

**MILLARD COUNTY, UTAH
SUBDIVISION ORDINANCE**

A LAND USE ORDINANCE OF MILLARD COUNTY

Comprehensive Rewrite
Millard County Planning Commission Draft
6/3/2015
With Revisions to 9/29/2015

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CHAPTER 1 GENERAL PROVISIONS

Section 11-1-1—Short Title:

This Ordinance shall be known and may be cited as the Millard County Subdivision Ordinance and may be further identified as “the Ordinance,” “this Ordinance,” or “Subdivision Ordinance.” This Ordinance shall be codified as Title 11, Millard County Code, and is part of the Millard County’s Land Use Ordinances, as defined by Title 17 Chapter 27a Utah Code Annotated, 1953, as amended (“Act”). This Ordinance is a Land Use Ordinance of Millard County (“County”).

Section 11-1-2—Purposes:

This Ordinance is established to promote the purposes of the Act and to provide for the division of lands located in the unincorporated areas of the County.

Section 11-1-3—Enactment, Applicability and Conflict:

- 1) The Board of County Commissioners of Millard County, Utah (“BOCC”) adopts this Ordinance pursuant to the Act and other authorities and provisions of Utah and Federal statutory laws, and common law, as applicable.
- 2) This Ordinance shall take effect on _____ following its adoption by the BOCC.
- 3) Upon its effective date, this Ordinance shall repeal Title 11, Millard County Code in its entirety existing on the effective date of this Ordinance and shall govern and apply to the division of lands located within the unincorporated area of the County.
- 4) This Ordinance shall not nullify any laws, ordinances, or requirements that are more restrictive, but shall prevail notwithstanding any laws, ordinances, or requirements that are less restrictive.
- 5) The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and to avoid conflict with the laws of the United States of America, the State of Utah, or any other limitations imposed by law.
- 6) If any chapter, section, subsection, provision, or sentence of this Ordinance is declared unconstitutional by a court of competent jurisdiction; such determination shall not impair the validity of the remainder of this Ordinance; which shall remain in effect.
- 7) Applications accepted by the County as complete for any Application required by this Ordinance shall be processed, reviewed and approved or denied, subject to the provisions of this Ordinance and any other Ordinances and Resolutions of the County, as applicable, including the Land Use Ordinances Administrative Manual (“Administrative Manual”) in

effect on the date Application is determined to be “complete,” by the Millard County Planner/Zoning Administrator (“County Planner/Zoning Administrator”).

- 8) The provisions of this Ordinance shall apply to the division of all lands located within the unincorporated area of the County, unless exempted by the provisions of the Act, this Ordinance, or other lawful exemption.

Section 11-1-4—Omissions not a Waiver:

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

Section 11-1-5—Subdivision Defined:

For the purposes of this Ordinance (and the Act) “subdivision” means:

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

"Subdivision" includes:

- 1) The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
- 2) All divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes; unless exempted by the Act.

As provided by the Act “Subdivision” does not include:

- 1) A bona fide division or partition of agricultural land for agricultural purposes.¹
- 2) A recorded agreement between owners of adjoining properties adjusting their mutual boundary if;
 - a) No new lot is created; and
 - b) The adjustment does not violate any applicable Land Use Ordinance provision.
- 3) A boundary line agreement, as defined and provided by the Act.
- 4) A recorded agreement, executed by the owner of record:

¹ Agricultural land for agricultural purposes shall mean “land in agricultural use” as defined by Section 59-2-502(4) (UCA, or successor statutes).

- a) Revising the legal description of more than one contiguous unsubdivided parcels of property into one legal description encompassing all such parcels of property; or
 - b) Joining a subdivided parcel of property to an unsubdivided parcel of property if the joinder does not violate applicable Land Use Ordinances.
- 5) A bona fide division or partition of land for the purpose of siting, on one or more of the resulting separate parcels:
- a) An electrical transmission line or substation;
 - b) A natural gas pipeline or a regulation station; or
 - c) An unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.
- 6) 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.
- 7) A bona fide division or partition of land by deed or other instrument where the Land Use Authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.
- 8) A parcel boundary adjustment, as provided by the Act.
- 9) The joining of a subdivided parcel of property to a parcel that has not been subdivided does not constitute a “subdivision” as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Ordinance.

Section 11-1-6—Final Plat Required:

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

Section 11-1-7—Effect of the Community Association Act on an Existing Platted Lot:

An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

Section 11-1-8—Required County Notice:

Unless otherwise required herein the County notice requirement for various Subdivision

Applications, including but not limited to Non-Plat Subdivision, Minor Subdivision, Agricultural Land Subdivision, and Plat Subdivision Applications shall be deemed provided by the scheduling and noticing of the Application on a Land Use Authority meeting agenda when the Application is first considered, with such meeting notice being provided as required by law.

Section 11-1-9—Provision of Administrative Guidelines, Standards, and Other Materials – Compliance Required:

- 1) The BOCC may provide administrative guidelines, standards, reference materials, forms, or other documents to assist the County Planner/Zoning Administrator, County Staff, Land Use Authorities, County residents, and Applicants in providing and processing applications and interpreting and administering the County’s Land Use Ordinances, including this Ordinance.
- 2) The Applications required by this Ordinance shall be reviewed and approved or denied by the Land Use Authority, as applicable, in compliance with all requirements and standards of this Ordinance and the County’s other Ordinances and guidelines, as applicable.

Section 11-1-10—Subdivision Information – No Fees or Charges – Subdivision Sketch:

- 1) Prior to submitting an Application the Applicant is encouraged to contact the County Planner/Zoning Administrator for information related to Application procedures and standards for the type of Subdivision proposed. Such information shall be provided without any fees or charges.
- 2) Subdivision Sketch. A property owner, or authorized agent of an owner, may submit a subdivision sketch to the County Planner/Zoning Administrator for review. A subdivision sketch does not constitute any form of Application and any materials provided by the County Planner/Zoning Administrator are provided for information only and do not constitute a subdivision approval of any kind.

Section 11-1-11—Subdivision Application Fees and Charges:

For subdivision application fees and charges see Chapter 15, Millard County Administrative Manual.

Section 11-1-12—Approvals and Permits to Comply with this Ordinance:

- 1) From the effective date of this Ordinance, and unless exempt, no approval or permit shall be provided or issued by a Land Use Authority unless such approval or permit complies with the requirements of this Ordinance. Any approval or permit issued in conflict with the requirements of this Ordinance shall be void.
- 2) The County Building Official shall not issue a building permit unless the plans for the proposed construction, reconstruction, alteration, or use fully conform to all adopted County Land Use Ordinances, including but not limited to this Ordinance, Title 10, Millard County

Code (“Zoning Ordinance”) and the Building Codes, as adopted. The County may enforce this Ordinance by withholding building permits.

