AGENDA OF THE PLANNING AND ZONING COMMISSION MEETING
FOR THE CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO

Monday, August 31, 2026

Commission Meeting: 5:30 PM
Hayden City Hall Council Chambers, 8930 N. Government Way, Hayden, ID 83835

CALL TO ORDER
ROLL CALL OF COUNCIL MEMBERS
PLEDGE OF ALLEGIANCE
ADDITIONS OR CORRECTIONS

1. **CALL FOR CONFLICTS OF INTEREST**
2. **CONSENT CALENDAR** ***All items on the consent calendar are Action Items***
   A. Approval of Regular Meeting Minutes from July 20, 2026

Assistance for persons with disabilities will be provided, upon provision of verbal or written notice to city staff 24 hours in advance of the meeting. The phone number for City Hall is (208) 772-4411.

DRAFT
MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING
FOR THE CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO

Monday, July 20, 2026

Regular Meeting: 5:30 PM
Hayden City Hall Council Chambers, 8930 N. Government Way, Hayden, ID 83835

CALL TO ORDER
The meeting was called to order at 5:30 PM by Chair Shawn Taylor.

ROLL CALL OF COMMISSION MEMBERS
Present: Chris Morris, Shawn Taylor, Ron Walters, Vince Vargas. Tony Grano was absent.

Staff Present: Donna Phillips, Community Development Director, and Fonda Jovick, City Attorney.

PLEDGE OF ALLEGIANCE
Commissioner Ron Walters led the pledge of allegiance.

ADDITIONS OR CORRECTIONS
N/A

1. **CALL FOR CONFLICTS OF INTEREST**
   None

2. **CONSENT CALENDAR** ***All items on the consent calendar are Action Items***
3. Approval of Planning & Zoning Commission Regular Meeting Minutes, 06-01-2026.

Motion to approve the Consent Calendar as presented. This motion, made by Vice-Chair Morris and seconded by Commissioner Walters; Motion carried.

Tony Grano:	**Absent**
Shawn Taylor:	**Yes**
Chris Morris:	**Yes**
Vince Vargas:	**Yes**
Ron Walters:	**Yes**

UNFINISHED BUSINESS
Update to Title 12 Subdivisions – Proposed Code Amendments

Director Donna Phillips started off her presentation stating that today is a check-in with the commission regarding Title 12 since their workshop back in November of 2025. Some of the items that they wanted to clarify are updating the code to match the process for subdivisions, clarifying when to renew when a project expires, when to record the approved final plat, landscaping and when it is required of the subdivision or the building permit, clarify condominium platting, townhome platting, subdivision final platting and lot consolidation plats.

Ms. Phillips stated that Title 12 will be “repeal and replace” code amendments which will migrate from ten chapters into seven chapters.

Title 12 chapter one addresses fees, potential mitigation requirements, enforcement and penalties, interpretation of conflict, development and construction improvement agreements. Language will also be added to the Master Development Agreement, to make it useable for major or minor subdivisions. It will be a fluid document that can be used for either type of subdivision. Definitions were added to help clarify items in code: condominium which was defined by Ms. Phillips as being residential or commercial and can be placed in any zone designation that they are allowed. Lot or parcel consolidations are needed when two or more lots are used to make up a building envelope for you project site, you need to consolidate them into a single plat so that they all exist as one. A Minor Subdivision was defined as any subdivision of land that is five acres or less, or any division of land that consists of six lots or less. Ms. Phillips stated that all others are considered Major Subdivisions.
Other definitions that staff are clarifying in these code changes consist of starter home subdivisions, townhomes, duplexes, and twin homes.

Title 12 chapter three has some changes as well, particularly moving the boundary line adjustments piece from chapter 10 into this chapter, and staff also removed the references to paper submittals, since submittals are now received electronically.

Title 12 chapter four changes were made to reflect Major and Minor Subdivisions. These changes included exemptions, applications, and procedures. Reflecting how the process works for each kind of subdivision. It was mentioned that today’s code has a Major Subdivision chapter, and a Minor Subdivision chapter but with these new changes and with the processes being so similar, the subdivision processes will be merged into one chapter and will give a summary of the process for each and what those steps look like.

