

Town of Castle Valley
Ordinance No.2004-3
Subdivision Ordinance

An Ordinance of the Town of Castle Valley, Utah Providing for the Subdivision of Unplatted Lands

Article I. Preamble

A. The Town Council of the Town of Castle Valley, Utah, finds that it is in the public interest to regulate the subdivision of lands within the Town in order to provide for public improvements, protect water resources from contamination and over development, preserve the natural environment and provide appropriate and balanced opportunities for landowners to utilize properties for development purposes.

Be it Ordained by the Town Council of the Town of Castle Valley, Utah:

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Article II. Definitions

AAD – Approved Area of Disturbance

Agent – a natural person authorized by the owner of the Subject Property to bind the property owner to proposals, submissions and legal commitments concerning the property owner and the Subject Property.

Alignment – the proposed connections of systems/utilities (for example, street systems) within the Subject Property to existing or proposed similar systems/utilities outside the Subject Property.

Applicant – a natural person or entity submitting an application for approval of a Preliminary and/or Final Plat. The Applicant shall be either the Owner of the Subject Property or the Agent of that Owner.

CFP - Capital Facilities Plan for the Subject Property as developed and approved in accordance with Articles X and XI of the Master Development Plan/Rezoning Ordinance of the Town of Castle Valley.

Central Sewer System – publicly owned sewer system collection lines, mains and sewage treatment facilities, including the type, degree of sewage treatment and the capacity of the facility.

Central Water System – water storage, treatment and distribution facilities and the wells and other water sources, with their protection zones, for such facilities.

Commission – Planning and Zoning Commission of the Town of Castle Valley.

Existing Resources and Site Analysis Plan – A plan for the Subject Property developed in accordance with Article VI of the Master Development Plan/Rezoning Ordinance of the Town of Castle Valley.

MDP – a Master Development Plan for the Subject Property as developed and approved in accordance with Articles X and XI of the Master Development Plan/Rezoning Ordinance of the Town of Castle Valley.

MDPA – an Agreement between the Town and the Applicant regarding the Subject Property as developed and approved in accordance with Articles X and XI of the Master Development Plan/Rezoning Ordinance of the Town of Castle Valley.

Owner – the fee owner of legal title to the Subject Property.

Street System – the Transportation System for motorized vehicles.

Subject Property – the real property described in the Application for a Preliminary and/or Final Plat.

Article III. Purpose, Plat Classification, Prerequisites, Overview of Procedures

A. Purpose

1. It is unlawful to subdivide land within the boundaries of the Town of Castle Valley, Utah, without the approval of the Town of Castle Valley pursuant to this Subdivision Ordinance. No land development, grading, road construction, land improvement or building shall be permitted on land within the boundaries of the Town of Castle Valley until such land is subdivided with the approval of the Town of Castle Valley under the provisions of this Ordinance. The maintenance of improvements in existence as of the date of this Ordinance in support of livestock grazing activities is not intended to be restricted by this Ordinance; provided, however, that no residential development of unplatted land used for grazing shall be allowed.

2. No Subdivision Application shall be accepted or approved by the Town unless a Master Development Plan (MDP) and a Master Development Plan Agreement (MDPA) for the Subject Property have been previously adopted by the Town pursuant to the Master Development Plan/Rezoning Ordinance.

3. This Ordinance provides the basis, process and requirements for the preparation, submission, consideration and approval or rejection of all applications for the subdivision of land within the Town of Castle Valley. No building permit shall be issued for the construction of any structure on any land within the Town of Castle Valley not subdivided in accordance with either this or a previously applicable ordinance.

B. Plat Classification for Minor and Major Subdivisions

All Applications for subdivisions shall be classified as either Minor or Major.

1. Minor: Any subdivision in which:

- a. No public or private street is constructed or is required to be widened;
- b. No other completion of public improvement or guarantee thereof is required other than individual on-lot stormwater management systems;
- c. No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot; and
- d. No more than three (3) lots are created.

2. Major: Any subdivision application not in compliance with Article III.B.1 or any part thereof, or for any use other than single-family residential, shall be considered a major use plan. Major Subdivision applications shall be subject to all requirements specified in this Ordinance.

C. Prerequisites

Before Applicant may begin the process to obtain approval of a Preliminary Plat for the Subject Property, an MDP, MDPA and CFP for the Subject Property must have been applied for and approved by the Town Council pursuant to the Master Development Plan/Rezoning Ordinance. Furthermore, the current Applicant must agree in writing with the Town to be bound by the such MDP, MDPA and CFP.

D. Overview of Procedures

1. All Preliminary and Final Plats shall be referred to and reviewed by the Commission and shall be approved, approved with changes or denied by the Town Council in accordance with the procedures specified in this Ordinance. Any Application not processed as required herein shall be null and void.

2. The steps set forth below shall be followed and may be combined only by special approval by the Commission and the Town Council:

- a. Proposed Applicant pays a \$500.00 Fee and has a Pre-Application Meeting with the Commission as specified in Article V. At this meeting, Applicant shall submit to the Commission the Existing Resources and Site Analysis Plan (as defined in Article II) for the Subject Property.
- b. The Applicant shall arrange for a Site Inspection of the Subject Property with the Commission and other Town agents and officials invited by the Commission (see Article VI).
- c. Application for approval of Preliminary Plat filed with Town Clerk by Applicant. The Preliminary Plat shall include all documents referenced in, and shall conform in all respects to, the provisions of Articles VII and VIII.
- d. Application for Approval of Preliminary Plat is referred to the Commission.

