

**Section 101 — Short Title:**

This Ordinance shall be known and may be cited as the "Roy City Subdivision Ordinance" and may be identified within this document and other documents as "the Ordinance," "this Ordinance" "Subdivision Ordinance," or "Land Use Ordinance," as defined by the Act.

**Section 102 — Purposes:**

This Ordinance is established to promote the purposes of Title 10 Chapter 9a Utah Code Annotated, 1953, as amended (hereinafter the "Act") and to provide for the orderly division of lands, to avoid incompatibilities in land uses, and to secure the provision, and long-term maintenance of necessary infrastructure and services in an efficient and economical manner for existing and future City residents.

**Section 103 — Final Subdivision Application Approval Required Before Plat may be Recorded and Lots Sold:**

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

**Section 104 — Enactment:**

The City Council of Roy City, Utah (hereinafter "Council") adopts this Ordinance pursuant to the Act and all other authorities and provisions of Utah and Federal statutory and common law, as applicable. This Ordinance constitutes a part of the Roy City's Land Use Ordinances, as authorized and identified by the Act.

**Section 105 — Applicability and Authority:**

Upon its adoption by the Council, and effective the 16<sup>th</sup> day of January 2007, this Ordinance shall govern and apply to the subdivision of all lands lying within the municipal boundaries of Roy City, Utah (hereinafter "the City")

**Section 106 — Subdivision Defined:**

For the purposes of this Ordinance, and the Act, "Subdivision" shall be, and shall mean;

Any land that is divided, re-subdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes:

1. The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
2. Except as provided by Section 107 herein, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

### Section 107 — Subdivision Not to Include:

As provided by the Act and this Ordinance "Subdivision" does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one (1) of the resulting separate parcels to a contiguous parcel of un-subdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable Land Use Ordinance;
2. A recorded agreement between owners of adjoining un-subdivided properties adjusting their mutual boundary if:
  - a. No new lot is created; and
  - b. The adjustment does not violate applicable Land Use Ordinances.
3. A recorded document, executed by the owner of record:
  - a. Revising the legal description of more than one (1) contiguous un-subdivided parcel of property into one legal description encompassing all such parcels of property; or
  - b. Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable Land Use Ordinances.
4. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
  - a. No new dwelling lot or housing unit will result from the adjustment; and
  - b. The adjustment will not violate any applicable Land Use Ordinance.
5. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision as to the un-subdivided parcel of property or subject the un-subdivided parcel to this Ordinance.

### Section 108 — Prohibited Acts:

1. An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a Final Plat of the subdivision has been approved and recorded in the Office of the Weber County Recorder, as required and provided by this Ordinance, and the Act, is guilty of a violation of this Ordinance, and the Act, for each lot or parcel transferred or sold.
2. The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring lots does not exempt the transaction from being a violation of this Ordinance, and the Act, or from the penalties or remedies provided by this Ordinance, or the Act.
3. Notwithstanding the provisions of this Section, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Ordinance, and the Act:
  - a. Does not affect the validity of the instrument or other document; and
  - b. Does not affect whether the property that is the subject of the instrument or other document complies with the City's Land Use Ordinances, including this Ordinance, and the City's other Land Use Ordinances, including the Roy City Zoning Ordinance (hereinafter "Zoning Ordinance").

### Section 109 — Fees and Charges:

The Council, by Resolution, may establish necessary fees and charges payable for application processing and application review, and any additional services provided by the City, or required by this Ordinance. Such fees and charges may be amended from time to time, as considered necessary by the Council.

### Section 110 — Enforcement:

1. The City may take all actions, allowed under the law, to insure compliance and enforcement of this Ordinance. Failure of the City to enforce any provision or seek remedies to any violation of this Ordinance shall not legalize any such violation.

2. The City, or any adversely affected owner of real estate within the City, in which violations of this Ordinance are occurring, or are about to occur may, in addition to other remedies provided by law, institute:
  - a. Injunctions, Mandamus, Abatement, or any other appropriate actions; or
  - b. Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
3. As provided by the Act, the City need only establish a violation of this Ordinance to obtain the injunction.
4. The City may bring an action against a property owner to require that the property conform and comply with the provisions of this Ordinance, or the Act.
5. An action brought by the City against a property owner, and authorized by this Section, and the Act, may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation of this Ordinance.
6. The City may withhold or deny the issuance of any required land use permit, or building permit, as provided by Section III herein.

