacent to or near the subdivision, and shows the boundaries of and recorded names of adjacent or nearby subdivisions;
           5. The point of beginning for the survey, which shall be tied to a section or quarter-section corner, and the location and a description of all existing monuments found during the course of the survey;
           6. The location, nature, and boundaries, with bearings and distances, of all existing public ways and public or private easements in or adjacent to the subdivision, including the county book and page number references of the instruments establishing those ways or easements;
           7. The exterior boundaries of the subdivision, with all bearings and distances.
           8. The location, exterior dimensions, and consecutive number of all lots and blocks, or other parcels created by the subdivision, including bearings and distances and curve data for curving boundaries (with all curve dimensions for boundary lines shown outside any such boundaries);
           9. The acreage of each lot and a table showing the total number of lots, total acreage of the subdivided area, the total acreage in lots, the average lot size, the total acreage in streets, and the total acreage of any parcels dedicated to public use or held in common by the lot owners;
           10. The names of all streets and widths and boundaries of all street and trail rights-of-way and utility easements, including bearings and distances and curve data for curving boundaries;
           11. The location and a description of all monuments set during the course of the survey;
           12. A signed and dated owner’s dedication in the form approved by Newton which includes a complete legal description of the parcel being subdivided, and in which the owners of record dedicate all open space, public ways, utilities, and other public spaces to public use;
           13. A public notary’s acknowledgment of the owner’s certificate;
           14. A signed and dated certificate of consent in which all mortgagors, lienholders, and other parties with any real property interest, including the holders of mineral rights, in the property consent to its subdivision;
           15. A public notary’s acknowledgment of the certificate of consent;
           16. Signature blocks for approval by the Newton Town Council and Planning Commission Chair;
           17. An owner’s dedication certificate, notary public acknowledgment for each signature on the plat, a correct metes and bounds description of all property included within the subdivision, other affidavits, certificates, acknowledgments, endorsements and notarial seals as required by law, or this title;
           18. A certificate for use by the county recorder in recording the plat after its approval;
           19. Building envelopes for each lot shall be shown on the final plat;
           20. Water rights conforming to Newton’s requirements.
        2. Construction Plans. Construction drawings for required public improvements will include the following and are required to be submitted with all final plat applications:
           1. Plan, profile, and construction detail drawings prepared by a licensed professional engineer, with his/her signature and seal.
           2. Elevations shall be tied to an existing Cache County benchmark. Drawings shall show an elevation benchmark for the project.
           3. The drawing scale shall be one inch equals 20 feet horizontal and one inch equals two feet vertical. The vertical scale may be smaller if warranted by unusual circumstances.
           4. Centerline data and property line data shall be shown, including details of all curves.
           5. Existing ground profiles shall be shown a minimum of 300 feet each way from the ends of subdivision streets.
           6. All existing and proposed improvements within the project or within 100 feet of the project or adjoining the subdivision shall be shown. This includes curb, gutter, sidewalk, and underground pipes and utilities, ditches, canals, fire hydrants, street lights, water valves, etc.
           7. All proposed structures such as manholes, catch basins, clean-outs, etc., shall be shown. If Newton has standard structure details, they may be referenced in lieu of detail.
           8. All proposed drainage facilities, including pipes and boxes, shall be shown. This includes plan and profile of the system showing the method of drainage water disposal.
           9. All vertical curves and horizontal distances shall be constructed in accordance with AASHTO (American Association of State Highway and Transportation Officials) requirements and standards.
           10. Elevations shall be shown on all horizontal and vertical curves at approximately 25-foot intervals and at the points of curvature and points of tangency.
           11. The minimum grade for curb and gutter shall be one-half percent identified on all curb returns and cross gutters. Percent of grade shall also be shown on straight grades with elevations at approximately 50-foot intervals with flow arrows to indicate the direction of drainage.
           12. All street names shall be shown.
           13. Show typical roadway cross-sections.
           14. The existing grade elevations shall be shown in the profile.
           15. Construction standards and specifications shall be referenced.
           16. Road signs and stop signs shall be shown.
        3. Final Utility Plan. Utility plans showing all the utilities including but not limited to water, sewer, and storm drain. The location and size of existing and proposed utility lines and facilities in or adjacent to the proposed development shall also be shown.
        4. Grading, Drainage, and Erosion Plan as required in Section B.5 of these Ordinances
        5. Easements. The proposed grants of easement to be imposed on any land within the development.
        6. Soils Report. A soils report prepared and stamped by a licensed engineer.
        7. Engineer’s Estimate. An engineer’s estimate prepared by the design engineer, including detailed estimates of park amenities and landscaping improvements.
        8. Fee. The processing fee required by the current consolidated fee schedule approved by the Newton Town council.
  3. **Approval process.**

Upon completion and approval of a preliminary plat (required only for major subdivisions), the developer shall file a properly completed final plat application that includes a proposed final plat and all required supporting materials and the required application fee at least 30 calendar days before the Planning Commission meeting at which the application is to be reviewed.