- e. Town determines fees and the Commission informs Applicant.
- f. Applicant pays such fees to Town.
- g. Review process of Application for Approval of Preliminary Plat is conducted by Town.
- h. Application for Approval of Preliminary Plat is approved, approved with changes or denied by Town Council, and Applicant is informed in writing by the Town Council of its decision.
- i. Application for Approval of Final Plat is filed by Applicant with Town. If Preliminary Plat is approved, or approved with changes, by the Town Council, then Applicant shall submit an Application for Approval of Final Plat that conforms in all respects to the provisions of Articles IX and X.
- j. Application for Approval for Final Plat is referred to the Commission.
- k. Town determines fees and Commission informs Applicant.
- l. Applicant pays fees to the Town.
- m. Commission reviews Application for Approval of Final Plat.
- n. Commission in consultation with Applicant establishes, in accordance with Article XI, Required Improvements and Development Agreements to which Applicant shall commit.
- o. Commission refers Application for Approval of Final Plat to the Town Council together with Required Improvements and Development Agreements and the Commission's recommendations.
- p. Sewer and Water Systems Designs for the Subject Property are reviewed by the Town Council and Utah regulatory agencies.
- q. Application for Approval of Final Plat and Required Improvements and Development Agreements are approved, approved with changes, or denied by the Town Council and Applicant is informed in writing of the Town Council's decision.
- r. Recordation:

When an Application for Approval of a Final Plat and Required Improvements and Development Agreements are approved by the Town Council, then the Final Plat and such Agreements shall be recorded with the Grand County Recorder by the Town Clerk after Applicant has satisfied the requirements of Article XI.

E. Drafting Standards

1. All plans, plats and maps shall be drawn to a scale of 1" = 200' unless otherwise approved by the Commission.
2. Dimensions shall be set in feet.
3. Each sheet shall be numbered and shall provide an adequate legend indicating clearly which features are existing and which are proposed.

4. All plans, plats and maps submitted shall be made on sheets no larger than 34" x 44" nor smaller than 17" X 22".
5. Each sheet shall have a North arrow if applicable.
6. The plans, plats and maps shall bear the name, signature, address, and telephone number of the engineer, land surveyor, or landscape architect responsible for preparing the plan or map.

Article IV. Applications

A. General Provisions

Applicants for subdivision approval shall file an Application for Approval of a Preliminary Plat and, if such approval is granted by the Town, shall thereafter file a separate application for Approval of a Final Plat. Each such Application is subject to its individual fee and escrow deposit, to be determined by the Town, and is also subject to the following provisions of this Article. An Application shall be completed on the form provided by the Town and shall be filed by the Owner of the Subject Property, or by an Agent of the Owner.

B. Additional Documents and Information

An Application must include the plans, documents and other submissions required in this Ordinance for such Application: with respect to an Application for a Preliminary Plat see Articles VII and VIII; with respect to an Application for a Final Plat see Articles IX and X.

C. Master Development Plan and Master Development Plan Agreement

Every Application shall identify the MDP and MDPA approved by the Town for the Subject Property. The Application shall include documentation showing the entitlement of the Applicant to the benefits and responsibilities of the MDP and MDPA with the Town. Furthermore, if the Applicant is not a signatory to such MDPA, then the Applicant must agree in writing to be bound by all the terms and conditions of the MDP and MDPA covering the Subject Property.

D. Fees

The Applicant is required to pay all costs incurred by the Town in meeting and working with the Applicant and in reviewing and processing Applications for both Preliminary and Final Plats. Applicant shall pay to the Town \$500.00 Pre-Application Meeting Fee. After receiving an Application for either a Preliminary or Final Plat, the Town will determine the estimated cost of reviewing and processing that Application and will notify Applicant in writing of that cost. Applicant must deposit with the Town sufficient funds to cover that cost before the Application shall be deemed filed.

E. Completion Requirements

An Application is neither complete nor deemed filed with the Town until all requirements for such Application have been met and all deposits (see Article IV.D.) have been received by the Town and the Applicant receives written notice from the Town that the Application is complete and ready for review.

Article V. Pre-Application Meeting

The Applicant shall submit to the Town Clerk a written request for a Pre-Application Meeting with the Commission regarding Applicant's potential plans for Subject Property. This request shall be accompanied by Applicant's payment of the \$500.00 Pre-Application Meeting Fee. The purpose of this meeting is to introduce the Applicant to the Town's zoning and subdivision regulations and procedures, to discuss the Applicant's objectives, and to schedule site inspections of the Subject Property, meetings and plan submissions as described in this Ordinance.

Article VI. Site Inspection

The proposed Applicant shall arrange for a site inspection of the Subject Property with the Commission and other Town agents and officials invited by the Commission.

The purpose of the visit is to familiarize local officials and the Applicant with the Subject Property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including, but not limited to, Street Systems and public facilities. Comments made by Town officials or their staff and consultants shall be interpreted as being only suggestive, no formal recommendations can be offered, and no official decisions can be made, at the Site Inspection.

Article VII. Preliminary Plat

A. General Description

The Preliminary Plat is a preliminarily-engineered scale drawing in which layout ideas are illustrated in more than the diagrammatic manner appropriate for Sketch Plans, but before heavy engineering costs are incurred in preparing detailed alignments and profiles for streets, and/or detailed calculations for stormwater management. The Preliminary Plat shall be consistent in every way with the MDP, CFP and MDPA previously approved by the Town for the Subject Property.

B. Preliminary Plat Requirements

A Preliminary Plat shall be prepared in accordance with the drafting standards and plan requirements described herein and shall include the following documents:

1. Application form, as described above in Article IV, completed by Applicant;
2. A copy of the MDP, CFP and MDPA as approved by the Town for the Subject Property;
3. Site Context Map as described below in Article VII.C;
4. Affordable Housing Plan as specified in Article VII.D;
5. Preliminary Engineering Certification as specified in Article VII.E; and
6. Deed or agreement of sale evidencing that the Applicant is the legal or equitable owner of the Subject Property.