Section 11-1-13—Prohibited Acts:

- 1) A plat, recorded without the documentation and signatures required by this Ordinance shall be void.
- 2) A transfer of land pursuant to a void plat is voidable. An owner of any land located in a subdivision who transfers or sells such land before a Subdivision Application has been approved by the Land Use Authority, as applicable, and recorded in the Office of the Millard County Recorder, as required by this Ordinance is guilty of a violation of this Ordinance for each lot or parcel transferred or sold.
- 3) 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 or from the penalties or remedies provided by this Ordinance.
- 4) The recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Ordinance:
 - a) Does not affect the validity of the instrument or other document; and
 - b) Does not affect whether the property that is the subject of the instrument or other document complies with the County’s Land Use Ordinances.

Section 11-1-14—Restrictions for Solar and other Energy Devices:

The Millard County Planning Commission (“Planning Commission”) and the BOCC may refuse to approve an Application, required by this Ordinance, if binding agreements running with the land for the lots or parcels prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings or erected on the lots or parcels.

Section 11-1-15—Subdivision Approval Procedure – Effect of Non Compliance:

As provided by the Act:

- 1) A person may not submit a subdivision plat, or other instrument for recordation to the Millard County Recorder’s Office for recording unless:
 - a) The person has complied with the requirements of this Ordinance; and
 - b) The subdivision has been approved by the Land Use Authority, as applicable, as evidenced by an accompanying Certificate of Approval, signed by the Chair, or designee, of the Land Use Authority.

Section 11-1-16—Enforcement:

For enforcement, remedies, and penalties for violations of this Ordinance see Title 10, Chapter 23, Millard County Code (Zoning Ordinance).

Section 11-1-17—When an Applicant is Entitled to Approval of an Application County may not Impose Requirements that are Unexpressed. County Required to Comply with the Requirements of this Ordinance:

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

- 1) The BOCC has adopted a temporary regulation, as allowed by the Acct, that prohibits a Land Use Authority approving the Application; or
- 2) Prior to the Application being submitted a Land Use Authority has commenced discussion of possible Land Use Ordinance amendments, including amendments to this Ordinance, that would prohibit approval of the Application as submitted.
- 3) The County shall process an Application required by this Ordinance without regard to proceedings initiated to amend the County's Land Use Ordinances if:
 - a) One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
 - b) The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
- 4) If the Application conforms to the requirements of this Ordinance, and the County's other Land Use Ordinances, and the Administrative Manual, the Application shall be approved.
- 5) The County shall not impose on an Applicant any requirement that is not expressed:
 - a) In the approval required by this Ordinance, or in documents on which such approval is based; or
 - b) In this Ordinance, or in the County's other Land Use Ordinances, including the Zoning Ordinance.
- 6) The County shall be bound by the terms and standards of this Ordinance, and the County's other Land Use Ordinances, and Administrative Manual, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances.

- 7) The County shall process and render a decision on an Application with all reasonable diligence.

Section 11-1-18—County Imposed Requirements and Exactions on Application Approval:

For County imposed requirements and exactions see Title 10, Chapter 2, Section 8, Millard County Code (Zoning Ordinance).

Section 11-1-19—Acquiring Property:

For property acquisitions see Title 10, Chapter 2, Section 10 Millard County Code (Zoning Ordinance).

Section 11-1-20—Minimum Domestic Water Standard:

All lots or parcels created after the effective date of this Ordinance and not included within the service area of a domestic (culinary) water system regulated by the Central Utah Health Department or the Utah Department of Environmental Quality shall provide written evidence of water rights sufficient to demonstrate a minimum of 1.0 acre-foot of water dedicated to each lot or parcel proposed to be created.

Section 11-1-21—Appeals:

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

CHAPTER 2 NON-PLAT SUBDIVISIONS

Section 11-2-1—Purpose:

This Chapter and the Administrative Manual identifies and provides standards for Non-Plat Subdivisions including standards to determine compliance with this Ordinance.

Section 11-2-2—Non-Plat Subdivision Defined:

A Non-Plat Subdivision shall mean;

- 1) The division of unincorporated land into ten (10) lots or less without a plat, by certifying in writing that:
 - a) The County has provided notice as required by the Act and Section 11-1-8 of this Ordinance; and
 - b) The proposed division:
 - i) Is not traversed by the mapped lines of a proposed road or street as shown in the County general plan; and
 - ii) Does not require the dedication of any land for a road, street or other public purposes. (The dedication of any land for a road, street or other public purpose requires a Plat Subdivision Application, as provided by this Ordinance).
- 2) Conforms to all applicable Zoning Ordinance requirements including meeting the minimum lot size and other standards of the zoning district in which the property is located, or has received a variance from such requirements or standards from an otherwise conflicting and applicable land use ordinance (see §17-27a-605, UCA).
- 3) Complies with all applicable water and sanitary sewer system service requirements and the standards of the County Recorder's Office for recordation.

Section 11-2-3—Fire Authority Recommendation:

All Non-Plat Subdivision Applications are strongly encouraged to include in the Application materials a written recommendation from the fire authority (as applicable).²

Section 11-2-4—One-Time Non-Plat Subdivision Approval:

² The Fire Authority is the public fire protection department, agency, or other public entity responsible for fire protection services and with the responsibility to review the feasibility of proposed fire protection and suppression services for the subject property. A map identifying Fire Authorities, and their respective service areas, is available from the County Planner/Zoning Administrator

A Non-Plat Subdivision Application approval shall be utilized only once per original parcel of property.³ Property subdivided under these provisions shall be deed restricted with a notation on the documents of recordation that this one time division has occurred as a Non-Plat Subdivision and the resulting lots, including any portion of the original parcel of property, may not be further subdivided without the approval and recordation of a Final Plat, as required by the Subdivision Ordinance.

Section 11-2-5—Planning Commission the Land Use Authority for Non-Plat Subdivisions:

The Planning Commission is authorized as the Land Use Authority to approve, approve with revisions, or deny Non-Plat Subdivision Applications.

Section 11-2-6—Review Procedures and Application Requirements:

- 1) The procedures for the review of a Non-Plat Subdivision Application are identified by Chapter _____, Administrative Manual (Figure 1 herein).
- 2) The Application requirements for a Non-Plat Subdivision Application are identified by Chapter _____, Administrative Manual (Figure _____ herein).