Title 12 chapter five will reflect more details for subdivisions, noticing, and the process for public meetings and public hearings and the difference between the two.
Discussion continued regarding subdivision requirements, with a focus on ingress and egress standards. Subdivisions greater than 15 lots need to have ingress / egress for the development, and it needs to be built within the first phase of that development.
The Commission also discussed Accessory Dwelling Units (ADU’s), including recently enacted Idaho state legislation governing ADUs and the potential impacts of implementing those requirements within the City of Hayden most notably traffic conflicts, and where there are lots in the city that currently don’t have connectivity to another street might have limitations regarding ADU’s.

Right-of-way encroachment permits, demolition permits, move permits, fire permits, stormwater permits, and agency permits were discussed as all possibilities for new subdivisions and their construction process.

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Next, Ms. Phillips discussed inspection requirements for new construction projects. Topics included, but were not limited to, part-time and full-time inspections, compaction reports, sewer line video inspections, and whether sewer lines must be jetted prior to inspection. She also explained that the Engineer of Record for each project will complete a standardized inspection form, certify the required information, and submit it to the City along with all other required project documentation showing that it has been built in accordance with the plans as approved.

Title 12, Chapter 7, pertaining to plats, was discussed. The discussion included the application process, the review process, and the procedures for plat approval. It was noted that plats are reviewed by multiple agencies, not solely City staff. The review process includes consideration of easements, water and sewer infrastructure, and compliance with all conditions of approval.
It was further explained that City staff will not present a final plat to the City Council until all private infrastructure has been completed, all subdivision improvements have been completed with the exception of landscaping, and Kootenai County has advanced the plat to "Mylar Pending" status. Before the final plat gets signed off by the mayor, and the city clerk, the city will have also received the performance surety or the warranty surety and any fees that are due will be paid as well before the final plat is signed.
Ms. Phillips explained that Title 12, Chapter 7 also addresses lot consolidation plats and provides additional clarification regarding their application and review process. She also discussed the differences between town homes and condominiums. She stated that townhomes are constructed in accordance with the International Residential Code (IRC), with each unit receiving individual utility connections extending from the public right-of-way.
In contrast, condominiums are constructed under the International Building Code (IBC). She explained that condominium units are required to have fire sprinkler systems, and utility services may be installed as a single connection from the public right-of-way and then distributed to the individual units through the crawl space or “rafters” (attic/roof framing), as applicable. Ms. Phillips went on to say that Townhomes and Condominiums have different requirements, and different plats / platting processes.

The next steps were discussed. City staff will complete the proposed amendments to the City Code and, following legal review, provide the revised draft to the Commission for review. It was also noted that the Commission may hold a workshop with the City Council, tentatively scheduled for October, to further discuss the proposed amendments.

REPORTS

Ms. Phillips reported saying that there are projects coming up but are not ready to come before a hearing body yet. She stated that Title 11 changes might be coming forward to the commission for review particularly for starter home subdivisions.

ADJOURNMENT

Chair Taylor adjourned meeting at 6:10 PM

Respectfully submitted,

Sadie Roe, Clerk

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B. Approval of Regular Meeting Minutes from August 03, 2026

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MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING
FOR THE CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO

Monday, August 3rd, 2026

Regular Meeting: 5:30 PM
Hayden City Hall Council Chambers, 8930 N. Government Way, Hayden, ID 83835

CALL TO ORDER
The meeting was called to order at 5:30 PM by Chair Shawn Taylor.

ROLL CALL OF COMMISSION MEMBERS
Present: Chris Morris, Shawn Taylor, Ron Walters, and Vince Vargas. Tony Grano was absent.

Staff Present: Donna Phillips, Community Development Director, Shannon Drappo, Planner, Nick Peterson, City Attorney. Mr. Peterson left the meeting at about 6:15

PLEDGE OF ALLEGIANCE
Commissioner Walters led the pledge of allegiance.