C. Site Context Map

Applicant shall submit a Site Context Map showing the relationship of the proposed development to the natural and man-made features of both the Subject Property and the lands within 2000 feet thereof. Furthermore, the Site Context Map must demonstrate that all elements of the proposed development, including without limitation, proposed lot lines, density, water and wastewater systems, street systems, fire suppression system, storm water management, erosion and sedimentation control system, and Approved Areas of Disturbance (AAD) shall be in complete compliance with the MDP and MDPA for the Subject Property. Consequently, the Site Context Map shall include the following information, as well as textual material required to explain any proposed improvements:

1. Proposed Lot Lines and Approved Areas of Disturbance

The Site Context Map shall clearly indicate all proposed lot lines and boundaries of AAD which are those Areas proposed for any type of construction, including without limitation, homes, accessory buildings, septic tanks and drainfields, individual wells, street systems and all other public utilities and improvements. Each lot shall be numbered and each area designated as a public improvement for use by the Town shall be described as owned by the Town for public benefit, unless otherwise agreed by the Town. Finally, this Map shall show the boundaries of all undeveloped open space and trails.

2. House Sites

Potential house sites shall be tentatively located.

3. Location and Alignment of Street Systems and all other Public Improvements and Utilities

The approximate location and alignment of the proposed Street System (including each of its elements, such as bridges, culverts, traffic control signs, street signs and easements) and all other Public Improvements and Utilities shall (i) be clearly indicated, (ii) bear a logical relationship to topographic conditions, and (iii) minimize impacts on proposed undisturbed lands (particularly with respect to environmentally sensitive locations such as riparian areas or wetlands). In addition, the proposed Street System (including each of its elements) shall (i) set forth the width and tentative names of all proposed streets, (ii) facilitate ingress and egress to all home sites as well as to properties adjoining the Subject Property, (iii) not traverse slopes exceeding 15%, and (iv) minimize the number of cul-de-sacs to be maintained by the Town.

D. Affordable Housing Plan

If required by State law, an affordable housing plan shall be proposed for each subdivision.

E. Preliminary Engineering Certification

Applicant shall submit to the Commission a "Preliminary Engineering Certification" stating whether the approximate layouts of proposed streets, houselots and AAD comply with the Town's Zoning and Subdivision Ordinances. This certification shall note whether any waivers of applicable ordinances are required from the Town to implement the Preliminary Plat.

Article VIII. Submission and Review of Preliminary Plat

A. Submission by Applicant

1. Applicant shall submit to the Town Clerk sixteen (16) copies of a complete Preliminary Plat as described in Article VII. Determination and payment of fees shall be in accordance with Article IV.D. The Town Clerk shall note the dates of receipt of the Application and fees paid, and shall forward all copies of the Preliminary Plat to the Commission.
2. Submission of the Preliminary Plat is subject to review by the Town to determine if all required materials and fees have been submitted by Applicant. If the Application is defective or incomplete, Applicant shall be notified in writing of the defective or incomplete items and given the opportunity to correct or supply same. If within a reasonable time Applicant fails to do so, the Application shall be deemed null and void ad initi, and shall be deemed withdrawn by the Applicant.
3. The review process begins on the date that the Town determines and certifies that the filed Application is complete and all fees paid.

B. Commission Review

1. The Commission shall review the Preliminary Plat and any recommendations made by State and Federal agencies and the Town Engineer, to determine conformance of the Plat to the MDP, CFP and MDPA and all ordinances and requirements of the Town.
2. After such review, the Commission may schedule a meeting with the Applicant to discuss issues raised in the review and shall hold a public hearing and then submit its report to the Town Council, containing its findings, recommendations, and reasons, citing specific sections of the statutes or ordinances relied upon. A copy of this report shall be given to Applicant.

C. Town Council Review

1. After the Commission has officially submitted its recommendations on the Preliminary Plat to the Town Council, such recommendations shall be placed on the Town Council agenda for review, public hearing and action.
2. The Town Council shall review the Preliminary Plat and the written comments of all the reviewing bodies, including, but not limited to, the Town Engineer, the Commission, the County Health Department, and comments from public hearings. The Town Council may specify requirements, changes or additions to the Preliminary Plat which it deems necessary or appropriate.
3. In acting on the Preliminary Plat, the Town Council may take any of the following actions:
 - a. Approve the Preliminary Plat.
 - b. Approve the Preliminary Plat with changes and additions. Applicant shall agree to such changes and additions and shall modify the Preliminary Plat in accordance with Town Council requirements.
 - c. Deny the Preliminary Plat.

4. All decisions of the Town Council with respect to the Preliminary Plat shall be in writing, shall set forth the reasons for such decision and shall be communicated to the Commission and to the Applicant by regular mail posted through the U.S. Postal Service addressed to Applicant's address for receipt of notices set forth in the Application. Such notice shall be deemed received by Applicant five (5) days after being posted.

Article IX. Final Plat

A. Requirements

1. A Final Plat with respect to all or a portion of the Subject Property may be submitted to the Town by Applicant only after the Town Council has approved a Preliminary Plat for such Property.
2. A Final Plat shall conform in all respects to the MDP, CFP, MDPA, the amended Zoning Ordinance, and the Preliminary Plat for the Subject Property, all as previously approved by the Town Council.
3. Required Improvements and Development Agreements as detailed in Article XI will be developed by the Commission in conjunction with the Applicant.