Section 11-2-7—Non-Plat Subdivision Applications – Review and Approval Standards:

In considering and deciding a Non-Plat Subdivision Application the Planning Commission shall determine:

- 1) The proposed subdivision is located within the unincorporated area of the County.
- 2) The subdivision is proposing 10 lots, or less, that includes all area(s) of the original parcel of property within a lot. (No remnant property outside of a lot shall be allowed).
- 3) The County has provided notice as required by Section 11-1-8 of this Ordinance.
- 4) A drawing is provided of the Non-Plat Subdivision layout and a description is provided for each proposed lot, including a revised description of the original parcel of property. This drawing shall identify the location, dimensions, and size of all proposed lots, complying with the minimum requirements of the zoning district in which the Non-Plat Subdivision is located, or has received a variance from such requirements from an otherwise conflicting and applicable land use ordinance (see §17-27a-605, UCA).
- 5) The proposed Non-Plat Subdivision:
 - a) Is not traversed by the mapped lines of a proposed road or street as shown in the County general plan; and

³ “Original Parcel of Property” means the property existing and described in the Office of the Millard County Recorder on the date of submission of the Non-Plat Subdivision Application.

- b) Does not require the dedication of any land for a road or street or other public purposes.
- 6) The Applicant has provided;
- a) Written evidence of access to a public or private domestic water system regulated by the Central Utah Health Department or the Utah Department of Environmental Quality.
 - i) If connection to a regulated water system is not possible then written evidence is provided of water rights sufficient to supply a minimum of 1.0 acre-foot of water dedicated to each proposed lot.
 - b) A written feasibility approval from the sanitary sewer authority (as applicable).⁴
 - c) Any written recommendation or other materials provided by a fire authority (as applicable); and
- 7) No land within the proposed Non-Plat Subdivision is located within any other recorded subdivision.
- 8) The proposed Non-Plat Subdivision will not land lock any lots within the Non-Plat Subdivision.

Section 11-2-8—Reasonable Requirements Authorized:

- 1) The Planning Commission may require onsite and offsite improvements, facilities, services, and amenities, provided by the Applicant(s), such improvements, facilities, services, and amenities being determined by the Planning Commission to be necessary and consistent with the standards of Section 11-1-18 herein.
- 2) As determined by the Planning Commission a Non-Plat Subdivision may be required to provide improvements to an already dedicated road or street, or other land previously dedicated for other public purposes, if such improvements are found to comply with the standards of Section 11-1-18 herein.

Section 11-2-9—Necessary Findings:

- 1) The Planning Commission in approving a Non-Plat Subdivision Application, with or without requirements, shall find that all procedures and requirements of this Ordinance, including Section 11-2-7 herein have been met.
- 2) If all the requirements of this Ordinance, including Section 11-2-7 herein, have not been met the Planning Commission shall deny the Non-Plat Subdivision Application.

⁴ The Sanitary Sewer Authority may be the Central Utah Public Health Department or the Utah Department of Environmental Quality.

Section 11-2-10—Planning Commission Certificate of Approval Required – Effect of Planning Commission Approval:

- 1) Certificate of Approval. Following the Planning Commission’s approval of a Non-Plat Subdivision Application, with or without requirements, the Planning Commission Chair, or designee, shall sign a Certificate of Approval.
- 2) The approval of a Non-Plat Subdivision Application, with or without requirements, by the Planning Commission and the Certificate of Approval shall constitute the County’s final approval of the Application.

Section 11-2-11—Recordation of Non-Plat Subdivision and Certificate of Approval – Continuing Validity:

- 1) After a Non-Plat Subdivision Application has been approved by the Planning Commission the approved Non-Plat Subdivision, the Certificate of Approval, and any other required materials shall be presented to the County Planner/Zoning Administrator for recordation in the Office of the Millard County Recorder.
- 2) After the approved Non-Plat Subdivision, the Certificate of Approval, and any other required materials have been recorded, the Applicant(s) may apply for building permits consistent with the Non-Plat Subdivision approval and County requirements for such permits.
- 3) The Applicant is required to pay all fees, including copies, for the recordation of the approved Non-Plat Subdivision, the Certificate of Approval, and any other required materials.
- 4) As provided by the Act, the continuing validity of a Non-Plat Subdivision Application approval is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance the approval of a Non-Plat Subdivision Application shall be effective for a maximum period of one hundred twenty (180) calendar days from the date of approval by the Planning Commission at the end of which time the Applicant(s) shall have submitted the approved Non-Plat Subdivision to the County Planner/Zoning Administrator for recordation. If the approved Non-Plat Subdivision is not received by the County Planner/Zoning Administrator, within one hundred twenty (180) calendar days of approval, the Non-Plat Subdivision Application approval shall be declared void and of no effect.

Section 11-2-12—Recordation of Non-Plat Subdivision without Planning Commission Certificate of Approval:

- 1) A Non-Plat Subdivision recorded in the County Recorder's Office that divides property either by a metes and bounds description or by any other description does not create an approved Non-Plat Subdivision unless the Planning Commission’s signed Certificate of Approval is

attached.

- 2) The absence of the Planning Commission’s Certificate of Approval required does not:
 - a) Prohibit the County Recorder from recording a document; or
 - b) Affect the validity of a recorded document.
- 3) A Non-Plat Subdivision that does not meet the requirements of this Ordinance may be corrected by recording an affidavit to which the Planning Commission’s Certificate of Approval is attached. A Planning Commission’s Certificate of Approval shall only be provided after the completion of all procedures identified by this Chapter.

Section 11-2-13—Non-Plat Subdivision Work:

No excavation or grading shall take place, and no building permit(s) shall be issued by the County, until the approved Non-Plat Subdivision, the Certificate of Approval and any other required materials have been recorded in the Office of the Millard County Recorder.

Section 11-2-14—Appeal of Non-Plat Subdivision Application Decisions:

Any person(s) aggrieved by a decision of the Planning Commission for a Non-Plat Subdivision Application may appeal the decision to the Land Use Hearing Officer (LUHO).

CHAPTER 3 MINOR SUBDIVISIONS

Section 11-3-1—Purpose:

This Chapter identifies and provides standards for Minor Subdivisions including standards to determine compliance with the Act.

Section 11-3-2—Minor Subdivisions Exempt from this Ordinance:

As provided by the Act a Minor Subdivision is exempt from the provisions of this Ordinance.

Section 11-3-3—Minor Subdivision Defined:

Minor Subdivision shall mean:

A division of at least 100 contiguous acres of agricultural land to create one (1) new lot that, after the division, is separate from the remainder of the original 100, or more, contiguous acres of agricultural land.

"Minor Subdivision lot" shall mean the lot created by a Minor Subdivision.

Section 11-3-4—Standards Required for a Minor Subdivision Lot:

As required by the Act all of the following standards shall be met to qualify as a Minor Subdivision Lot:

- 1) The Minor Subdivision shall be located in the unincorporated area of the County.
- 2) A Minor Subdivision shall be a division of at least one-hundred (100) contiguous acres of agricultural land.
- 3) A Minor Subdivision lot shall:
 - a) Not be less than one (1) acre in size; and
 - b) Not be within 1,000 feet of another minor subdivision lot.