WORKSHOP
1.A. Title 11 and Title 12 Subdivision Code Amendments

Director Phillips began her presentation by reviewing the handouts provided for the evening's discussion. The handouts outlined the basis for the staff's proposal to repeal and replace Title 12, as well as make amendments to Title 11 of the City Code. She explained that the purpose of these workshops is to review the proposed changes at a steady and manageable pace, allowing the Commission to thoroughly discuss each topic. Ms. Phillips stated that in the upcoming workshops the commission members will be fully caught up with the changes and receive a clean draft in lieu of a red-line draft which can be overwhelming to digest. Commission members will become more familiar with chapter 12 before the public hearing is noticed.

Staff passed out the master development agreements (MDA), she then discussed the function of this agreement and the Construction Improvement Agreement (CIA). Ms. Phillips stated that in the proposed changes, staff took 98% of these two agreements and placed the language directly into code.

Staff handed out copies of flowcharts of the process for subdivision preliminary plats, major vs. minor subdivisions, construction plan review process including developers, fire department, water jurisdiction, Department of Environmental Quality (DEQ) and Panhandle Health District (PHD).

The document also outlined what happens during the construction stage, and major/minor subdivision final plats, and lot consolidation. Chairman Taylor asked if the master development agreement will be a legal text which discusses peoples' rights and obligations, and if the rest of the document will be placed into the new title 12 to which Ms. Phillips confirmed, he was correct. Ms. Phillips stated there are many parts that the planning department is trying to include and address in a straightforward fashion.

Ms. Phillips reaffirmed there will be workshops to work through these proposed changes and requested commission members to observe Title 12, Chapter 1 in City Code. Ms. Phillips started to discuss changes in the code, stating that there were not many changes to chapter one in the proposed revisions. She discussed the current function of the chapter, such as establishing fees, mitigation requirements, enforcement and penalties, interpretation and conflict, conditions-based exceptions, and development and construction agreements. Ms. Phillips stated that those agreements will be made more robust in the proposed changes. She reminded the Commission of the MDA, and CIA definitions and pointed out the notes on the side of the document, which outlines the proposed changes to the current code.

Director Phillips moved on to chapter 2 changes. This chapter discusses the changes to, as well as inclusion of definitions in this section. Definitions were added for acceptance, city improvement, developer, final acceptance, improvements, lot parcel consolidation, major vs minor subdivision, etcetera. Ms. Phillips discussed indecision between definitions for owner and developer and expressed a desire to marry the two definitions for clarity. Additionally, other definitions will include the private street, property or boundary line, as well as starter home subdivisions, and substantial completion. The purpose of these changes is to remove conflicting or vague language in city code.

Ms. Phillips moved on to changes in chapter 3 which discusses boundary line adjustments. She stated that it doesn't make sense for a boundary line adjustment to be at the back of the section, because it does not create more lots, and therefore shouldn't be in the subdivision section. This new section will include the application process, the process for project review and approval, as well as surveys. There has been discussion amongst staff to remove the survey section and place it in Title 12, Chapter 1, because it encompasses a large portion of the totality of Title 12.

Director Phillips moved to chapter 4 changes which discusses subdivisions. Ms. Phillips feels that minor and major subdivisions should not have separate code sections, due to their similarities in process. Therefore, staff has taken chapters 3 & 5 and placed them together in chapter 4. This includes applicability, process, exemptions and approval.

Ms. Phillips moved on to chapter 5 changes which discusses preliminary plats; this code also outlines predevelopment meetings. The predevelopment meeting helps city staff meet with developers to create an initial overview of the nature of the project. She went on to describe the function and performance of the pre-development meeting, staff analysis, and public hearing processes for subdivision plats.

Next Ms. Phillips discussed chapter 6 changes. This chapter discusses requirements for subdivision improvements, construction plan, inspection, performance & warranty surety and approval of infrastructure. There are references to right of way encroachment permit, and sewer connection permit.