B. Content

A Final Plat shall be prepared in conformity with the approved Preliminary Plat and shall include and be prepared in accordance with the following:

1. Map
2. Government Documents

Copies of all applications made or notices provided to Federal and State agencies by or on behalf of Applicant for permits, certifications, approvals or waivers required or sought for either subdivision or land development as proposed in the Preliminary Plat or in the Final Plat, including, but not limited to, applications or notices provided to the U.S. Environmental Protection Agency, the Utah State Department of Environmental Quality (DEQ), the Grand County Health Department, the Utah Geologic Survey, and the Utah Department of Wildlife Resources.

3. Existing Resources and Site Analysis Plan
4. Resource Impact and Conservation Plan

a. This plan shall comply with all of the requirements for the Site Context Map, as set forth in Article VII.C, and shall reflect all proposed improvements described in the other Final Plat documents as required herein.

b. The Applicant shall submit an accompanying Resource Assessment Report divided into the following sections: (1) description of existing resources; (2) impacts of the proposed subdivision on existing resources; and, (3) measures taken to minimize and control such impacts both during and following the period of site disturbance and construction. The qualifications and experience of the preparer of this report shall be provided.

5. Improvements Construction Plan

Where public or private improvements are required for any subdivision, an Improvements Construction Plan, Construction Drawings and Specifications, prepared by a registered professional engineer, shall be submitted to the Town. The Improvements Construction Plan, Construction Drawings, and Specifications shall contain the following information:

- a. Detailed plan and profile sheets for the proposed Street System within the Subject Property.
- b.. The design, nature, and location of the work and all engineering data necessary for completion of the work.
- c. Detailed designs for all other improvements as required by this Ordinance.
- d. Where a Central Sewer System is to be provided, the final detailed design of all facilities, including, but not limited to, sewer mains, manholes, pumping stations, sewage treatment facilities, and the manufacturer of the proprietary sewer system.
- e. Where a Central Water System is to be provided, the final detailed design, including location and size of water service facilities within the subdivision, shall be shown, including wells, storage tanks, pumps, mains, valves, and hydrants. Proof of water rights sufficient to support the proposed development shall also be provided.

6. Stormwater Management, Erosion and Sedimentation Control Plan

The detailed Engineering Plan and construction drawings shall propose structural and non-structural methods to control erosion and sedimentation, including revegetation and other appropriate measures consistent with a policy of minimal land disturbance.

7. Trails and Open Space Ownership and Management Plan

Using the Final Plat as a base map, the precise boundaries, exact acreage, and proposed ownership of all proposed open space areas shall be shown. In addition, a trails plan, conforming to a Castle Valley trails map or plan, if such map or plan exists, shall be shown with cross sections and material identified. A narrative report shall also be prepared indicating how and by whom such open space areas and trails will be managed and maintained, and demonstrating compliance with the Zoning Ordinance.

8. Additional Approvals, Certificates and Documents

All offers of dedication of realty or structures and all declarations, easements and covenants governing the reservation and maintenance of undedicated open space, for the Final Plat shall be in such form as shall be satisfactory to the Town Council. In addition, Applicant shall provide such deed restrictions, easements, covenants and declarations which are to be imposed upon property to comply with Final Plat in such form as is satisfactory to the Town Attorney.

9. Required Improvements and Development Agreements

All Required Improvements and Development Agreements as specified in Article XI and as required by the Town Council shall be accepted and agreed by Applicant.

Article X. Submission and Review of Final Plat

A. Submission by Applicant

1. Within one (1) year after approval of the Preliminary Plat, a Final Plat and all supplementary documents and information specified in Article IX, together with an Application Form provided by the Town shall be officially submitted to the Town Clerk by Applicant. The Final Plat shall conform to the requirements set forth in Article IX and the Preliminary Plat as previously reviewed by the Commission and approved by the Town Council. Determination and payment of fees shall be in accordance with Article IV.D. No Application shall be deemed filed unless all requirements have been met and all fees paid in full.
2. The Town Council may permit submission of the Final Plat in phases, each covering a reasonable portion of the Subject Property as shown on the approved Preliminary Plat; provided that the first Final Plat phase shall be submitted within one (1) year after approval of the Preliminary Plat. A Final Plat for each subsequent phase must be submitted no later than one (1) year after approval of the previous Final Plat, provided, however, that Final Plats for all phases must be submitted within three (3) years after the date of Preliminary Plat approval.
3. Failure to make timely submission of a Final Plat, or any phase thereof, renders void those portions of the Preliminary Plat not covered by the timely submission of a Final Plat (hereinafter the "Void Portions"). In such event, Applicant shall be required to file a new Application and fee for approval of a Preliminary Plat for the Void Portions.
4. Applicant shall initially submit to the Town Clerk thirteen (13) copies of the Final Plat, as specified in Article IX, and the application fee, as specified in Article IV. D. The Town Clerk shall note the date on which Applicant has completed submission of the Final Plat and thereafter shall distribute copies of the Final Plat as specified below:
 - a. Five (5) copies of the Final Plat to the Commission;
 - b. One (1) copy to the Town engineer;
 - c. Five (5) copies to the Town Council; and,
 - d. Two (2) copies for the Town files.

The Town Council may require Applicant to file additional copies of all or portions of the Final Plat in order to provide such copies to County, state or federal agencies.

B. Commission Review

1. The Commission will review the Final Plat and the recommendations of the Town Engineer and any other reviewing agencies to determine the Final Plat's compliance with applicable regulations, ordinances and Town requirements.
2. The Applicant must enter into, with the Town, certain Required Improvements and Development Agreements as specified in Article XI. The Commission shall meet with Applicant to develop such Agreements. Prior to the Final Plat being referred to the Town Council, Applicant shall enter into Required Improvements and Development Agreements acceptable to the Commission.