Section 11-3-5—Minor Subdivisions Exempt from this Ordinance:

A Minor Subdivision creating one (1) Minor Subdivision Lot shall be exempt from this Ordinance. To be exempt the Minor Subdivision shall meet the following standards:

- 1) An owner of at least 100 contiguous acres of agricultural land may make a Minor Subdivision by submitting for recording in the Office of the Millard County Recorder:

- a) A recordable deed containing the legal description of the Minor Subdivision lot; and
 - b) An Owner’s Notice:
 - i) Indicating that the owner of the land to be divided is making a Minor Subdivision;
 - ii) Referring specifically to Section 17-27a-605(4) (UCA, or successor statutes) as the authority for making the Minor Subdivision; and
 - iii) Containing the legal description of:
 - (1) The land to be divided (the description of the 100, or more, contiguous acres of agricultural land to be divided); and
 - (2) The Minor Subdivision Lot.
- 2) A Minor Subdivision Lot shall:
 - a) Not be less than one (1) acre in size; and
 - b) Not located within 1,000 feet of another Minor Subdivision Lot.
 - 3) Land divided by a Minor Subdivision may not include any previously divided land.

Section 11-3-6—Minor Subdivision – Eligible for Building Permits:

- 1) Minor Subdivisions meeting all of the standards of Section 11-3-5 herein may not be denied a building permit based on:
 - a) The lot's status as a Minor Subdivision Lot; or
 - b) The absence of standards applicable that the County has not previously established or made public.
- 2) In connection with the issuance of a building permit, the County may subject a Minor Subdivision Lot to reasonable health, safety, and access standards that the County has established and made public, and that are applicable to all similar building permits.

Section 11-3-7—Minor Subdivision Lot – Building Permit Requirements:

For the purposes of meeting the requirements of Section 11-3-6 the County identifies the following standards for the issuance of a building permit for a Minor Subdivision Lot.

- 1) Provide to the County Planner/Zoning Administrator:
 - a) Written evidence of access to a public or private domestic water system regulated by the Central Utah Health Department of the Utah Department of Environmental Quality.
 - i) If a connection to a regulated water system is not possible then written evidence is provided of water rights sufficient to supply a minimum of 1.0 acre-foot of water dedicated to the Minor Subdivision Lot.

- b) A written feasibility approval from the sanitary sewer authority (as applicable).⁵
- 2) Provide plans and other required information complying with the standards and requirements of the County’s Building Codes, as adopted.

Section 11-3-7—Appeal of Minor Subdivisions:

Any person(s) aggrieved by a County’s administration of a Minor Subdivision may appeal the decision to the Land Use Hearing Officer (LUHO).

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⁵ The Sanitary Sewer Authority may be the Central Utah Public Health Department or the Utah Department of Environmental Quality with the responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

CHAPTER 4 AGRICULTURAL LAND SUBDIVISIONS

Section 11-4-1—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards for Agricultural Land Subdivisions including standards to determine compliance with this Ordinance.

Section 11-4-2—Agricultural Land Subdivision Defined:

Agricultural Land Subdivision shall mean:

- 1) The division of agricultural land into ten (10) lots or less without a plat, by certifying in writing that:
 - a) Proposes the division of land in agricultural use as defined by Section 59-2-502(4) ([UCA] or successor statutes).
 - b) The County has provided notice as required by the Act and Section 11-1-8 of this Ordinance; and
 - c) The proposed division:
 - i) Is not traversed by the mapped lines of a proposed road or street as shown in the County general plan; and
 - ii) Does not require the dedication of any land for a road, street or other public purposes. (The dedication of any land for a road, street or other public purpose requires a Plat Subdivision Application, as provided by this Ordinance).
- 2) Conforms to all applicable Zoning Ordinance requirements including meeting the minimum lot size and other standards of the zoning district in which the property is located, or has received a variance from such requirements or standards from an otherwise conflicting and applicable land use ordinance (see §17-27a-605, UCA).
- 3) Complies with all applicable standards of the County Recorder’s Office for recordation.

Section 11-2-3—One-Time Agricultural Land Subdivision Approval:

An Agricultural Land Subdivision Application approval shall be utilized only once per original parcel of property.⁶ Property subdivided under these provisions shall be deed restricted with a notation on the documents of recordation that this one time division has occurred as an Agricultural Land Subdivision and the resulting lots, including any portion of the original parcel

⁶ “Original Parcel of Property” means the property existing and described in the Office of the Millard County Recorder on the date of submission of the Agricultural Land Subdivision Application.

of property, may not be further subdivided without the approval and recordation of a Final Plat, as required by the Subdivision Ordinance.

Section 11-4-4—Planning Commission the Land Use Authority for Agricultural Land Subdivisions:

The Planning Commission is authorized as the Land Use Authority to approve, approve with revisions, or deny Agricultural Land Subdivision Applications.

Section 11-4-5—Review Procedures and Application Requirements:

- 1) The procedures for the review of an Agricultural Land Subdivision Application are identified by Chapter _____, Administrative Manual (see also Figure 3 herein).
- 2) The Application requirements for an Agricultural Land Subdivision Application are identified by Chapter ____, Administrative Manual (see also Figure ____ herein).

Section 11-4-6—Agricultural Land Subdivision – Review and Approval Standards:

In considering and deciding an Agricultural Land Subdivision Application the Planning Commission shall determine:

- 1) The proposed subdivision is located within the unincorporated area of the County.
- 2) The subdivision is proposing 10 lots, or less, that includes all area(s) of the original parcel of property within a lot. (No remnant property located outside of a lot shall be allowed.)
- 3) The County has provided notice as required by Section 11-1-8 of this Ordinance.
- 4) Proposes the division of land in agricultural use, as defined by Section 59-2-502(4) (UCA, or successor statutes).
- 5) A drawing is provided of the Agricultural Land Subdivision layout and a description is provided for each proposed lot, including a revised description of the original parcel of property. This drawing shall identify the location, dimensions, and size of all proposed lots, complying with the requirements of the zoning district in which the Agricultural Land Subdivision is located or has received a variance from such requirements from an otherwise conflicting and applicable land use ordinance (see §17-27a-605, UCA).
- 6) The proposed Agricultural Land Subdivision:
 - a) Is not traversed by the mapped lines of a proposed road or street as shown in the County general plan; and
 - b) Does not require the dedication of any land for a road, street or other public purposes.

