ORDINANCE 118

CITY OF DOVER SUBDIVISION ORDINANCE

AN ORDINANCE OF THE CITY OF DOVER, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ADOPTING NEW SUBDIVISION, AND CONDOMINIUM PLATTING REGULATIONS; PROVIDING FOR FEES TO BE ADOPTED BY RESOLUTION OF THE CITY COUNCIL; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE AND THAT A VIOLATION IS A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS, JAIL NOT TO EXCEED SIX MONTHS, OR BOTH; PROVIDING FOR INTERPRETATIONS OF THE ORDINANCE; PROVIDING DEFINITIONS; ESTABLISHING THE APPLICABILITY OF THE SUBDIVISION AND SHORT PLAT REGULATIONS AND THE EXEMPTIONS THERETO; ESTABLISHING THE PROCEDURES RELATING TO SUBDIVISION, AND CONDOMINIUM APPROVALS AND PLATTING; SETTING THE REQUIREMENTS FOR REQUIRED SUBDIVISION IMPROVEMENTS AND INSPECTIONS; REQUIRING A DEVELOPMENT AGREEMENT AND MAINTENANCE AGREEMENT; PROVIDING SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and City Council of the City of Dover, Bonner County, Idaho:

That the city council hereby adopts the following which shall be referred to as the "City of Dover Subdivision Ordinance":

SECTION 1. REGULATIONS: That the following regulations relating to division of land are hereby adopted as the subdivision regulations for the City of Dover, hereinafter known as "City":

CHAPTER 1. GENERAL PROVISIONS

A. **Title:** These regulations shall officially be known and cited as the "City of Dover Subdivision Ordinance".

B. **Purpose:** These provisions are adopted to provide for the orderly division of land within the City, and:

1. To protect and provide for the public health, safety, and general welfare of Dover;

2. To guide the future growth and development of the City;

3. To encourage the order and beneficial development of the community's land;

4. To guide public and private policy in order to provide adequate and efficient streets, drainage, parks and public facilities;

5. To establish standards for development and installation of improvements for Subdivisions, including water, sewer, streets and drainage;

6. To further the orderly layout and use of land and to ensure proper legal description and monumentation of subdivided land;

7. To ensure that public facilities and services are available concurrent with development and will have sufficient capacity to serve the subdivision;

8. To ensure that the community will bear no more than its fair share of any cost of providing services by requiring the developer to pay fees, furnish land, or establish mitigation measures to provide a fair share of capital facilities needs generated by the development;

9. To assure the adequacy of drainage facilities to safeguard the water table, and to encourage the wise use and management of natural resources to preserve the stability and beauty of the community and the value of the land;

10. To provide open space through the most efficient design and layout of land, while preserving the density of development as established in the Zoning Ordinance of Dover.

C. **Authority**:

1. This Ordinance is adopted pursuant to the authority delegated to the City pursuant to article 12, section 2 of the Idaho Constitution, Idaho Code, title 67, chapter 65 and title 50, chapter 13.
2. The provisions of this Ordinance shall be administered to ensure orderly growth and development and shall supplement and implement provisions of the Dover Comprehensive Plan, other Dover Ordinances and current Capital Improvements Plan. By virtue of this Ordinance the City Council, Mayor and staff of Dover are vested with the authority to review, approve with conditions, or disapprove applications for subdivision of land.

D. **Fees and Mitigation**:

1. The City Council may, by resolution, adopt reasonable fees related to the cost of services associated with review, processing and inspection of subdivision of land. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
2. The City may, as a condition of approval of a subdivision, require mitigation of the effects of development on the ability of the City, and other political subdivisions, to deliver services without compromising quality or imposing substantial additional costs to current residents.

E. Enforcement and Penalties:

1. No zoning permit will be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the City have any obligation to issue any zoning permit to any parcel created or established in violation of these provisions.
2. Violations of the provisions of this Ordinance shall be deemed a misdemeanor crime, punishable by a fine not to exceed One Thousand Dollars ($1,000.00) per violation, or six (6) months in jail, or by both fine and jail; with each day such violation continues constituting a separate offense. The City shall have recourse to such civil remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations.

F. Interpretation and Conflict:

1. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that such standards are necessary to protect the public health, safety and welfare.
2. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, the provision which is more restrictive or imposes the standards most likely to protect the public health, safety and general welfare shall control.