3. After such review, and prior to any action by the Town Council, the Commission shall hold a public hearing and thereafter forward the Final Plat, the Required Improvements and Development Agreements and its written recommendations, containing its reasons therefor, to the Town Council and the Applicant.

C. Town Council Review

1. Prior to the Final Plat review process, the Town Council shall complete its review of the Sewer and Water Systems Designs and Management Plans (as referenced in Article IX.B.5.d and e) in accordance with Utah State and Grand County Health Department regulations and procedures. When approved by the Town Council, these Designs and Plans shall be forwarded to the relevant Utah regulatory agencies for review and approval.
2. The Town Council shall not approve a Final Plat until the Town has been notified by the relevant Utah regulatory agencies that they have approved the Sewer and Water Systems Designs and Management Plans.
3. When a recommendation on a Final Plat together with the Required Improvements and Development Agreements have been submitted to the Town Council by the Commission, and the tasks in items C.1 and 2 above have been completed, the Final Plat and the Required Improvements and Development Agreements shall be placed on the agenda of the Town Council for review and action.
4. Thereafter, the Town Council may, at one or more regular or special public meetings, review the Final Plat and the Required Improvements and Development Agreements and shall hold a public hearing.
5. In acting on the Final Plat and Required Improvements and Development Agreements the Town Council may take any of the following actions:
 - a. Approve the Final Plat and the Required Improvements and Development Agreements;
 - b. Approve the Final Plat and the Required Improvements and Development Agreements with changes and additions.

Applicant shall agree to such changes and additions and shall modify the Final Plat and Required Improvements and Development Agreements in accordance with Town Council requirements;

- c. Deny the Final Plat and Required Improvements and Development Agreements.

If the Final Plat is not approved, the decision shall specify the defects found in the Plat, shall describe the requirements that have not been met, and shall, in each case, cite provisions of Town Ordinances and requirements and/or county, state or federal laws or regulations relied upon.

6. Decisions of the Town Council hereunder shall be in writing, and shall set forth the reasons for such decision and shall be communicated to Applicant by regular mail posted through the U.S. Postal Service addressed to Applicant's address for the receipt of notices set forth in the Application. Such notice shall be deemed received by Applicant five (5) days after being posted.

7. If at any time Applicant submits a revised Final Plat, it shall be deemed a new Final Plat. No new Application fee shall be required for any revision submitted within two years of the first Final Plat Application. However, the Town shall assess to Applicant the costs of a professional or consultant's review of the revised submission in advance of proceeding to review the revised submission.

8. Copies of the Final Plat and the Required Improvements and Development Agreements, as finally approved with the appropriate endorsement of the Town Council, shall be distributed as follows:

- a. One (1) copy to the Applicant;
- b. One (1) copy (the original) to be recorded by the Town Clerk with the County Recorder after Applicant has satisfied the requirements of Article XI;
- c. One (1) copy to the Town Commission;
- d. One (1) copy to the County Health Department;
- e. One (1) copy to be retained by the Town Clerk as required for official government records; and
- f. One (1) copy to the Town Engineer.

Article XI. Required Improvements and Development Agreements

A. Purpose and Applicability

This Article requires the installation, contribution and dedication at no cost to the Town of certain improvements in developments at the developer's expense, sets improvement standards or refers to other standards, permits the phased installation of improvements pursuant to a development agreement, and requires perpetual maintenance of required improvements which are not dedicated to the Town.

B. Required Improvements Defined

A required improvement is any legal entitlement or public improvement such as water rights or other legal or tangible physical improvements required for compliance with any engineering requirement for public improvements and the absolute performance standard of this ordinance. Required improvements include, but are not limited to:

1. Stormwater management, sedimentation and erosion control measures, including both structures and plantings, required to implement an approved runoff and erosion control plan;
2. Landscaped buffers and similar improvements required to mitigate potential nuisances;
3. Water wells and septic systems;
4. Water rights for service to the uses allowed in the Final Plat in the amount defined in a recommendation from the Town Engineer and approved for unconditional use in the Town for municipal purposes, water sources, water storage, lift stations and other utilities;
5. Off-street parking including any required landscaping;
6. Streets and related improvements, including bridges, culverts, traffic control signs, and

- street signs;
- 7. Trails and/or sidewalks;
- 8. Neighborhood parks and other developed open spaces specified in the approval of the project;
- 9. Restoration of native plant materials and species in natural undisturbed areas;
- 10. Sufficient water, including sources if necessary and water rights conveyed to the Town and usable by the Town for Town purposes acceptable to counsel for the Town, and to meet all applicable Town and other government regulatory standards for the uses proposed; and
- 11. Necessary public or other utilities such as telecommunications, electric power, water system, waste water system, and propane, etc.

C. Installation at Developer's Expense

The installation of the required improvements shall be at the developer's expense. The Town may choose to participate in the cost of certain improvements in order to correct deficiencies in areas outside the subdivision, or to provide capacity for future development in accordance with the CFP in the MDP and MDPA for the Subject Property. Where off-site improvements, such as utility extensions, are constructed at the developer's expense, provisions may be included in a development agreement for reimbursement through impact fee collections from other new development.

D. Improvement Standards

Required improvements shall be installed in compliance with this ordinance and any capital facilities plans and design and engineering standards separately adopted by the Town or other agencies responsible for providing services to the development.