Director Phillips moved on to chapter 7 changes which will address all final plat requirements. She explained the inclusion of different kinds of plats, and how the new language in the chapter will address this. Plats will include subdivisions, condominiums, town homes and lot consolidation. Links to building code will be noted as they relate to the type of plat, this includes overall requirements for plat submittal, recordation that pertain to all, process for approval, application and/or process differences for individual

types of plats. Ms. Phillips discusses the application differences between types of plats, and states that they will be changed in the near future.

Ms. Phillips moved to a discussion on titles 12 (subdivision) and 11 (zoning) [more specifically sections Title 12, Chapter 5, Section 3 and Title 11, Chapter 2, Section 11] with regard to starter home subdivisions. Director Phillips stated that within the new chapter 5, under subdivision application requirements, a section should be added to include the instances where an applicant would propose smaller lot sizes than are allowed minimums of the zone designation. This would be in addition to a table to include the average, maximum and minimum lot sizes.

Donna discusses Title 11, Chapter 2, Section 11, regarding starter home subdivision standards. The section will state that “starter homes subdivisions as identified in Idaho state codes 65-6741 will be allowed in accordance with the standards of approval for all subdivisions” Ms. Phillips stated that this is important because subdivisions have eight (8) standards of approval, and the with respect to the design standard requirements of title 11 and the subdivision requirements of title 12. The allowance for the smaller lots within this subdivision do not mean that it doesn’t meet the standards of approval of a subdivision. Staff identified that starter homes may be allowed in residential suburban, single family residential, and mixed residential zone designations. The section also states that the design of the subdivision must also fit the design of the surrounding areas, as well as all lots matching the setbacks with the zone’s regulation. The code also identifies that every primary dwelling unit in the city shall be required to provide two off street parking spaces. This section also establishes a new site area, building setback, and frontages table. Ms. Phillips discussed the incompatibility of starter home areas in agriculture zones, stating a lack of infrastructure and services.

Ms. Phillips asked the commission if staff had adequately encapsulated the desires of the planning and zoning commission for this new title 11 and 12 with respect to starter homes. Chair Taylor and Commissioner Walters stated that they had, and Commissioner Walters discussed the difficulty with fitting an ADU into starter home designations and stated that “ADU might be interpreted as a blanket statement.”

Continuing her presentation, Ms. Phillips discussed the proposed amendments to Title 11, Chapter 4, Section 7 (C) and provided information regarding possible amendments to the code section consistent with previous direction. Ms. Phillips discussed improvements to a site which may trigger either dedication and/or construction.

Next, she discussed Title 11, Chapter 4, Section 7 (B) & (C) which dictates required site improvements. Title 11, Chapter 4, Section 79 (B) discusses when one must complete improvements to their property. The text states that if the site has been improved by 40% or more over three (3) years, then site improvements commence. Ms. Phillips directed the commission to observe Title 11, Chapter 4, Section 7 (C), which discussed frontage improvements. She drew a diagram depicting frontage improvements that are referenced in this portion of the text. The proposed changes are for when a site has proposed development which is significant (a change or improvement) which brings about more intensity of use of the system. The staff is proposing that for all new principal non-residential uses and additions and changes of use, a frontage improvement, ROW dedication and easement is required. If an applicant is building a new residence, they also have these requirements. She provided some proposed language to the commission. This handout discussed what does and doesn't count as maintenance and is therefore not a

trigger for any frontage improvement. New language is included which stated that should an existing principle structure be rebuilt then it shall be treated as maintenance, however, should it be expanded more than 40% of the square footage of the structure, over a three-year period then it shall be treated as a new principle structure. Commissioner Vargas asked if the garage is included in the square footage. Ms. Phillips stated it should be only the conditioned space of the house, and asked Shannon Drappo, Planner, to make note of this. Ms. Phillips further discussed how ADU development will be changed in this revision. In today's code, if an individual is building a residential accessory dwelling unit, then it has a maximum size of about 1000 square feet, and of those 1000 square feet units, all of them are two bedrooms or less. Therefore, their impact is less than what the code will propose in the future for said dwelling units.