- 7) As required by §17-27a-605(2)(a)(ii) (UCA, or successor statutes) the owner will submit for recording in the Office of the Millard County Recorder an “Owner’s Notice:”
 - a) Indicating that the owner of the land is making an Agricultural Land Subdivision.
 - b) Referring specifically to Chapter 4, Millard County Subdivision Ordinance, as the authority for making the Agricultural Land Subdivision.
 - c) Containing the legal description of:
 - i) The agricultural land to be divided; and
 - ii) Each agricultural lot, including any remaining original parcel.
 - d) Stating that each agricultural lot is created for agricultural purposes only (as defined by Section 11-4-2 herein and shall remain in agricultural use until a future zoning change permits other uses.
 - e) Agreeing that each agricultural lot may be eligible for an agricultural exemption verification to construct agricultural buildings only and lots are not eligible for any other buildings or structures, including any residential dwelling, until the requirements for such permits are met that includes, as required by §17-27a-605(2)(b) (UCA, or successor statute), a Plat Subdivision Application approval.
- 8) No land within the proposed Agricultural Land Subdivision is located within any other recorded subdivision.

Section 11-4-7—Necessary Findings:

- 1) The Planning Commission in approving an Agricultural Land Subdivision shall find that all procedures and requirements of this Ordinance, including Section 11-4-6 herein have been met.
- 2) If all the requirements of this Ordinance, including Section 11-4-6 herein, have not been met the Planning Commission shall deny the Agricultural Land Subdivision Application.

Section 11-4-8—Planning Commission Certificate of Approval Required – Effect of Planning Commission Approval:

- 1) Certificate of Approval. Following the Planning Commission’s approval of an Agricultural Land Subdivision, with or without requirements, the Planning Commission Chair, or designee, shall sign a Certificate of Approval.
- 2) The approval of an Agricultural Land Subdivision, with or without requirements, by the Planning Commission and the Certificate of Approval shall constitute the County’s final approval of the Application.

Section 11-4-9—Recordation of Agricultural Land Subdivision, Owner’s Notice, and Certificate of Approval – Continuing Validity:

- 1) After an Agricultural Land Subdivision has been approved by the Planning Commission, the

Owner's Notice, the Certificate of Approval, and any other required materials shall be presented to the County Planner/Zoning Administrator for recordation in the Office of the Millard County Recorder.

- 2) After the approved Agricultural Land Subdivision, the Owner's Notice, the Certificate of Approval, and any other required materials have been recorded, the Applicant(s) may be eligible for an agricultural exemption verification to construct agricultural buildings only consistent with the Agricultural Land Subdivision approval, the Owner's Notice, and County requirements for such permits.
- 3) The Applicant is required to pay all fees, including copies, for the recording of the approved Agricultural Land Subdivision, Owner's Notice, Certificate of Approval, and any other required materials.
- 4) As provided by the Act, the continuing validity of an Agricultural Land Subdivision Application approval is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance the approval of an Agricultural Land Subdivision Application shall be effective for a maximum period of one hundred twenty (180) calendar days from the date of approval by the Planning Commission at the end of which time the Applicant(s) shall have submitted the approved Agricultural Land Subdivision and the Owner's Notice to the County Planner/Zoning Administrator for recordation. If the Agricultural Land Subdivision and the Owner's Notice is not received by the County Planner/Zoning Administrator, within one hundred twenty (180) calendar days of approval, the Agricultural Land Subdivision Application approval shall be declared void and of no effect.

Section 11-4-10—Recordation of Agricultural Land Subdivision without Planning Commission Certificate of Approval:

- 1) An Agricultural Land Subdivision recorded in the County Recorder's Office that divides agricultural property either by a metes and bounds description or by any other description does not create an approved Agricultural Land Subdivision unless the Planning Commission's signed Certificate of Approval is attached.
- 2) The absence of the Planning Commission's Certificate of Approval does not:
 - a) Prohibit the County Recorder from recording a document; or
 - b) Affect the validity of a recorded document.
- 3) An Agricultural Land Subdivision that does not meet the requirements of this Ordinance may be corrected by the recording of an affidavit to which the Planning Commission's Certificate of Approval is attached. A Planning Commission's Certificate of Approval shall only be provided after the completion of all procedures identified by this Chapter.

Section 11-4-11—Agricultural Land Subdivision Work:

No building permit(s) to allow the construction of any agricultural building(s) shall be issued by the County until the approved Agricultural Non-Plat Subdivision, Owner's Notice, and Certificate of Approval have been recorded in the Office of the Millard County Recorder.

Section 11-4-12—Appeal of Agricultural Land Subdivision Application Decisions:

Any person(s) aggrieved by a decision of the Planning Commission for an Agricultural Land Subdivision Application may appeal the decision to the Land Use Hearing Officer (LUHO).

DRAFT

CHAPTER 5 PLAT SUBDIVISIONS

Section 11-5-1—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards for Plat Subdivisions including standards to determine compliance with this Ordinance.

Section 11-5-2—Plat Subdivision Defined:

A Plat Subdivision shall mean;

- 1) The division of unincorporated land into any number of lots by recording a Final Plat.
- 2) The County has provided notice as required by the Act and Section 11-1-8 of this Ordinance.
- 3) Conforms to all applicable Zoning Ordinance requirements including meeting the minimum lot size and other standards of the zoning district in which the property is located, or has received a variance from such requirements or standards from an otherwise conflicting and applicable land use ordinance (see §17-27a-605, UCA).
- 4) All water, sanitary sewer, fire protection and suppression, roads, streets and access requirements, and all other utilities and services conform to the design standards of the County or service provider, as applicable.
- 5) Conforms to the standards of the County Recorder’s Office for recordation.

Section 11-5-3—Board of County Commissioners the Land-Use Authority for Plat Subdivisions:

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

Section 11-5-4—Review Procedures and Application Requirements:

- 1) The procedures for the review of a Plat Subdivision Application are identified by Chapter ____, Administrative Manual (see Figure 4 herein).
- 2) The Application requirements for a Plat Subdivision Application are identified by Chapter ____, Administrative Manual.

Section 11-5-5—Plat Subdivision Applications – Review Procedures:

The approval of a Plat Subdivision Application requires a three-step review process as follows:

- 1) Review of the Preliminary Subdivision Plat and recommendation by the Planning Commission to the BOCC.
- 2) Review of the Planning Commission recommendation and Preliminary Subdivision Plat by the BOCC.
- 3) Within one hundred twenty (180) calendar days following Preliminary Subdivision Plat approval by the BOCC, review and approval of the Final Subdivision Plat by the BOCC.

