

Elwood Town, Utah
Title 11—Subdivisions

Chapter 11.01
General Provisions

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11.01.010 Short Title:

This Ordinance shall be known and may be cited as the “Elwood Town Subdivision Ordinance” and may be identified within this document and other documents as “Subdivision Ordinance.” This Subdivision Ordinance shall be considered and may be identified as an Elwood Town Land Use Ordinance, as defined by the Utah State Code.

11.01.020 Purposes:

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

11.01.030 Enactment:

The Town Council of Elwood, Utah, adopts this Subdivision Ordinance pursuant to the Utah State Code and all other authorities and provisions of Utah and Federal statutory laws, and common law, as applicable.

This Subdivision Ordinance constitutes a part of Elwood Town’s Land Use Ordinances, as authorized and identified by the Utah State Code.

11.01.040 Applicability and Authority:

Upon its adoption by the Town Council, and posting as required by the Utah State Code, this Subdivision Ordinance shall govern and apply to the subdivision of all lands lying within the municipal boundaries of Elwood Town, Utah (hereinafter "the Town")

11.01.050 Subdivision Defined:

For the purposes of this Subdivision Ordinance, and the Utah State Code, "Subdivision" shall be, and shall mean:

- A. Any land that is divided, re-subdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
- B. 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, except as provided by Section 11.01.060 herein.

11.01.060 Subdivision Not to Include:

As provided by the Utah State Code, and for the purposes of this Subdivision Ordinance, "Subdivision" does not include:

- A. A bona fide division or partition of agricultural land for the purpose of joining one (1) of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable Land Use Ordinance of the Town;
- B. A recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - 1. No new lot is created; and
 - 2. The adjustment does not violate applicable Land Use Ordinances of the Town.

An application is still required for all boundary adjustments.

- C. A recorded document, executed by the owner of record:

1. Revising the legal description of more than one (1) contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 2. Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable Land Use Ordinances of the Town.
- D. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
1. No new dwelling lot or housing unit will result from the adjustment; and
 2. The adjustment will not violate any applicable Land Use Ordinance of the Town.

An application is still required for all boundary adjustments.

- E. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Subdivision Ordinance.

11.01.070 Fees and Charges:

The Town Council, by Annual Fee Resolution, may establish necessary fees and charges payable for application processing and review, inspection services, and other services provided by the Town, or required by this Subdivision Ordinance. The Town Council may amend such fees and charges from time to time, as considered necessary.

11.01.080 Prohibited Acts:

- A. An owner of any land located in a proposed subdivision who transfers or sells any land in that proposed subdivision before a Final Subdivision Plat has been approved and recorded in the Office of the Box Elder County Recorder, as required and provided by this Subdivision Ordinance and the Utah State Code, is guilty of a violation of this Subdivision Ordinance and the Utah State Code for each lot or parcel transferred or sold.
- B. 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 Subdivision Ordinance and the Utah State Code, or from the penalties or remedies provided by this Subdivision Ordinance or the Utah State Code.
- C. Notwithstanding the provisions of this Section, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Subdivision Ordinance and the Utah State Code:

1. Does not affect the validity of the instrument or other document; and
2. Does not affect whether the property that is the subject of the instrument or other document complies with the Land Use Ordinances of the Town, including this Subdivision Ordinance, or other Land Use Ordinances, including the Elwood Town Zoning Ordinance (hereinafter "Zoning Ordinance").

11.01.090 Enforcement:

- A. The Town may take all actions, allowed under the law, to insure compliance and enforcement of this Subdivision Ordinance. Failure of the Town to enforce any provision or seek remedies to any violation of this Subdivision Ordinance shall not legalize any such violation.
- B. The Town, or any adversely affected owner of real estate within the Town, in which violations of this Subdivision Ordinance are occurring, or are about to occur may, in addition to other remedies provided by law, institute:
 1. Injunctions, mandamus, abatement, or any other appropriate actions; or
 2. Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- C. As provided by the Utah State Code, the Town need only establish a violation of this Subdivision Ordinance to obtain the injunction.
- D. The Town may bring an action against a property owner to require that the property conform and comply with the provisions of this Subdivision Ordinance and/or the Utah State Code.
- E. An action brought by the Town against a property owner, and authorized by this Section and the Utah State Code, may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation of this Subdivision Ordinance.
- F. To enforce this Subdivision Ordinance, the Town may withhold or deny the approval or issuance of any required Land Use Permit or Building Permit.