Chair Taylor asked about the existence of variance, to which Ms. Phillips pointed to sub-section "F", which provides more flexible language. Director Philips proceeds quote Title 11, Chapter 4, Section 7, (C) ((5)) : "The section that dedication of ROW and granting of easements may be modified where the finished grade or street section cannot be established, or frontage improvement has been installed at a prior time that is not fully consistent but is generally consistent with the currently adopted standards and where there are safety concerns or when there are other factors as determined by the city engineer" Chair Taylor proposed further variance language to be added to the text to provide more flexibility for developers. Chair Taylor further discussed his concerns with hampering development in the event that a property be forced to provide frontage improvements when the chances of other adjacent lots improving their frontage is low. Ms. Drappo proposed a deferred improvement agreement on frontage improvement triggers, which may include development of neighboring properties. Chair Taylor stated that the proposed deferred improvement agreement might help alleviate his concerns. Ms. Phillips stated that the public desires safe sidewalk infrastructure, and this method could be a tool to produce said infrastructure or dedicate right of way to the city for future infrastructure construction.

Commissioner Walters voiced concerns about the possibility of a property being roped into a deferred improvement agreement by being flanked by two participating properties. Ms. Drappo stated that the participating properties must be immediately contiguous properties, therefore every property in the effected right of way must consent. Discussion ensued regarding the importance and/or the efficiency of the proposed changes in securing frontage improvements at a point where the property owners have the capital to construct improvements. Commissioner Vargas suggests that if we [the City] require improvements, the city ought to pay for them via a tax raise.

Ms. Phillips discussed the need for another workshop on the 24th and 31st of August. After a discussion of personal schedules, the commission tentatively agreed on August 31st for the next Planning and Zoning regular meeting.

ADJOURNMENT
Chair Taylor adjourned meeting at 6:57 PM

Respectfully submitted,

Cooper Broggel, Clerk

3. **WORKSHOP**
   A. Code Amendment Review - Title 12 Subdivision - Repeal and Replace

Assistance for persons with disabilities will be provided, upon provision of verbal or written notice to city staff 24 hours in advance of the meeting. The phone number for City Hall is (208) 772-4411.

TITLE 12 SUBDIVISIONS

Proposed to Repeal and Replace Title 12 Chapter 1 - 7

CHAPTER 1: GENERAL PROVISIONS:

12-1-1: TITLE:

These regulations shall officially be known and cited as the *SUBDIVISION ORDINANCE OF THE CITY OF HAYDEN*. (Ord. 339, 4-8-2003)

12-1-2: PURPOSE:

These provisions are adopted to provide for the orderly division of land within the city, and:

A. To protect and provide for the public health, safety, and general welfare of Hayden;

B. To guide the future growth and development of the city in accordance with the comprehensive plan;

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

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

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

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

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

H. 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;

I. 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;

J. 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 Hayden. (Ord. 339, 4-8-2003)

12-1-3: AUTHORITY:

A. This title 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.

B. The provisions of this title shall be administered to ensure orderly growth and development and shall supplement and implement provisions of the Hayden comprehensive plan, this code and the capital improvements plan. By virtue of this title the city council, planning commission and administrative staff of Hayden are vested with the authority to review, approve, approve with conditions, or disapprove applications for subdivision of land. (Ord. 339, 4-8-2003)

12-1-4: SCHEDULE OF FEES, CHARGES, and EXPENSES:

A. The city council may, by resolution, adopt a schedule of fees related to the cost of services and a collection procedure for the various permits and approvals related to the administration and enforcement of this title requiring investigations, inspections and reporting, application processing and review, meetings, legal advertising, postage, staff analysis, hearings, written decisions, legal assistance and other expense associated with review, processing and inspection of subdivision of land. The schedule of fees may only be amended by the City Council.

B. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. The cost of the title reports, postage, mailings and other items as specified in the adopted fee schedule shall be the sole responsibility of the applicant.