Section 11-5-6—Plat Subdivision Applications – Review and Approval Standards:

The Planning Commission in formulating a recommendation, and the BOCC in deciding a Plat Subdivision Application, shall determine:

- 1) The proposed subdivision is located within the unincorporated area of the County.
- 2) The subdivision is proposing the creation of lots that includes all areas of the original parcel of property within lots, road or street rights-of-way, or other private or public spaces. (No remnant property outside of any lot, road or street right-of-way or other private or public spaces shall remain.)
- 3) The County has provided notice as required by Section 11-1-8 of this Ordinance.
- 4) A Preliminary Plat and Final Plat is provided that:
 - a) Identifies the location, dimensions, and size of all proposed lots, roads, streets, and other spaces, accurate in scale, dimension, and bearing and meeting all County design standards. All lots comply with the minimum lot requirements of the zoning district in which the Plat Subdivision is located, or has received a variance from such requirements for an otherwise conflicting and applicable land use ordinance.
 - b) Identifies all other private and/or public spaces, as necessary.
- 5) The Applicant has provided;
 - a) Written evidence of access to a public or private domestic water system regulated by the Central Utah Health Department or the Utah Department of Environmental Quality.
 - i) If a connection to a regulated water system is not possible then written evidence of water rights sufficient to supply a minimum of 1.0 acre-foot of water dedicated to each proposed lot.

- ii) A written feasibility approval from the sanitary sewer authority (as applicable).⁷
 - iii) A written recommendation from the fire authority (as applicable);⁸ and
- 6) All roads, streets and access requirements, and all utilities and services comply with the standards of the County, or other service provider, as applicable.
 - 6) No land within the proposed Plat Subdivision is located within any other recorded subdivision.
 - 7) The proposed Plat Subdivision will not land lock any lots or property(ies) within the Plat Subdivision.

Section 11-5-7—Reasonable Requirements Authorized:

- 1) The Planning Commission in formulating a recommendation, and the BOCC in deciding a Plat Subdivision Application, may require onsite and offsite improvements, facilities, services being determined by the BOCC to be necessary and consistent with the requirements of Section 11-1-18 herein.
- 2) As determined by the BOCC a Plat Subdivision may be required to provide improvements to an already dedicated road or street, or other land previously dedicated for other public purposes, if such improvements are found to comply with the standards of Section 11-1-18 herein.

Section 11-5-8—Necessary Findings:

- 1) The Planning Commission in providing a recommendation, and the BOCC in approving a Plat Subdivision Application, with or without requirements, shall find that all procedures and requirements of this Ordinance, including Section 11-5-6 herein have been met.
- 2) If all the requirements of this Ordinance, including Section 11-5-6 herein, have not been met the BOCC shall deny the Plat Subdivision Application.

Section 11-5-9—Validity and Expiration of BOCC Preliminary Plat Approval:

⁷ The Sanitary Sewer Authority may be the Central Utah Public Health Department or the Utah Department of Environmental Quality with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

⁸ The Fire Authority is the public fire protection department, agency, or other public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property. A map identifying the Fire Authorities, and their respective service areas, is available from the County Planner/Zoning Administrator,

The continuing validity of a Preliminary Plat approval is conditioned upon the Applicant(s) proceeding after approval to present a Final Plat for consideration by the BOCC. For the purposes of this Ordinance the approval of a Preliminary Plat shall be effective for a maximum period of one hundred twenty (180) calendar days from the date of approval by the BOCC at the end of which time the Applicant(s) shall have submitted a Final Plat for BOCC. If a Final Plat is not received by the County Planner/Zoning Administrator within one hundred twenty (180) calendar days of Preliminary Plat approval, the Preliminary Plat approval shall be declared to be void and of no effect.

Section 11-5-10—Recordation of Final Plat and Certificate of Approval – Continuing Validity:

- 1) After a Final Plat has been approved by the BOCC, and signed as required, the approved Final Plat, and any other required materials shall be presented to the County Planner/Zoning Administrator for recordation in the Office of the Millard County Recorder.
- 2) After the approved Final Plat, and any other materials have been recorded, the Applicant(s) may apply for building permits consistent with the Final Plat approval and County requirements for such permits.
- 3) The Applicant is required to pay all fees, including copies, for the recordation of the approved Final Plat, and any other required materials.
- 4) As provided by the Act, the continuing validity of a Final Plat approval is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance the approval of a Final Plat approval shall be effective for a maximum period of one hundred twenty (180) calendar days from the date of approval by the BOCC-at the end of which time the Applicant(s) shall have submitted the approved Final Plat to the County Planner/Zoning Administrator for recordation. If the approved Final Plat is not received by the County Planner/Zoning Administrator within one hundred twenty (180) calendar days of approval, the Final Plat shall be declared void and of no effect.

Section 11-5-11—Recordation of Final Plat without Necessary Signatures:

- 1) A Final Plat, or other related document recorded in the Millard County Recorder's Office does not create an approved subdivision unless the signed by the BOCC Chair, or authorized designee, and others as required.
- 2) The absence of the required signatures does not:
 - a) Prohibit the County Recorder from recording a document; or
 - b) Affect the validity of a recorded document.
- 3) A Final Plat that does not meet the requirements of this Ordinance may be corrected by the

recording of an affidavit to which the required signatures are attached. A BOCC Chair, or authorized designee, signature shall only be provided after the completion of all procedures and requirements identified by this Chapter.

Section 11-5-12—Subdivision Work:

Except as provided by Section 11-5-14 herein no vegetation removal, grading, regrading, or the installation of any subdivision improvements or utilities shall occur until a Final Plat has been approved and recorded in the Office of the Millard County Recorder.

Section 11-5-13—Subdivision Improvement Installation and Maintenance:

- 1) Prior to the recording of the Final Plat and as a requirement for Final Plat approval the BOCC shall require the Applicant(s) post with the County:
 - a) An Improvement Completion Assurance in the form of a cash deposit, surety bond, letter of credit, or other similar security for review and recommendation by the County Attorney, and approval by the BOCC, in an amount of not less than 125% of the lesser of:
 - i) The County Engineer’s estimated cost of completion; or
 - ii) The Applicant(s) reasonable proven cost of completion.
 - b) An Improvement Warranty, to be established for a minimum 12-month warranty period after the acceptance of all improvements proposed to be dedicated to Millard County, in the form of a cash deposit, surety bond, letter of credit, or other similar security for review and recommended by the County Attorney, and approval by the BOCC, in an amount of up to 10% of the lesser of:
 - i) The County Engineer’s original estimated cost of completion; or
 - ii) Applicant(s) reasonable proven cost of completion.
- 2) The maintenance and other all obligations associated with subdivision improvements not dedicated to Millard County shall remain the responsibility of the Applicant(s), or the owner of such improvements.

Section 11-5-14—Installation and Completion of all Required Subdivision Improvements Prior to Final Plat Approval and Recordation:

- 1) For Plat Subdivision Applications proposing to install and complete all required subdivision improvements after Preliminary Plat approval but prior to Final Plat approval and recordation, the Applicant(s) shall provide the following materials with the Preliminary Plat for review and recommendation by the Planning Commission and approval by the BOCC:
 - a) The boundary, course, dimensions, and intended use of all rights-of-way and easement grants of record.