E. Time of Installation, conveyance, transfer or dedication -- Development Agreements

Except for the conveyance of required water rights which shall be transferred to the Town and approved for municipal use within the Town by the Utah State Engineer prior to Final Plat approval and recordation, or the payment of required impact fees to the Town for water service, developers must 1) install all required improvements under bonded contracts for performance and payment under the terms of a development agreement before a Final Plat is recorded; or 2) install all improvements within one year of Final Plat recordation and provide cash escrow collateral approved by the Town Attorney and Town Council to assure completion of all improvements. A Final Plat must be recorded before any lot covered by the Plat may be leased or sold.

F. Final Plat Phasing

Subject to the approval of the Town Council in accordance with Article X, developers may separate approved Preliminary Plats into phases for review, approval and recording subject to the following requirements:

- 1. Improvement collateral for the first phase shall include the improvements required for that phase and shall also include the major off-site improvements needed for the completion of the entire approved Preliminary Plat and subdivision-wide improvements of major importance such as neighborhood parks, trails, acquisition of open space or other neighborhood amenities that will otherwise be installed for the entire project.
- 2. Each phase shall have at least two (2) independent accesses to insure adequate circulation and access for the duration of the construction of one or more phases.

G. Development Agreements for Each Final Plat

A Development Agreement approved by the Town Council shall be required for the recordation of each Final Plat. Each Development Agreement shall, at a minimum, include the following requirements:

- 1. A copy of the Final Plat document, record of survey or site plan as applicable and accompanying construction drawings of the initial phase;

2. A description of all required Improvements, including parks and trails, in the initial phase and an estimate by the Town Engineer of the developer's cost of all public improvements or common area improvements required to service the land uses in the Final Plat;
3. A schedule for completion of the required public or common private improvements;
4. Provisions defining required maintenance activities, including security for the performance of the required maintenance which includes, but is not limited to, general upkeep of landscaping, Street Systems, parks, utility infrastructure, including without limitation central water and waste water systems, and the repair of such facilities as needed and as may be required by the Town during and/or near the end of the maintenance period. Required maintenance may also be specifically defined in the development agreement;
5. A process by which the Town may, if necessary, complete required improvements using the collateral provided;
6. A process by which the Development Agreement may be transferred, with Town approval, to the developer's successors;
7. A statement that provides that the vested rights conferred by the Development Agreement to the developer shall be void if the Town is required to use or initiate the use of collateral to complete required improvements (the developer may re-negotiate the anticipated improvement schedule without losing vested rights, provided that such negotiations are initiated by the developer within 90 days after failure to initiate or complete a phase as scheduled. In the event the developer fails to comply with the terms of the Development Agreement, the Town may withhold approval of building permits within the subdivision.);
8. A statement that provides for dedication to the Town of rights-of-way to adjacent properties and construction of temporary cul-de-sacs as needed to ensure adequate egress from stub streets;
9. Declaration of covenants and restrictions if applicable, declaration of condominium if applicable, or architectural elevation plans approved by the Town; and
10. Special requirements if applicable may be included in all development agreements. These requirements may relate to the timing of certain improvements, lot design, performance standards applying specifically to the project, necessary off-site requirements or Improvements, requirements relating to shared open space or parks, special circumstances due to location of utilities, physical characteristics of the Subject Property or other requirements needing to be specifically identified within the Development Agreement.

H. Completion of Improvements

Improvements must be completed within one year of recording the Final Plat, unless a different period is otherwise provided in the Development Agreement.

I. Road Access and Fire Hydrants

Road access must be provided as approved by the Town Engineer and a fire suppression system approved by the Town Council must be operational before any construction within the subdivision will be allowed to proceed above foundation level. Other appropriate restrictions contained in the International Building Code shall also apply.

J. Effect of Development Agreement

The effect of a Development Agreement shall be to create obligations from the developer to the Town and conditional vested rights for the area described in the Development Agreement as specified in said Agreement. Development Agreements do not insulate developments from changes in state or federal regulations, current approved International Fire Code and International Building Code.

K. Guarantees

Completion of the improvements identified in a Development Agreement shall be guaranteed by the method listed below. A separate guarantee shall be required for each phase of the development identified in the Development Agreement.

1. The developer shall place, in escrow, an amount equal to 120% of the estimated cost of the required improvements using an escrow agreement approved by the Town and held by a depository agent acceptable to the Town, with the estimated costs and the accumulated interest being released only after the Town has inspected and accepted the required improvements. A Development Agreement may provide for the phased release of portions of the funds in escrow as work proceeds, but an amount equal to the remaining improvement cost and at least 20% of the total shall be retained until all required improvements are installed, inspected, and accepted. If any required improvements are not completed as provided in the Development Agreement, the Town shall draw upon the escrow and use as much as necessary of the escrow account to complete those improvements and return any remaining balance after deduction of the costs of administration and enforcement of the escrow agreement to the developer.
2. Unless the required improvements have been completed, warranted, inspected and accepted by the Town prior to Plat recordation, an escrow shall be established before the Final Plat and Development Agreements are recorded.

L. Inspection and Acceptance of Improvements

Required improvements shall be inspected by the Town Engineer before acceptance. The final acceptance of required improvements shall be by approval of an escrow release by the Town Council, following submission of the developer's written request for acceptance and receipt of the Town Engineer's report that all improvements have been inspected and are in compliance with this Ordinance. Partial escrow release requests will be considered by the Town Council upon recommendation by the Town Engineer.

M. Inspection Fees

Fees for the inspection of required improvements shall be set at an amount which will assure reimbursement all of the Town's expenses and shall be paid in advance prior to the recordation of the final plat.

N. Reproducible Files

Reproducible and electronic files of as-built drawings of all improvements that will be dedicated to the public shall be provided to the Town at the developer's expense.