C. 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. As a complement thereto, the developer may pay development impact fees, which will be used by the City to mitigate such impacts. (Ord. 339, 4-8-2003)

12-1-5: ENFORCEMENT AND PENALTIES:

A. No building 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 or State platting statutes, nor shall the City have any obligation to issue any certificates of occupancy or to provide utility services to any lot or tract created or established in violation of these provisions. (Ord. 582, 7-10-2018)

B. No construction of infrastructure shall commence until preliminary subdivision approval has been issued, and as required by City Council any development agreements and construction improvement agreements have been approved and executed.

C. Violations of the provisions of this title will be deemed a misdemeanor crime; 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. (Ord. 398, 8-31-2005, eff. 10-1-2005)

12-1-6: INTERPRETATION AND CONFLICT:

A. In their interpretation and application, the provisions of this title 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 public health, safety and welfare.

B. 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. (Ord. 339, 4-8-2003)

12-1-7: CONDITION-BASED EXCEPTIONS:

A. 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 condition-based exceptions to these regulations. A condition-based exception is any alternative design, or deviation from 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 11-3-?? of this title and reviewed as an integral part of the overall review process as outlined in this title

1. The granting of an exception shall not have the effect of nullifying the intent and purpose of these regulations. The City Council will not permit exceptions to conditions unless it finds, based upon the evidence presented to it in each specific case, that:

2. The granting of the condition-based exception will not be detrimental to public safety, health or welfare or injurious to other property; and

3. The conditions upon which the condition-based exception request is based are unique to the lands for which the relief is sought and are not applicable generally to other lands; and

4. Because of the physical surroundings, shape or topographical conditions of the specific lands involved, a particular and unnecessary hardship to the owner or the public would result if these regulations are strictly applied; and

5. The change sought will not be contrary to the zoning ordinance or comprehensive plan.

B. In approving condition-based exceptions, the City Council may require conditions that will secure the purposes of this title. The recommendation and decision made on the requested exception should be at the time the subdivision is reviewed by the Planning and Zoning Commission and City Council. (Ord. 339, 4-8-2003)

12-1-8: DEVELOPMENT AND CONSTRUCTION AGREEMENTS:

A. It shall be a requirement of compliance with this title that a development agreement and a construction improvement agreement be entered into and approved by the City prior to initiating physical construction of subdivision improvements or recordation of a subdivision plat, for all projects which require additional off-site infrastructure (i.e. park development, sewer lift station and force main construction, signal/roundabout intersection improvements, etc.). The terms of the agreements shall be consistent with the City's Comprehensive Plan, Hayden City Code, adopted policies, plans and standards, and the implementation shall be in the best interests of the City and the health, safety and welfare of its residents. These agreements are in addition to the requirements identified in this Title and shall be incorporated by reference. (Ord. 398, 8-31-2005, eff. 10-1-2005)

Commented [DP1]: Moved from MDA #5

B. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in the Development Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring the project real property , any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of the Development Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable laws.

Commented [DP2]: Moved from MDA 11.1 and CIA 1.05

C. Completion of Performance. Upon completion of performance by the parties or revocation of the Development Agreement, a written statement acknowledging such completion or revocation, signed by the City and Developer shall be recorded in the Official Records of Kootenai County, Idaho. Any such release shall not signal completion or release of any provision which confers a public benefit and which is intended to run with the land unless expressly approved by the government board of the City.

Commented [DP3]: Moved from MDA 12.5

D. Relationship of the Parties within the Construction Improvement Agreement.

1. The Developer and its contractors and subcontractors shall not represent themselves as agents, employees, or partners of the City, or otherwise associated with the City other than, in the case of the Developer, as an independent contractor. The Developer shall notify all its contractors, and subcontractors of the provision identified here.

2. The Engineer of Record (EOR) for the project shall not represent themselves to be agents, employees, partner, or contractor of the City. The EOR is retained by the Developer to supervise the construction and inspection of the Project is doing so for the benefit of the Developer and City. EOR's duties include fair, honest, and competent inspection of the work undertaken pursuant to the Construction Improvement Agreement in accordance with standards of practice in the engineering profession.