G. Exceptions to Conditions:

1. Where strict compliance with these regulations and/or the purposes of these regulations may be better served by an alternative proposal, the City Council may approve exceptions to conditions to these regulations. The granting of an exception shall not have the effect of nullifying the intent and purpose of these regulations. The City Council shall not permit exceptions to conditions unless it finds, based upon the evidence presented to it in each specific case, that:

a. The granting of the exception to conditions will provide an equivalent or better protection for the City.

b. The granting of the exception to conditions will not be detrimental to the public safety, health or welfare or injurious to other property; and

c. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property; and

d. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular and unnecessary hardship to the owner or the public would result if the strict application of these regulations is applied; and

e. The change sought will not be contrary to the City of Dover's Zoning Ordinance, Comprehensive Plan or other Ordinances.

2. In approving exceptions, the City Council may require conditions that will secure the purposes of this Ordinance. An exception is any alternative design, or proposed change in Subdivision Ordinance requirements that is requested by the developer. The exception requested must be in writing and must be included in the notice to be given pursuant to Chapter 3 of this Ordinance and reviewed as an integral part of the overall review process as outlined in this Ordinance and the recommendation and decision made on the requested exception shall be at the time the subdivision is reviewed by the City Council.

H. Development Agreements: It shall be a requirement of compliance with this Ordinance that a development agreement be entered into and approved by the City prior to initiating physical construction of subdivision improvements or recordation of a subdivision plat and that a maintenance guarantee agreement be entered into prior to acceptance of the improvements by the City.

CHAPTER 2. DEFINITIONS

A. Definitions: For the purposes of this Ordinance, the following terms, phrases and words will have the meanings given in this Chapter:

ADMINISTRATOR: The duly appointed Planning and Zoning Administrator of the City of Dover.

ALLEY: A strip of land dedicated to public use providing vehicular and pedestrian access to the rear side of properties which abut and are served by a public road.

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries established and described by a recorded plat.

CAD DIGITAL DRAWING: An IBM compatible computer diskette or CD providing the subject maps or drawing in AutoCAD format.

COMPREHENSIVE LAND USE PLAN: The current Future Land Use Plan of the City of Dover adopted by the Council pursuant to Idaho Code.

CONDOMINIUM: An estate consisting of an undivided interest in common real property, together with a separate interest in a unit in a project in accordance with state law.

COUNCIL: The legislative authority of the City of Dover.

CUL-DE-SAC: A street closed at one end by an area of sufficient size and shape for turning of emergency vehicles.

DEDICATION: The deliberate appropriation of land to the public by a private owner for any general and public uses and acceptance of that land on behalf of the public. The intention to dedicate shall

be evidenced by the owner by the presentment for filing of a final plat showing the dedication thereon. The acceptance by the public shall be evidenced by the approval of such plat for filing by the City.

DIVISION OF LAND: For purposes of this Ordinance is any transaction or action not otherwise exempt or provided for under the provisions of this Ordinance which alters or affects the shape, size or legal description of any part of an owner's "land" as defined herein. Rental or lease of a building, facility or structure which does not alter or affect the legal description of an owner's land shall not constitute a division of land.

EASEMENT: A grant by a property owner to a specific person or public entity for specific use or uses.

FINAL PLAT: The final drawing of the subdivision and dedication prepared for filing for record with the County Recorder and containing all elements and requirements set forth in the Idaho Code and this Ordinance.

IMPACT STUDY: A required study compiled by the applicant pertaining to the effect of any proposed development on City services and other public services, including police, fire, schools, public works (i.e., water, sewer, streets) and other anticipated impacts to areas affected by applicant's proposal.

LAND: A legally created lot, tract, parcel, site or division which is shown on an officially recorded plat or is specifically described as a separate unit of property on a deed executed prior to the effective date of the Ordinance codified in this Ordinance.

LOT: A designated parcel of land established pursuant to title 50, chapter 13 of the Idaho Code. A fractional part of subdivided lands having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall be considered as all contiguous land under single ownership unless legally platted. Property bisected by a dedicated public road shall not be deemed contiguous.

OFF-SITE: Not located on the property that is the subject of a development application.

ON-SITE: Located on the lot in question or on the property being developed.

OPEN SPACE: Land, essentially free of structures, set aside, dedicated, designated, or reserved for the public or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

PARCEL: A unit of land of contiguous quantity in the ownership of one person and constituting a portion of a separate tract of land.

PLAT: A reproducible or permanent representation of a subdivision showing thereon the division of a tract or parcel of land into lots, blocks, roads and alleys or other divisions, dedications and easements, prepared for filing and recording with the County Recorder in accordance with title 50, chapter 13 of the Idaho Code.