O. Warranty of Improvements - Maintenance

Required improvements shall be warranted by the developer for both materials and workmanship for two years after their acceptance. Such a warranty provision shall be included in all development agreements. Enforcement of the warranty shall be assured by one of the following:

1. Retention of 10% of the full improvements construction cost in the improvement completion escrow account;
2. Establishment of a new escrow account, in which an amount no less than 10% of the cost of the required improvements is deposited, and which shall be released, with accumulated interest, upon expiration of the warranty.

P. Continuing Maintenance Required

The continuing maintenance of any improvement required for compliance with this ordinance shall be required for a period of not less than two (2) years. Failure to maintain any required improvement shall be a violation of this Ordinance.

Q. Required Common Area Improvements Maintenance Mechanism

Any development that is subject to continuing maintenance requirements for required improvements such as multifamily residential development or condominiums shall create a community association. The developer shall submit the proposed declaration of covenants and restrictions, condominium declarations, articles of incorporation, and by-laws for the community association for review and approval by the Town Attorney and Town Council, and those documents shall be recorded before any development agreement is executed or any certificate of compliance is issued.

R. Developed and Landscaped Open Space Maintenance

The maintenance of any developed and/or landscaped open space required for compliance with this Ordinance shall include, but not be limited to: upkeep of landscaping, parks, trails, fencing, where required; control of noxious weeds; litter removal; and wildfire suppression. Maintenance activities shall not diminish the protected open space values (wetlands, slopes, etc.).

S. Maintenance of Landscaping

Maintenance of landscaped areas includes the installation and maintenance of an efficient irrigation system, timely irrigation, natural or biological weed and pest control, and all other activities required to maintain the function of the landscaped area. Sufficient water rights for the maintenance of landscaped areas shall be dedicated to the Town.

ARTICLE XII. Effective Date.

This Ordinance shall take effect upon its first posting.

Dated this _____ day of _____, 2004.

TOWN OF CASTLE VALLEY

Bruce Keeler, Mayor

ATTEST:

Clerk/Recorder

APPENDIX A – Design, Resource Impact and Conservation Standards

Applicability

The standards for design, and resource conservation, as set forth in this Appendix, shall apply to all subdivision and land developments in the Town and the standards for allowed areas of disturbance shall apply to all subdivisions. These standards shall be used by the Town in evaluating proposed subdivisions.

A. Location of House Sites

1. Applicants shall identify house site locations on each lot in a designated Allowed Area of Disturbance which shall be designed to: fit the tract's natural topography, served by adequate water and sewerage facilities, and provide views of and access to adjoining undisturbed areas (without encroaching upon them in a manner visually intrusive to users of such areas).
2. Applicants shall identify the Allowed Area of Disturbance for each house sites and the remaining natural areas in each plat.

B. Alignment of Streets and Trails

1. With house site locations identified, applicants shall delineate a street system to provide vehicular access to each house in a manner conforming to the tract's natural topography and providing for a safe pattern of circulation and ingress and egress to and from the tract.
2. Streets shall avoid or at least minimize adverse impacts on the undisturbed areas. To the greatest extent practicable, wetland crossings and new streets or driveways traversing slopes over 15 percent shall be avoided.
3. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the Town and to facilitate easy access to and from homes in different parts of the tract (and on adjoining parcels).
4. A tentative network of trails shall also be shown, connecting streets with various natural and cultural features in the conserved undisturbed lands. Potential trail connections to adjacent parcels shall also be shown, in areas where a Town trail network is envisioned.

C. General Standards to Minimize Adverse Impacts

All subdivisions and land developments shall avoid or minimize adverse impacts on the Town's natural, cultural and historic resources, as defined below.

In order to minimize land disturbance and to preserve the natural vegetation and wildlife habitat, any subdivision or land development plan shall reflect the standards set forth in Appendix A, and shall identify any/or all of the following resources as areas where development is prohibited.

1. Stream channels, floodplains, wet soils, washes, springs and other lowland areas, including adjacent buffer areas which may be required to insure their protection.
2. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.
3. Significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Statewide Natural Diversity Inventory.

4. Moderate to steep slopes, particularly those adjoining water courses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
5. Pinyon/Juniper woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.
6. Archaeological structures and sites.
7. Visually prominent topographic features such as mountains, mesas and rims, and scenic viewsheds.

D. Other Design Considerations.

All lands outside of the Allowed Area of Disturbance shall comply with the following standards:

1. They shall be free of all permanent structures.
2. They shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe and convenient pedestrian access to open space land.
3. They shall be interconnected wherever possible to provide a continuous network of open space lands within and adjoining the subdivision.
4. Except in those cases where part of the open space is located within private houselots, they shall provide for pedestrian pathways for use by the residents of the subdivision. Consideration shall be given to providing for public access on such trails if they are linked to other publicly-accessible pathway systems within the Town. Provisions should be made for access to the open space lands, as required for land management and emergency purposes.
5. They shall retain existing natural cover and wooded areas.
6. They shall be made subject to such agreement with the Town and such conservation easements duly recorded in the office of the County Recorder of Deeds as may be required by the Town Council for the purpose of preserving the common open space for such uses.
7. They shall be consistent with the Town's General Plan.

E. Conservation Practices During Site Preparation and Clean-Up

1. Protection of Vegetation from Mechanical Injury. Where earthwork, grading, or construction activities will take place the Allowed Area of Disturbance shall be delineated and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to commencing of and shall be maintained throughout the period of construction activity.
2. Protection of Vegetation from Grading Change. Grade changes to occur at any location of the property shall not result in an alteration to soil or drainage requirements which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.
3. Protection of Vegetation from Excavations
 - a. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be minimized.