- b) The location of all existing underground and above grade utilities.
 - c) Any conditions or restrictions governing the location of the subdivision improvements within rights-of-way or easement grants of record. The proposed owner or operator of the improvements shall provide approval and acceptance of the subdivision improvements in writing.
 - d) Full engineering design and construction plans for all public and quasi-public subdivision services and improvements as approved and complying with all design specifications and construction requirements of the proposed owner or operator, as evidenced in writing by the proposed owner or operator.
 - e) The Applicant's engineer's cost estimates for the installation of all required subdivision improvements for review by the County Engineer.
 - f) The necessary Improvement Completion Assurance, as required by Section 11-5-13.
 - g) The necessary Improvement Warranty, as required by Section 11-5-13.
- 2) When all subdivision improvements have been completed, inspected and accepted by the owner or operator the Applicant(s) shall apply for Final Plat approval.

Section 11-5-15—Appeal of Plat Subdivision Application Decisions:

Any person(s) aggrieved by a decision of the BOCC for a Plat Subdivision Application may appeal the decision to the Land Use Hearing Officer (LUHO).

CHAPTER 6
AMENDING OR VACATING A RECORDED PLAT

Section 11-6-1—Amendment to Recorded Plats:

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

Section 11-6-2—Vacating or Altering a Road or Street:

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

Section 11-6-3—Appeal of Plat Amendment Decisions:

Any person(s) aggrieved by a decision of the BOCC concerning a vacation or amendment of a recorded plat, any portion of a recorded plat, or the decision of the BOCC concerning the vacation or alteration of a road or street may appeal the decision to District Court.