PRELIMINARY SHORT PLAT: A neat and approximate drawing of a proposed minor subdivision showing the proposed general layout of lots, blocks and restrictive covenants applicable to the minor subdivision and other elements of a minor plat which shall furnish a basis for the approval or disapproval of the general layout of a minor subdivision.

PRELIMINARY PLAT: A neat and approximate drawing of a proposed subdivision showing the proposed general layout of roads and alleys, lots, blocks and restrictive covenants applicable to the

subdivision and other elements of a plat or subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.

PRIVATE STREET: A street, road, or drive which is not a dedicated and accepted public right-of-way for public use, and is not maintained by the City of Dover, Bonner County or the State of Idaho.

SEWERAGE SYSTEM: All sewerage collection systems, community septic tank and drainfield, pump stations, interceptor and appurtenances that are utilized or will be utilized to transport, treat and dispose of sewage.

SHORT PLAT: A document consisting of a map of a minor subdivision, together with written certificates and date, showing thereon the division of a tract of land into lots prepared for filing and recording with the County Recorder in accordance with title 50, chapter 13 of the Idaho Code.

STREET: An improved and maintained public right of way which provides vehicular and pedestrian circulation or principal means of access to adjacent properties, that dedication of which has been officially accepted by the City of Dover, Bonner County or the State of Idaho and which may also include provisions for public utilities, pedestrian walkways, public open space, grassy swales and recreation area, cut and fill slopes and drainage. The term "street" also includes the terms highway, parkway, road, avenue, land, place and other such terms. Streets may be classified as:

1) Local: A street usually of limited continuity which serves to primarily provide access to properties adjacent to the roadway and direct this local traffic to higher volume roadways (collectors and arterials). Optimum road width for local streets is 30 to 40 feet, dependent on the locale, placed in a sixty (60) foot right of way.
2) Collector: A street designated for the purpose of gathering residential traffic from local streets and directing it at operating speeds of up to 30 miles per hour to arterial streets. Optimum road widths for collector streets is forty feet curb to curb, with sidewalks separated from the roadway by a grassy swale, all placed in an eighty foot right of way.
3) Arterial: Roadways that connect local and collector roads with the State highway system. Their primary function is to move traffic through an area, but they also provide access for traffic originating at, or destined for, locations along the arterial itself. The desired road structure for arterials is three lanes, sixty-four feet wide curb to curb, with sidewalks separated from the roadway by a grassy swale, all placed in a one hundred foot right of way.

SUBDIVISION: The division of land into two (2) or more contiguous lots, parcels, tracts or sites for the purpose of sale, lease, transfer or development, that meet the criteria and subject to the exemptions set forth in this Ordinance.

SUBDIVISION PLAN: Both written information and all maps, plans or plats that together fully describe a proposed subdivision in sufficient detail for review and public hearing.

SUBDIVIDER: A person, including a corporate person, who undertakes to create or expand a subdivision.

ZONING ORDINANCE: The Zoning Ordinance adopted by the Council pursuant to Idaho Code.

ZONING PERMIT: City permit required prior to the construction, remodel, modification or moving onto the site any structure, as set forth in Article 12 of City of Dover's Zoning Ordinance.

B. Interpretations: When not inconsistent with the context, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory, unless the express language of the ordinance provides otherwise.

Except as expressly defined herein, words used in this Ordinance shall be given their ordinary meaning consistent with common usage and context.

CHAPTER 3. CONDOMINIUM PLATS

A. Application: Application for a condominium plat may be filed any time after the footings for the proposed structure have been installed. The procedures for a condominium plat shall be the same as for a Subdivision Final Plat as set forth in this ordinance and shall meet the requirements as set forth in Idaho Code Section *55-1504*.

CHAPTER 4. SUBDIVISIONS

A. Applicability: The division of land into two (2) or more contiguous lots, tracts, parcels sites or divisions, regardless of lot size, whether immediate or future, for the purpose of sale, lease, transfer or development within the incorporated area of Dover that comply with all minimum standards and requirements of the City of Dover Zoning Ordinance as currently zoned shall proceed in compliance with this Chapter.