### Section III — Licenses and Permits:

1. From the effective date of this Ordinance, no approval, including the issuance of any building permit for the construction, alteration, or modification of any building or structure, shall be issued by the City unless such approval complies with the requirements and provisions of this Ordinance, including a determination that the lot or parcel, proposed for the approval is a legal lot created pursuant to the provisions of this Ordinance, or prior enactments of this Ordinance, or is a legal lot of record. Any approval issued in conflict with the provisions and requirements of this Ordinance shall be void.
2. The City may enforce this Ordinance by withholding land use permits and building permits.
3. It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the City without approval of a building permit, unless such building is exempt; as provided by the Building Codes of the City.
4. Except as provided by herein, the City shall not approve and issue a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all adopted Land Use Ordinances of the City, including this Ordinance, and the Zoning Ordinance.

### Section I12 — Penalties:

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

### Section I13 — When an Applicant is Entitled to Approval of an Application – Exceptions – City May Not Impose Unexpressed Requirements – City Required to Comply with the Requirements of this Ordinance:

1. An Applicant is entitled to the approval of an Application, required by this Ordinance, if such Application conforms to the requirements of this Ordinance, and the City's other Land Use Ordinances, Land Use Maps, and Zoning Ordinance, as may be applicable, and in effect at the time when the City Planner (hereinafter "Planner") determines the Application to be complete and all fees have been paid, unless:
  - a. The Land Use Authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or
  - b. In the manner provided by Local Ordinance and before the Application is submitted, the City has formally initiated proceedings to amend its Land Use Ordinances in a manner that would prohibit approval of the Application as submitted.
2. The City shall process an Application without regard to proceedings initiated to amend the City's Land Use Ordinances if:
  - a. One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
  - b. The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.

3. If the Final Plat, as required by Section 400 herein, conforms fully to the requirements of this Ordinance, and the City's other Land Use Ordinances, including the Zoning Ordinance, and has been approved by the Culinary Water Authority and the Sanitary Sewer Authority, as identified by Section 302(12) herein, the Final Plat shall be approved.
4. The City shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:
  - a. In the approval required by this Ordinance, or in the Ordinance, Code, regulation, or requirement on which such approval is based; or
  - b. In this Ordinance, or in the City's other Land Use Ordinances, including the Zoning Ordinance.
5. The City shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:
  - a. In the Building Permit, or in documents on which the Building Permit is based; or
  - b. In this Ordinance, or the City's other Land Use Ordinances, including the Zoning Ordinance.
6. The City shall be bound by the terms and standards of this Ordinance, and the City's other Land Use Ordinances, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances.
7. The City shall process and render a decision on each Application required by this Ordinance with reasonable diligence.

#### Section 114 — City Imposed Requirements and Exactions on Application Approval:

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

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

#### Section 115 — Appeals:

Any person, including the Applicant for any approval, license, or permit required by this Ordinance and any board or officer of the City, adversely affected by a decision of a Land Use Authority administering or interpreting this Ordinance may appeal that decision to the Appeal Authority, as identified by Chapter 28 of the Zoning Ordinance.

#### Section 116 — Amendment of Applicable State Laws:

Any provision of this Ordinance, affected by any amendment to the Act, or any other laws of the State of Utah, shall be automatically amended on the effective date of such amendment, to be consistent with such amendment of the Act, or any other laws of the State of Utah, without any required action by the Roy City Planning Commission (hereinafter "Commission") or Council.

#### Section 117 — Condominium Projects:

Whenever a subdivision is proposed that would meet the definition of a "Condominium Project," as defined herein and Section 57-8-1 Utah Code Annotated, 1953, as amended, such subdivision shall meet the procedural requirements of this Ordinance for Concept Plan, and Preliminary and Final Subdivision Applications, and the requirements of the "Condominium Ownership Act," Section 57-8-1 Utah Code Annotated, 1953, as amended.