Figure 1

PROCEDURES FOR NON-PLAT SUBDIVISION BY THE PLANNING COMMISSION

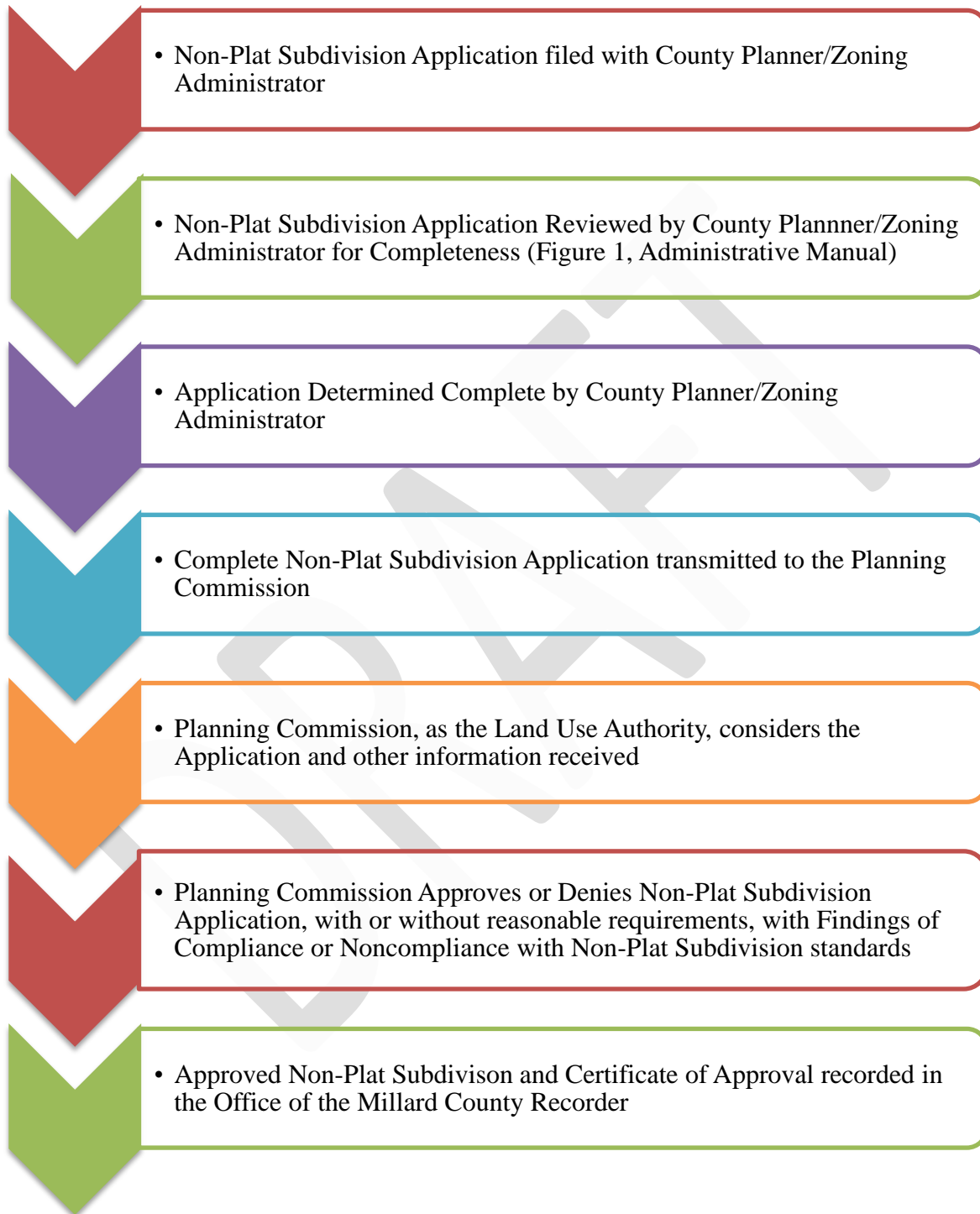


Figure 2
PROCEDURES FOR MINOR SUBDIVISION



Figure 3
PROCEDURES FOR AGRICULTURAL LAND SUBDIVISION BY THE PLANNING COMMISSION

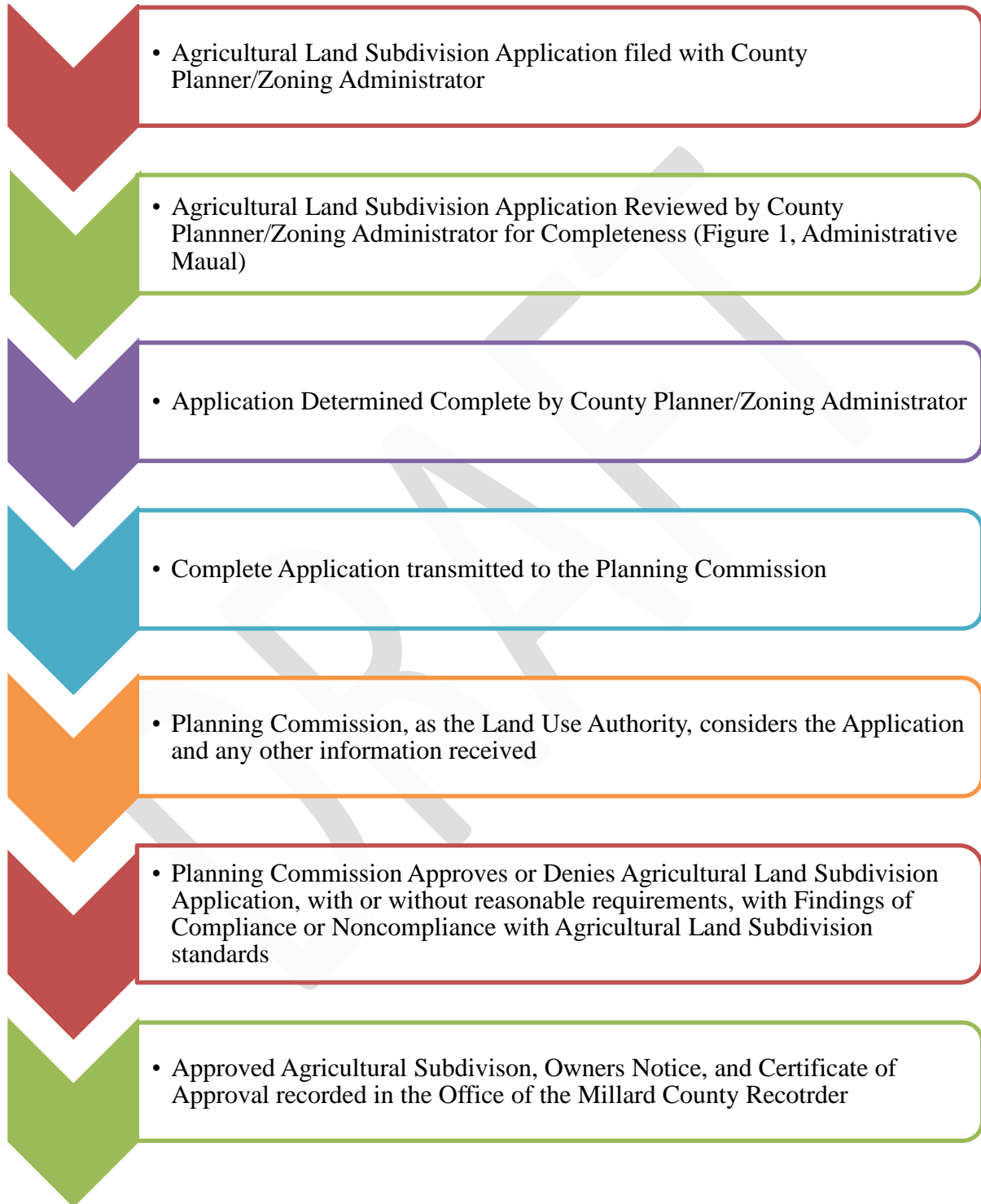


Figure 4
PROCEDURES FOR PLAT SUBDIVISION BY THE BOCC

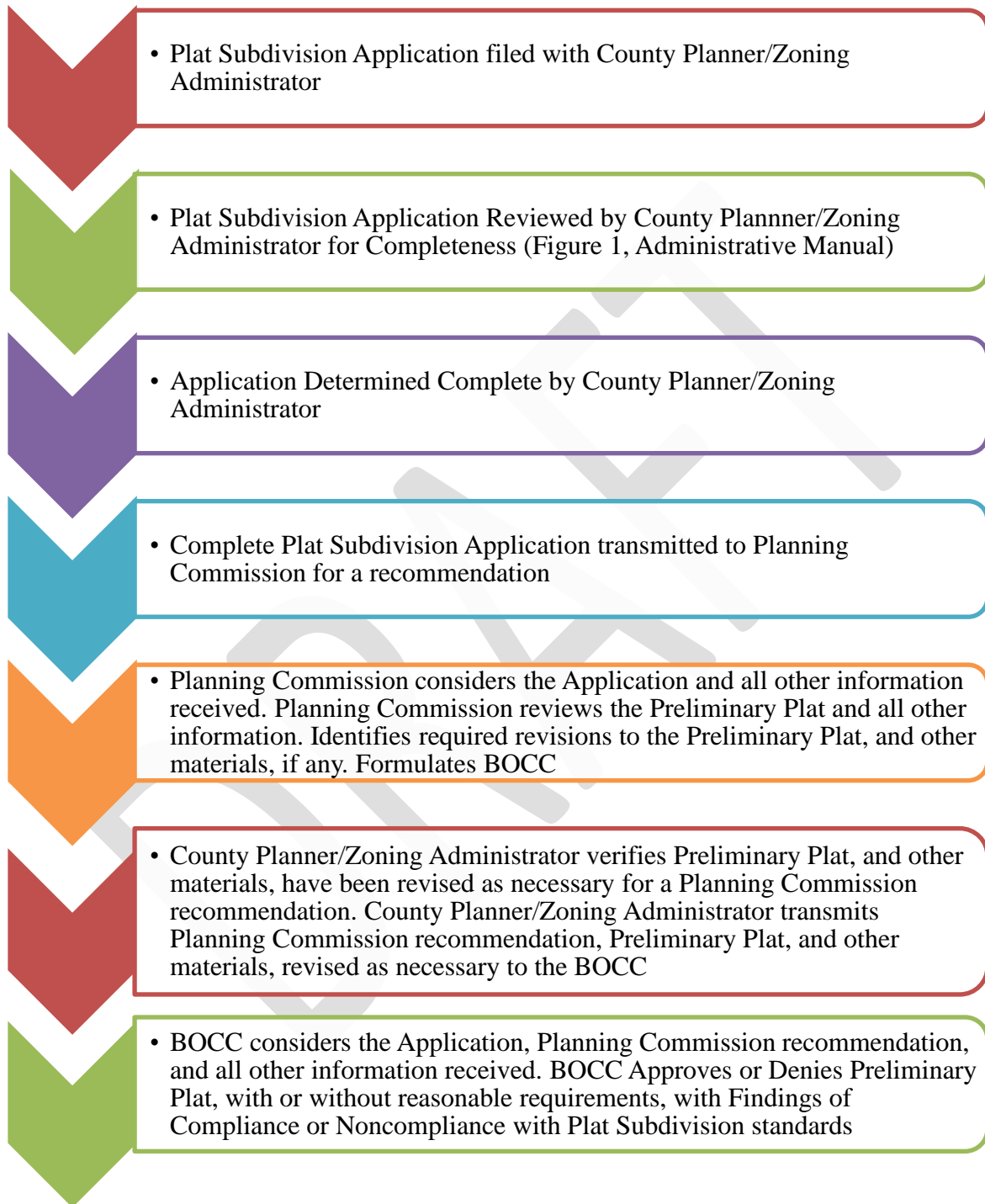


Figure 4 (continued)

PROCEDURES FOR PLAT SUBDIVISIONS BY THE BOCC