B. Exemptions and Existing Plats: The provisions of this Chapter shall not apply to the following:

1. Any division of land for the purpose of adjusting the boundary line or the transfer of land between two (2) adjacent property owners which does not result in the creation of any additional building site. Parcels of land so created must comply with lot size, frontage, and other standards established by the Dover Municipal Code, Zoning Ordinance and other applicable laws to be eligible for a zoning permit or to qualify for establishment of a regulated land use.
2. Any division of land made by cemetery or burial plots while used for that purpose.
3. Any division of land made by testamentary provision or the laws of descent. Parcels of land so created must comply with lot size, frontage, and other standards established by the City of Dover Zoning Ordinance and other applicable laws to be eligible for a zoning permit or to qualify for establishment of a regulated land use.
4. Divisions resulting from the conveyance of a parcel of land to a taxing district, government agency, or utility regulated by the Public Utilities Commission, providing the parcel will not be used for habitable structures such as offices, service centers or fire stations.
5. Interior lot line adjustments and minor notational changes to existing plats shall demonstrate compliance with zoning standards and be processed according to the final plat approval process contained within this ordinance. Exterior boundary changes to existing plats shall follow the procedures for new subdivisions as contained within this ordinance.

C. Application: An application for a Subdivision shall be submitted to the Administrator on the form provided by the City and shall be accompanied by the following:

1. Proof of ownership. A title report from a title insurance company authorized to do business in the State of Idaho, showing ownership of the land sought to be subdivided.
2. The names, mailing addresses and telephone numbers of all person, firms and corporations holding interests in said land;
3. A letter of acknowledgment and consent of the property owners as shown on the current title report and a letter of acknowledgment and consent from any lien holder granting authorization to subdivide the property, with owner's (or owner's agent's) signature notarized;
4. Application fee in an amount to be established by the resolution of the Council.
5. The name, mailing address and telephone number of the surveyor, engineer or other person that prepared the preliminary plat;
6. Legal description and tax parcel number of the land contained within the proposed subdivision;

7. Identification of existing zoning classification of the affected property.
8. A list, prepared by a title company licensed to do business in the State of Idaho, of the names and mailing addresses of all property owners whose property is within or adjacent to the area bounded by lines three hundred feet (300') from the external boundary of the entire proposal area;
9. Four (4) or more photographs of the site, each four inch by six inch (4" x 6") in size or larger, preferably panoramic view, taken at various angles depicting the general character of the site, accompanied by a map showing the location and orientation of such photographs;
10. Letters of approval from the Bonner County Public Works Department, if the lots front a Bonner County roadway, or the Idaho Transportation Department, if the lots front a state highway, or the Independent Highway District, if the lots front a city roadway for determination of the sufficiency of the existing adjacent public road system and adequacy of any and all approaches onto the public roads;
11. Statement of proposed provisions for sewer, water, gas, electricity and telephone, together with proposed location of gas, electricity and telephone lines.
12. Approval by Bonner County of the Subdivision and road names.

D. **Preliminary Plat:** One copy of a preliminary plat on eleven by seventeen inch (11" x 17") paper, plus five (5) copies drawn to a horizontal scale which shall not be less than fifty feet to one inch (50':1") or more than one hundred feet to one inch (100':1") shall be provided depicting the proposed layout of the Subdivision.

In addition to showing the proposed general layout of roads, alleys, lots, blocks and other elements of the subdivision and restrictive covenants applicable thereto, said preliminary plat shall show, at a minimum, the following information, it being understood that detailed plans and specifications will be required for City review and approval at the time of the submission of the final plat:

1. General vicinity map depicting the location and boundaries of the land proposed for subdivision, the local road network, the boundaries of lots, parcels, roads and right of ways that border the proposed subdivision;
2. Zoning, current use and ownership of adjacent lots and parcels;
3. North Arrow, legend and scale;
4. Date and preparer's name;
5. Name of the proposed Major Subdivision;
6. Section, township, range and meridian;
7. County, City and State;
8. Company Title Block;
9. Basis of Bearing;
10. The location of the boundary lines of the proposed subdivision in relation to section, quarter section and quarter-quarter section lines and any adjacent corporate boundaries of the City which are part of the legal description of the property;
11. Bearing and distance of exterior boundary lines;
12. Reference to two Public land Survey monuments recognized by the County Surveyor/City Engineer;
13. Reference to adjoining subdivisions or records of survey;
14. The boundaries, dimensions, acreages and proposed numbers to be assigned all lots, together with the boundaries and proposed numbers to be assigned each block;

15. A data table showing the number of lots, the smallest, largest and average lot area within the proposal site, the total acreage of the entire proposal area, and the density in lots per acre;
16. A statement of proposed provisions for irrigation/domestic water supplies and sewage disposal;
17. Proposed location and size of water and sewer lines, including adjoining water and sewer lines;
18. Location and width of any existing or proposed easements and right-of-way dedications;
19. All adjacent streets including swales and sidewalks/pedestrian or multi-modal paths;
20. Location of existing structures on the property and setbacks from proposed lot lines and streets;
21. Public or private dedications, including the location, dimensions and area of all parcels of land to be set aside for parks, open space, or other public use or for the use of property owners in the proposed subdivision or adjacent properties;
22. Reference to all existing and proposed conditions, private reservations and restrictive covenants that are, or will be, imposed upon the land;
23. Special setback lines;
24. All proposed streets. Show width, swales, sidewalks and proposed street names;
25. Development phases, or stages, if the project will be done over several years;
26. Clarity of all lines.