11.01.100 Licenses and Permits:

- A. From the effective date of this Subdivision Ordinance, no approval, including the issuance of any building permit for the construction, alteration, or modification of any building or structure, shall be issued by the Town unless such approval complies with the requirements and provisions of this Subdivision Ordinance, including a determination that the lot or parcel, proposed for the approval or permit, is a legal lot created pursuant to the provisions of this Subdivision Ordinance, prior enactments of this Subdivision Ordinance, or is a legal lot of

record. Any approval, license or permit issued in conflict with the provisions and requirements of this Subdivision Ordinance shall be void and invalid.

- B. The Town may enforce this Subdivision Ordinance by withholding building permits.
- C. It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the Town without approval of a building permit, unless such building is exempt, as provided by the Town's Ordinances.
- D. The Town Building Official shall not approve and shall not issue a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all adopted Land Use Ordinances of the Town, including this Subdivision Ordinance and the Zoning Ordinance.
- E. The Zoning Administrator shall not approve and issue a building permit that would be a violation of this Subdivision Ordinance or the Town's other Land Use Ordinances, including the Zoning Ordinance.
- F. No Town employee or officer shall approve and issue any permit or license that would be a violation of this Subdivision Ordinance or the Town's other Land Use Ordinances, including the Zoning Ordinance.

11.01.110 Penalties:

- A. As provided by the Utah State Code, a violation of any provision of this Subdivision Ordinance is punishable as a Class C misdemeanor upon conviction, either:
 - 1. As a Class C misdemeanor; or
 - 2. By imposing an appropriate civil penalty adopted under the authority of the Utah State Code.

11.01.120 When Applicant Is Entitled to Approval of Application:

- A. An Applicant is entitled to the approval of a Land Use Application, required by this Subdivision Ordinance, if such Application conforms to the requirements of this Subdivision Ordinance, the Town's other Land Use Ordinances, Land Use Maps, and Zoning Ordinance, as may be applicable, in effect at the time when the Town determines the Application to be complete and all fees have been paid.
- B. The Town shall process a Land Use Application without regard to proceedings initiated to amend the Town's Land Use Ordinances, including this Subdivision Ordinance and Zoning Ordinance if:
 - 1. One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and

2. The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
- C. If the Final Subdivision Plat conforms fully to the requirements of this Subdivision Ordinance and the Town's other Land Use Ordinances, including the Zoning Ordinance, and has been approved by the Culinary Water Authority, Town Engineer, Drainage District, Sanitary Sewer Authority, and the Planning Commission, the Final Subdivision Plat shall be approved.
 - D. The Town shall not impose on an Applicant, or any holder of any approval required by this Subdivision Ordinance, any requirement that is not expressed:
 1. In the approval required by this Subdivision Ordinance or in documents on which such approval is based; or
 2. In this Subdivision Ordinance or in the Town's other Land Use Ordinances, including the Zoning Ordinance.
 - E. The Town shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:
 1. In the Building Permit or in documents on which the Building Permit is based; or
 2. In this Subdivision Ordinance, or the Town's other Land Use Ordinances, including the Zoning Ordinance.
 - F. The Town shall be bound by the terms and standards of this Subdivision Ordinance and the Town's other Land Use Ordinances, including the Zoning Ordinance, as applicable, and shall comply with all mandatory requirements and provisions of such Subdivision Ordinances.
 - G. The Town shall process and render a decision on each Land Use Application required by this Subdivision Ordinance with reasonable diligence.

11.01.130 Imposed Requirements and Exactions on Application Approval:

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

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

11.01.140 Restrictions for Solar and other Energy Devices:

The Elwood Town Planning Commission (hereinafter "Planning Commission") may refuse to recommend, and the Town Council refuse to approve a Preliminary Subdivision Application and Final Subdivision Application, or the dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the Preliminary Subdivision Application or Final Subdivision Application 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 erected on lots or parcels covered by the Preliminary Subdivision Application or Final Subdivision Application.

11.01.150 Validity:

If any Chapter, Section, Subsection, Paragraph, Sentence, Standard, or Requirement of this Subdivision Ordinance is held to be invalid, by a Court of competent jurisdiction, such holding shall not affect the validity of any other Chapter, Section, Subsection, Paragraph, Sentence, Standard, or Requirement of this Subdivision Ordinance.