Commented [DP4]: Moved from CIA 1.03, 1.04

E. Default, Remedies, Termination:

1. Subject to extensions of time by mutual consent in writing, the following could be considered as default:

   a. Failure by either City or Developer to perform any term or provision constitutes a default under this Agreement.

   b. If the Developer is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers a receiver to be appointed on account of insolvency, takes advantage of any law for the benefit of insolvent debtors; or

   c. If the Developer has failed in any measurable way to perform its obligations, except if delayed by an act or omission of the City, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, shortage of materials, sabotage or freight embargoes.

2. In the event of default, the Developer or City alleging such default or breach shall give the alleged breaching party not less than thirty (30) days' notice in writing, measured from the date of certified mailing, specifying the nature of the alleged default and, when appropriate, the manner by which said default may be satisfactorily cured. During any such thirty (30)-day period of curing, the Developer or City charged shall not be considered in default for purposes of termination or institution of legal proceeding. The Developer and City agree to meet face-to-face in the event of any such notice of default.

3. After proper notice, meeting and expiration of said thirty (30)-day cure period without cure, or if such cure cannot be accomplished within such thirty (30)-day period, or if the cure has not been commenced within such period and diligent effort has not been made to effect cure thereafter, the party alleging the default, at its option, may do any one or more of the following:

   a. The City may perform any act required of the Developer, including constructing all or any part of the improvements after giving seven (7) days' notice in writing to the Developer. The Developer shall be liable to the City for any costs thus incurred. The City may deduct any costs incurred from any payments then or thereafter due the Developer from the City whether under this Agreement or otherwise; or

b. The City may exercise its rights under ??, or any performance or warranty guaranty securing the Developer's obligations under this Agreement; or

c. The Developer or City may pursue any appropriate judicial remedy including, but not limited to, an action for specific performance, injunction, and civil penalties. City shall be entitled to its attorney's fees in any enforcement action necessary to enforce the terms of the Agreement.

Any failure or delay by the City or the Developer in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. The City is allowed to withhold approval of subsequent phases of the Project or issuance of building or construction permits when a material condition of default exists.

4. Applicable Law/Attorneys' Fees. Should any legal action be brought by the City or the Developer to enforce any provision of the approvals of the project, the action shall be brought in Kootenai County, Idaho and the prevailing party shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be found by the Court.

5. Termination for Unforeseen Circumstances. If the City determines that the health, safety and general welfare of the City or its residents required the modification, suspension or termination of the project as a result of facts either unknown or unforeseeable, the City may modify, suspend or terminate the project following compliance with the following procedures.

a. The City shall notify the Developer in writing of the City's determination that such circumstances exist, the reasons for the City's determination and all facts upon which such reasons are based.

b. The City shall hold a hearing on the City's determination that this Agreement should be modified, suspended or terminated and provide notice of the time and place of the hearing to the Developer and copies of all documents relating to such determination no less than fourteen (14) days prior to such hearing.

c. City shall have the obligation, based upon clear and convincing evidence, of establishing that

(1) the circumstances were unknown, unforeseeable and could not have been known;

(2) the health, safety and general welfare of the community require the suspension, modification or termination of the Agreement as opposed to any other alternative; and

(3) the City, to the extent feasible, has provided Developer with an equitable program to reimburse to Developer unused fees, and provided equitable reimbursement for dedications or improvements not required by the extent of development as of the date of such suspension, modification or

Commented [DP5]: Insert reference here.

Commented [DP6]: Moved from CIA 1.13

Commented [DP7]: Moved from MDA 7.1

Commented [DP8]: Moved from MDA 7.2

termination. Developer shall have the right to offer evidence to the contrary.

d. In the event the City Council should fail to make such findings, then this Agreement shall not be so terminated, modified or suspended.

e. If such threat is immediate and substantial, the City may suspend project development immediately in order to protect the public interest.

f. These procedures shall not apply when the unforeseen circumstance is a change in laws or regulations imposed by any political entity other than the City.