E. Construction Plans: Preliminary construction plans for the proposed subdivision shall include:

1. Proposed utility infrastructure plan, including sewer master plan, water line locations, and centerline grades;
2. Soil erosion and sediment control plan, and stormwater management plan if required by the Administrator;
3. Site identification signs, traffic-control signs and directional signs;
4. Pedestrian circulation plans;
5. Right-of-way landscape plan and details;
6. Traffic studies, if required by the Administrator;
7. Areas of cuts or fills of more than 4 feet.

F. Agency Review: Prior to the establishment of a public hearing date, the City shall provide copies of submitted documents, as appropriate and necessary, a vicinity map and a preliminary plat map on 11 x 17 inch paper, as to be provided by the applicant, to the following and other agencies, which, in the opinion of the Administrator may be affected by the proposal and provide the agency an opportunity to comment. The City shall request the agencies provide comments within 30 days.

1. Panhandle Health District;
2. Westside Fire District
3. Lake Pend Oreille School district;
4. City Water and Sewer Departments;
5. Idaho Transportation Department;
6. Idaho Department of Environmental Quality;
7. Bonner County Sheriff's Department;
8. Other agencies as deemed appropriate by the Administrator.

G. **Public Hearing Date**: Once the Administrator and the City Engineer have reviewed the Subdivision Plan and they have determined that the materials as submitted are complete, the matter will be placed on the Planning and Zoning Commission's agenda for public hearing at the next available date. The Planning and Zoning Commission shall make a recommendation to the City Council to approve, approve with conditions, or disapprove the subdivision. The city council public hearing will be scheduled at the next available date after receiving the recommendation from the planning and zoning commission.

H. **Notice of Public Hearing**: At least fifteen (15) days prior to the public hearings, notice of the time and place and a summary of the proposal, including any proposed exceptions, shall be published in the official newspaper of the City. Additional notice shall be posted on site and provided by mail to property owners and purchasers of record within three hundred feet (300') of the external boundaries of the land being considered and any additional land that may be substantially impacted by the proposed subdivision as determined by the Administrator ten days prior to the public hearing as per requirements set forth in Idaho Code. When notice is required to two hundred (200) or more property owners or purchasers of record, notice may be given through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the City at least fifteen (15) days prior to the hearing date. Notice shall also be posted on all four (4) corners of the property at least fifteen (15) days prior to the hearing. The posted Notice shall be as provided by the City. The applicant shall bear all of the cost of publication, mailing of the notices, and posting on the property.

I. **Staff Report**: At the public hearings, the Administrator will give a report to the Commission and Council. The public hearing shall provide opportunity for the applicant and any interested party to be heard.

J. **Council Decision**: After the City Council has received a recommendation from the Planning and Zoning Commission and has reviewed the subdivision plan at the public hearing, the City Council shall approve, approve with conditions, or disapprove the subdivision.

K. **Standards for Approval:** Council approval shall be based on the following standards:

1. Definite provisions have been made for a water supply system that is adequate in terms of quantity, and quality for the type of subdivision proposed.
2. Adequate provisions have been made for servicing or treatment of sewerage by a public sewage system or other treatment as approved by Panhandle Health District One and the City.
3. Proposed streets are consistent with the transportation element of the Comprehensive Plan.
4. All areas of the proposed subdivision which involve soil or topographical conditions presenting hazards have been identified and that the proposed uses of these areas are compatible with such conditions;
5. The area proposed for subdivision is zoned for the proposed use and the use conforms to other requirements found in the City of Dover Ordinances.
6. The developer has made adequate plans to ensure that the community will bear no more than its fair share of costs to provide services by furnishing land or providing other mitigation measures for off-site impacts to streets, parks, and other public facilities within the community. It is the expectation that in most cases, off-site improvements will be dealt with through the development agreement.

L. **Notice**: City staff shall notify the applicant and the owners of real property located within the proposed Subdivision in writing of the decision of the Council. A decision to deny shall indicate the reasons for denial and indicate what steps are necessary to obtain approval.