* + 1. The clerk shall review the application for completeness and distribute the application materials to the Planning Commission members for review, comment, and approval. If the application materials are complete, all required fees are paid and the final plat conforms to approved preliminary plat, the Clerk shall review the proposed application at its next regularly scheduled meeting when materials may be adequately distributed.
    2. The Town Engineer shall review the final plat and construction plans and decide whether or not the submittal complies with the engineering and surveying standards and criteria set forth in this title, the proposed development agreement, and all other applicable state statutes and Town ordinances. The Town Engineer shall determine if the survey description is correct and that all easements are correctly described and located on the plat. If the plat conforms to the required standards, the Town Engineer shall prepare an estimate of the construction costs for all proposed public improvements. The Town Engineer shall forward this cost estimate to the Town Attorney, Town recorder, and planning department for inclusion in the final development and improvement collateral. If the final plat and/or construction plans do not comply, the Town engineer shall return the plat to the applicant or the subdivider’s engineer with comments.
    3. Town Attorney’s Responsibilities. The Town Attorney shall review the final plat for compliance with the state statutes and any applicable Town ordinances, the master development plan, and the conditions of the preliminary plat when applicable or at the request of Newton City Council.
    4. Town Recorder’s Responsibilities. The Town recorder, subsequent to the approval of a final plat by the Planning Commission, shall be responsible to collect original documents and all required signatures on such documents which include, but are not limited to, the original Mylar plat, improvement collateral, current title report as defined in this chapter, submittal of required water rights (as certified by the Town Engineer and Town attorney), submittal of any required fees including recording and inspection fees and any other applicable documents. When all documents and signatures have been collected, the applicant has executed the improvement collateral including the posting of security required, the payment of all outstanding fees for this development or any other business transaction with the Town has been received, and all other outstanding conditions have been met, the Town recorder shall record the final plat and any other documents that the Town determines should be recorded with the subdivision.
  1. **Vacating or changing a recorded subdivision plat**.

Proposals to vacate or change a recorded subdivision plat shall follow the process outlined in this title.

* 1. **Expirations and extensions of approvals.**

An approved final plat, any supplemental documents, including all extension approval letters, shall be filed within 180 calendar days of the governing body’s approval. Final plat approval shall be void if the plat is not filed within 180 days of approval.

* + 1. **Extensions of Time**.

An extension of time may be requested by an applicant with the following requirements:

* + - 1. A written, signed request for an extension of time shall be received by the clerk prior to the expiration date of the project.
      2. The request for an extension of time shall specify any progress made on the project’s conditions of approval and the reasons for the extension request, along with supporting documentation.
    1. **Criteria for Approving Extensions of Time**. It is the responsibility of the applicant to request an extension of time prior to a project’s expiration. The Town is not responsible to remind applicants of expiration dates. The Clerk shall approve or deny a request for an extension of time within a reasonable period of time after receiving the request. The clerk may grant up to a single one-year extension of time to any project that meets one of the following criteria:
       1. The applicant must have shown a good faith effort to initiate the project by systematically completing predevelopment conditions.
       2. The applicant’s initiation of development activities is based on an action by the Town or other public agency which has not taken place or was delayed, resulting in a time delay beyond the permit holder’s control.
    2. **Appeals**. An applicant may appeal the clerk’s decision to the planning commission within 15 days of the date of the decision. The applicant may then appeal a decision of the planning commission to the Town Council within 15 days of the planning commission’s decision. In no case shall the planning commission or Town council approve more than a single one-year extension of time.
    3. **Resubmitting an Expired Project**. A project that has expired may be resubmitted within two years of the expiration date for a fee to cover time and materials, not to exceed 50 percent of the original fee if the project is substantially similar to the expired plan. The resubmitted project must be in compliance with the current development code at the time of resubmittal.

## 10.20 General Requirements for all Subdivisions

Sections:

1. **Purpose**
2. **Installation at developers expense**
3. **Improvement Surety**
4. **Purpose**

This chapter requires the installation, contribution, and dedication, at no cost to the town of Newton, of required improvements in developments at the developer’s expense, and sets improvement standards. It creates the general requirements for all subdivisions in Newton.

1. **Installation at developers expense**

The installation of required improvements shall be at the developer’s expense except that the Town may choose to participate in the cost of certain improvements in order to correct deficiencies in areas outside the development or to provide Newton for future development in accordance with the capital facilities plan or general plan. Where off-site improvements, such as utility extensions, are constructed at the developer’s expense, provisions may be included in an agreement for reimbursement by landowners whose property subsequently benefits from the improvements.

1. **Improvement Surety**

When in the judgment of the Newton Town Council, it is not feasible to complete improvements and/or conditions imposed by ordinance or the land use authority prior to the issuance of a permit or recordation of a plat, improvement security may be accepted as part of an improvement agreement pursuant to this section to guarantee completion of the improvements and/or conditions.

* 1. Authorization To Accept Surety: The director is authorized to accept improvement surety and to enter into improvement agreements to the completion of improvements and/or conditions imposed by ordinance or by a land use authority.
  2. Acceptable Types Of Surety: The following types of improvement surety reflecting one hundred ten percent (110%) of the average of the bid estimates may be accepted:
     1. Irrevocable letter of credit issued by a federally insured financial institution.
     2. Performance bond issued by a financial institution, insurance company, or surety company with an A.M.
  3. Estimating The Cost Of Improvements:
     1. The developer shall present Newton Town with a firm construction bid for the improvements and/or conditions to be addressed. The bid must be valid for a reasonable period of time from the date of the bid.
     2. The bid shall be reviewed by the Newton Town Council or designee prior to acceptance.
     3. Upon the Newton Town Council approval of the bid amount, the developer may provide improvement surety of not less than one hundred ten percent (110%) of the bid amount.
     4. If Newton Town Council does not accept the bid, the developer shall obtain an additional firm bid for the work to be secured with prices valid for at least six (6) months. The town shall accept the average of the two (2) submitted bids as the base amount for improvement security.
  4. Completion Of Improvements: As applicable, improvements, as identified in the improvement agreement, must be completed three (3) months prior to the expiration of the improvement surety, or said surety shall be required to be extended.
  5. Inspection: Upon completion of improvements, the town will inspect said facilities to ensure conformance with all requirements and accept the facilities based on said conformance. Upon acceptance of the improvements, the town shall retain ten percent (10%) of the bond amount for a period of not less than one year and no longer than allowed by state code.