- b. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible.

F. Permanent Fencing

No permanent fencing shall be allowed outside the Allowed Area of Disturbance on each lot.

G. Groundwater Resources

This section is intended to ensure that the Town's limited groundwater resources are protected for purposes of providing water supplies for its residents and conditional uses, and to protect the base flow of the Town's surface waters.

1. The proposed subdivision and land development of any tract shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table, through careful planning of vegetation and land disturbance activities, and the placement of streets, buildings and other impervious surfaces in locations other than those identified on the Existing Resources and Site Analysis Plan as having the greatest permeability where precipitation is most likely to infiltrate and recharge the groundwater. The Site Analysis Plan shall include aquifer hydrogeologic requirements related to the potential for contamination of the proposed water supply source; depth to groundwater information, aquifer thickness, hydraulic gradient, effective porosity, flow type (porous vs conduit flow), and water quality analysis.
2. The on-site wastewater analysis shall evaluate the safety and adequacy of proposed on-site (individual) wastewater systems. On-site wastewater systems shall not have an adverse impact on the aquifer and effluent from systems shall not surface or discharge to surface water, posing a threat to human health or the environment. The following considerations shall be addressed in this analysis:
 - a. soil types, including but not limited to percolation rates and the presence/absence of shallow impermeable layers
 - b. slope of ground surface
 - c. depth to groundwater
 - d. separation distances between septic systems and nearby wells
 - e. area needed for replacement drain field
 - f. demonstration that lot sizes will not create a density of septic systems such that effluent from septic systems will cause groundwater pollution from nitrates and coliform bacteria. This evaluation shall consider ambient nitrate concentrations and consider cumulative impacts on downgradient groundwater users. Site geology and hydrogeology must be included and the established septic density studies for Castle Valley must be utilized.

H. Stream Valleys, Washes, Springs, and Other Lowland Areas

The Town's Drainage Map describes and maps stream valleys (which include stream channels and flood plains), washes, springs and other lowland areas as resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems.

1. The following activities shall be minimized:
 - a. Disturbance to streams and drainage washes.

- b. Disturbance to year-round wetlands, areas with seasonally high water tables, and areas of surface water concentration.
- c. Because of their extreme limitations, stream valleys, washes and other lowland areas warrant designation as undisturbed lands. They may also require adjoining buffer lands to be included in the undisturbed lands, to be determined by an analysis of the protection requirements of such areas on a case-by-case basis.

I. Wildlife

Castle Valley is a major winter deer range. Mule deer and other wildlife live throughout the Town. The Town of Castle Valley is committed to supporting the diversity and health of the wildlife. The developer shall be responsible for providing an evaluation of wildlife that addresses all potential impacts to wildlife within Castle Valley. This evaluation shall be made with the assistance of the Utah Division of Wildlife Resource and experts approved by the Town. The evaluation shall include, but is not limited to:

- 1. Preservation of migration patterns
- 2. Protection of reproductive zones for large animals
- 3. Preservation of travel corridors
- 4. Habitat maintenance for existing wildlife
- 5. Preservation of existing species

The developer shall also include proposed ordinances addressing the following items:

- 1. Limitations on the number and type of pets that could have an adverse effect on wildlife
- 2. Methods for control of outdoor pets
- 3. Property owner landscaping that does not encourage wildlife damage to plants and property

J. Slopes

Moderately sloping lands (15 to 25 percent) and steeply sloping lands (over 25 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

- 1. Areas of steep slope shall be preserved as required below.
- 2. All grading and earthmoving on slopes exceeding 15 percent shall be minimized.
- 3. No site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a single family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25 percent is feasible.
- 4. On slopes of 15 to 25 percent, the only permitted grading beyond the terms described above, shall be in conjunction with the siting of a single family dwelling, its access driveway and the septic system (which should typically be designed with a long, narrow drainage field following the land contours.
- 5. Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds six feet, except where in the judgment of the Town Council no reasonable alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 ft. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

6. Development in areas predetermined to be geologic hazard zones shall not be allowed.

K. Significant Natural Areas and Features

Natural areas containing rare or endangered plants and animals exist throughout the Town. Some of these have been carefully documented, whereas for others, only their general locations are known. Applicants shall take all reasonable measures to protect these significant natural areas and features identified by the by the Applicant's Existing Resources and Site Analysis Plan by incorporating them into proposed open space areas or avoiding their disturbance in areas proposed for development.

L. Scenic Viewsheds

All applications for subdivision shall attempt to preserve the scenic visual corridors by incorporating them into open space areas or otherwise providing for building setbacks and architectural designs to minimize the intrusion of the subdivision on existing viewshed.

M. Trails

1. When a subdivision proposal is traversed by or abuts an existing trail customarily used by pedestrians and/or equestrians, the Town may require the Applicant to make provisions for continued recreational use of the trail.
2. The Applicant may alter the course of the trail within the tract for which development is proposed under the following requirements:
 - a. The points at which the trail enters and exits the tract remain unchanged.
 - b. The proposed alteration does not coincide with a paved road intended for use by motorized vehicles.
3. When trails are intended for public or private use, they shall be protected by a permanent conservation easement on the properties on which they are located. Trails shall be not more than two feet wide on a four-foot right-of-way. The language of the conservation easement shall be to the satisfaction of the Town.
4. Trail improvements shall demonstrate adherence to principles of quality trail design.
5. No trail shall be designed with the intent to accommodate motorized vehicles nor shall any such use be allowed.
6. The Applicant shall show the connection among trails from other parcels of land.