M. **Commencement of Construction**: Upon approval by the Council, subsequent review and approval of the final construction plans by the Administrator and City Engineer, which substantially conform to the Subdivision Plan approved by the Council, the subdivider may proceed with construction of the

subdivision. No construction of any kind shall take place on the site prior to written approval by the City Engineer.

N. Approval Duration: Failure to file the final plat application within one year after action by the Council shall cause all approvals of said subdivision plan to be null and void, unless an extension of one year has been applied for by the subdivider and approved by the Council. A subdivider may apply for and receive additional extensions for good cause if actual work has been commenced and is continuing on the installation of the improvements.

O. Changes, Alterations or Deletions:

1. Prior to approval of the plan, any alterations of the plan must be approved by the City Engineer and Administrator.
2. After approval of the subdivision plan and before submission of a final plat representing the subdivision as approved, the City Engineer or Administrator may, in writing, approve minor changes of the subdivision plan. If the amendment is major or involves a substantial change in the conditions of approval, the same procedures for a public hearing for subdivision plan approval must be followed to address the requested amendment.

P. Phasing of Subdivisions:

1. Subdivisions may be developed in portions periodically according to a proposed schedule or phased. Each phase shall be shown to meet all development standards and City requirements based on the configuration of the proposed phase alone, recognizing the potential that the subsequent phases may never be completed. The subdivider shall indicate plans for phasing at the time of application. The plans shall show proposed phasing boundaries, proposed interim or temporary solutions to sanitary sewer systems and to the handling of traffic on local streets within the subdivision and shall be accompanied by a narrative description of assurance of completion of permanent system improvements.
2. A phasing plan shall coordinate required infrastructure systems, dedications, off-site improvements, open space/parks, landscaping, private utilities, or other elements of a subdivision. The plan may indicate times of triggering mechanisms for improvements.

CHAPTER 5. DEVELOPMENT AGREEMENTS

A. Purpose: The purpose of a development agreement is to specify the means by which the subdivision requirements will be accomplished and to establish terms of mitigation, to describe the scope of construction improvements and an understanding between the City and the developer.

B. General: A development agreement shall constitute a binding contract between the property owner of a proposed subdivision and the City and shall contain those terms and conditions agreed to by the parties and those required by this Ordinance and other legal requirements. The Administrator and/or City Engineer, in conjunction with the City Attorney, are authorized to negotiate development agreements on behalf of the City. Development agreement requirements may be waived by the Mayor for certain Minor Subdivisions upon a finding by the Mayor that they will serve no purpose.

C. Elements of Agreement: The development agreement shall contain a brief statement describing the subdivision, which shall include its location, legal description, number of lots, and the date of subdivision approval by the City Council. The agreement shall also include, but not be limited to, the following:

1. Any conditions of approval from the review and approval process.
2. Time limits and provisions for extension and extinguishing the agreement.
3. Phasing plans, if any, and a description of any required temporary improvements and the terms of those improvements.
4. A description of construction improvements to be installed on-site and off-site.
5. Covenants, if any, made by the developer and/or the City.
6. Details of dedications and improvements beyond those required in this Ordinance.

D. Agreement to be Recorded: The development agreement shall be recorded and shall run with the land and bind all successors, heirs, and assignees of the developer. The development agreement will expire at the agreed upon date set forth in the agreement, or upon the filing, by the City, a release with the county recorder when the terms of the agreement have been satisfied or are no longer valid, whichever comes first.

E. Third Party Rights: Except as otherwise expressly provided in a development agreement, the development agreement shall create no rights enforceable by any party not a party to the development agreement. Purchasers of lots in approved subdivisions are not deemed to be third-party beneficiaries of development agreements.

F. Limitations on Liability: Any breach of a development agreement by the City shall not give rise to monetary damages, but shall be enforceable only by resort to an action for specific performance. No provision of any development agreement which is contrary to law may be enforced.

G. Maintenance Agreement:

1. A maintenance agreement shall be an addendum to, or component of, a development agreement, when a maintenance agreement is appropriate, and shall be executed prior to the acceptance of the public improvements by the City.
2. The maintenance agreement shall set forth the duties and responsibilities of the developer regarding the on-going maintenance of the public improvements that are installed by the developer that are in excess of those required by the City and are installed for the purpose of enhancement of the aesthetics of the development and will be maintained by the developer.

CHAPTER 6. DESIGN AND IMPROVEMENT STANDARDS

A. **Construction Plans**: It shall be the responsibility of the subdivider of every Subdivision to have prepared by a registered engineer, a complete set of construction plans, including profiles, cross-sections, specifications and supporting data, for all required streets, street lights, utilities and other facilities.

Such construction plans shall be based on the approved subdivision, and shall be prepared in conjunction with the final plat. All construction plans shall be prepared in accordance with the public agencies' standards or specifications, and shall be installed in conformance with the following conditions and specifications:

1. Monuments shall be set in accordance with Idaho Code and any required street monuments shall be installed in monument boxes approved by the City;

2. Water line construction shall be governed by the standards of City and shall include a separate water meter to each lot, unless a private system is proposed and approved by the City. Public water supply shall be provided in conformance with the standards adopted by the City and the Idaho Department of Environmental Quality;

3. Sewer line construction shall be governed by the standards established by the City and shall conform with standards adopted by the Idaho Department of Environmental Quality, unless a private system is proposed and approved by the City. If a private system is proposed such system shall be reviewed and approved by Panhandle Health District 1 and/or the Idaho Department of Environmental Quality prior to approval of the subdivision by the City;

4. Adequate provisions for fire protection shall be made in accordance with the International Fire Code and other standards as adopted by the Westside Fire District;

5. Sidewalks and street lights may be required by the Council pursuant to policies and standards approved by the Council;

6. A sewerage system shall be provided in conformance with the City Water and Sewer Master Plans, specifications of Panhandle Health District and the State of Idaho Department of Environmental Quality as required by the City Engineer, and Sewer Policies and Procedures approved by the City. If a private system is proposed such system shall be reviewed and approved by Panhandle Health District 1 and/or the Idaho Department of Environmental Quality prior to approval of the subdivision by the City;

7. Streets and stormwater drainage systems will be constructed in accordance with the design standards and policies of the City of Dover approved by Council;

8. Electric, and communication utility lines (telephone, cable television, etc.) servicing the proposed subdivision shall be installed underground.

B. **Review:** The applicant shall be responsible for the cost of the City Engineer's review of the construction plans. Prior to commencement of review of the construction plans, the developer shall deposit with the City the estimated costs associated with the review. Upon completion of the review process, if the cost of the review exceeds the amount of the deposit, the developer shall pay the additional costs. If the deposit exceeds the cost of review, the developer will be refunded the unused portion of the deposit.

Construction shall not be initiated until such time the City Engineer has reviewed the plans and notified the Administrator and City Clerk and developer that the construction plans are approved, or approved with conditions. Construction shall not be initiated until such time a development agreement has been filed, as set forth in this Ordinance.

C. Infrastructure Inspections:

1. The developer shall be required to notify the City when compaction tests are going to be performed relating to the public infrastructure and be informed prior to each stage of the installation of the public infrastructure, including but not limited to streets, water lines and sewer lines, and prior to the installation of the driveway culvert in order for the City to have the work inspected to confirm that the installation has been completed in conformance with the approved plans and in conformance with the standards adopted by the City Council. No work shall be covered prior to the inspection being performed and approval by the underground utility of the utility installation and/or the City's representative.

2. The developer shall be responsible for the cost of the inspection. Prior to commencement of construction of the subdivision improvements, the developer shall deposit with the City the estimated costs associated with the inspections. Upon completion of the subdivision improvements, if the cost of the inspections exceeds the amount of the deposit, the developer shall pay the additional costs. If the deposit exceeds the cost of inspections, the developer will be refunded the unused portion of the deposit.

3. All inspection costs in excess of the deposit must be paid prior to final plat approval, unless the developer receives approval from the City Council to provide surety for the completion of the subdivision improvements after final plat approval. In that surety is provided for completion of the improvements, the surety must include the obligation to pay the inspection costs and will not be released until the inspection costs in excess of the deposit are paid.

4. If the developer fails to notify the City of tests and construction progress as required herein, the City may require, at the developer's expense, retesting, exposure of previous stages of construction, or any other steps which the City deems necessary to determine whether the work conforms to the City standards.

5. Any monitoring, tests or inspections that the City orders or performs pursuant to this section are solely for the benefit of the City. The City does not undertake to test or inspect the work for the benefit of the developer or any other person.

CHAPTER 7. FINAL PLAT APPROVAL

A. Submittal: At any time prior to expiration and following City Council's approval of a preliminary plat, the applicant may cause the subdivision to be surveyed and a final plat prepared. The applicant shall file an application for final plat review with the Administrator. The application shall be made on forms provided through the City of Dover. The final plat application shall:

1. The original and four (4) copies of the final plat shall be submitted to the Administrator, for review by the Administrator and City Engineer to determine that the plat meets all of the requirements of the Idaho Code, this Ordinance and the Subdivision plan approval, including any conditions imposed by the Council and that all required on-site and off-site public improvements have been completed and ready for acceptance by the City or have been suitably guaranteed.
2. Be prepared by a surveyor licensed in the state, and shall be prepared in accordance with title 50, chapter 13 of the Idaho Code as it now exists or is subsequently amended.
3. Include the entire subdivision as approved during subdivision review.
4. Comply in all material respects with the approved subdivision plan.
5. Include all formal irrevocable offers of dedication to the public of all rights of way and easements, streets, local government uses, utilities and parks in a form approved by the City Attorney.
6. Be accompanied by a title report from a title insurance company authorized to do business in the State, confirming that title of the land in the proposed subdivision is vested in the name of the owner whose signature appears on the plat certificate.
7. Be accompanied by a certification in a form acceptable by the City that all the streets, water system, sanitary sewers, storm water facilities and other public improvements, including lot improvements on the individual lots of the subdivision have been completed and accepted as required in these regulations, or that a guarantee has been submitted in the proper form as set forth in this Ordinance.

B. **Agreement and Bond/Guarantee for Improvement**: Before recordation, the subdivider shall install required improvements and repair any existing streets and other public facilities damaged in the development of the subdivision, or execute and file with the Council an agreement between himself and the City of Dover, specifying the period within which required improvements and repairs shall be completed.

1. The agreement shall also contain a provision that the developer shall be responsible for the successful operation and all repairs to the public streets and any other City improvements for a two year period following their installation. The subdivider shall provide a warranty that the required street improvements will be free from defects in material and workmanship for a period of two (2) years from the date of acceptance of the improvements by the City, secured by a performance bond in the amount of fifty percent (50%) of the actual construction cost of the warranted improvements for the first year and twenty five percent (25%) of the actual construction cost of the warranted improvements for the second year.
2. The agreement shall be accompanied by a surety bond, cash deposit, certified check, irrevocable letter of credit or other form of security approved by the City Attorney, in the amount of Two Hundred Percent (200%) of the estimated cost of construction for the improvements to be completed as approved by the City Engineer. In the event that the subdivider does not timely complete the improvements the City may proceed against the guarantee. If the cost of completion of the improvements exceeds the amount of the guarantee the City may recover the full cost and expenses thereof from the subdivider.

3. For a phased subdivision, the required bonding and warranty shall be for the phase which is being developed.

C. Staff Review: The Administrator and the City Engineer will review the submittal to determine whether all conditions of the approved development agreement have been completed and whether the final plat is consistent with the approved subdivision, including any mitigation required or determined in a development agreement, has been satisfied or other suitable arrangements approved by the City Council have been made.

D. Council Review. When the Administrator's and the City Engineer's review of the final plat is completed and all required terms and conditions are satisfied, the Administrator may forward the plat to the City Clerk recommending that it be submitted to the City Council for approval. The City Clerk shall place the request for plat approval on the next available City Council agenda. The Council shall review the subdivision and plat and, upon finding that all of the requirements have been satisfied, shall authorize the Mayor and the City Clerk to sign the plat.

E. Signatories. The Administrator's and City Engineer's signatures and all other signatories as required on the Mylar(s) representing the Final Plat, excepting County recording signatories, shall precede signatory by the Mayor and the City Clerk.

F. Recordation. After the Mylar(s) representing the Final Plat is/are signed by city staff, the Mayor and City Clerk, the Administrator shall record the Final Plat with the County Recorder. The applicant shall pay all review, recording, copying and processing costs.

G. Copies Provided. The applicant shall also provide one (1) reproduced Mylar original, one (1) CAD digital drawing and two (2) conform copies of the recorded Plat to the City.

H. Zoning Permits. No zoning permits, except for a permit for one model home, will be issued for proposed lots depicted on the final plat until final plat has been recorded, the reproducible copies of the recorded plat have been received and the interior monuments have been set in accordance with Idaho Code.

SECTION 2. SEVERABILITY: The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

SECTION 3. REPEAL OF CONFLICTING PROVISIONS: Ordinance 115 and all other ordinances of the City of Dover which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 4. EFFECTIVE DATE: This ordinance shall be effective upon passage and publication as provided by law.

Enacted by the City Council under suspension of the rules as an ordinance of the City of Dover on the 13th day of January, 2011.

Approved by the Mayor on the 13th day of January, 2011.

CITY OF DOVER

Paul "Randy Curless, Mayor

ATTEST:

Kym Holbert, City Clerk