Commented [DP9]: Moved from MDA 7.3

12-1-9: MINOR and/or MAJOR AMENDMENTS: Upon preliminary plat and/or subdivision plan approvals, there are a number of conditions with specific components. Specificity does not preclude the City from exercising its right to require compliance, or demonstrate compliance, with any condition at any time, as well as any other applicable requirements whether or not specifically articulated within the decision. Approvals of the components of a subdivision shall not constitute a variance or approval for deviation from said Code, standards, and policies. Additionally, due to unknown, or unforeseen circumstances, an applicant, owner, engineer of record may request an amendment to the approvals as cited above.

A. Amendments are reviewed within the context of the purpose of the subdivision code (12-1-??), the standards of subdivision approval (12-??), and the effect of the amendment on what the public believes was approved within the public hearing process. Minor Amendment – A minor amendment is one where no more than a 10% deviation from the approved dimensional requirements may be requested, i.e. pathway widths, street sections, landscape coverage, reduction in the residential density, or a reconfiguration of the open space. A minor amendment may be administratively approved by the City.

B. Major Amendment – A major amendment is any proposed modification that would substantially change the vision of the approved preliminary plat/subdivision plan or any condition of approval, i.e. the arrangement and connectivity of the public street system, the conversion of any proposed public street to a private street or vice versa and/or to add or remove a gated street, an increase in residential density, a reduction in the overall open space. A major amendment must be reviewed and heard by the hearing bodies in the same manner as the original request of the subdivision and shall be limited to only the proposed amendment.

12-1-10: SURVEY:

All surveys for boundary line adjustments, lot consolidations, plats, subdivisions, or other projects within the city limits of Hayden shall be based upon the city of Hayden horizontal control network. The survey shall contain or be accompanied by the following information:

A. The initial point and at least two (2) government corners approved by the city engineer or the engineer's designee.

   1. The initial point shall be tied to at least two (2) public land survey corners, or in lieu of public land survey corners, to two (2) monuments recognized by the city engineer and shall give coordinates based on the Idaho coordinate system west zone.

   2. All horizontal coordinate values shall be grid coordinates based upon the North American datum of 1983 (NGS 1992 adjustment) as determined from control points established by a global positioning system (GPS) geodetic control survey for the city of Hayden and Kootenai County, on file in the official 1998 records of the city.

   3. Other control points or public land survey corners having coordinate values determined from a traverse or triangulation performed so as to produce accuracy meeting the specification of second order, class II traverses or triangulation, as published by the National Oceanic and Atmospheric Administration (NOAA), in classification standards accuracy and general specifications of geodetic control surveys could be used. Any coordinate value must be accepted or published by the city.

B. A complete set of field construction notes may be required showing original or reestablished corners with descriptions of the actual traverses showing error or closures and method of adjustments and a sketch showing all distances, angles and calculations required to determine distances and corners of the plat boundary. The error of closure shall be in accordance with Idaho Code, title 50, chapter 13.

C. The base of bearing of all plats shall be rotated to the Idaho coordinate system as presented by the city datum. Coordinate values shall be grid coordinates.

D. The city of Hayden datum is based upon the following format:

   1. City of Hayden 1997 survey control program map.

   2. GPS locations of section corners and quarter corners Township 51 North, Range 4 West, Boise Meridian dated November 13, 1998, or official revisions.

CHAPTER 2: DEFINITIONS AND INTERPRETATIONS:

12-2-1: DEFINITIONS:

For the purposes of this title, the following terms, phrases and words will have the meanings given in this chapter or as defined in Idaho Statute:

ACCEPTANCE [by the City]: A determination that an improvement meets City construction standards and does not refer to the City accepting a dedication of the improvement by the Developer.

ALLEY: A right-of-way designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

BLOCK: A group of lots or tracts within well-defined and fixed boundaries established by plat.

CITY: Generally, means City of Hayden, or for the purpose of administering agreements, means it chief executive or their administrative designee.

CITY IMPROVEMENT: Improvements which are to be dedicated to the city, or which are to be operated and controlled by a City-owned utility.

CONDOMINIUM: An estate consisting of an undivided interest in common real property, together with separate interests in airspace of units within an apartment, office or other multi-unit structure established as a condominium project in accordance with title 55, chapter 15 of the Idaho Code.

CUL-DE-SAC: A street closed at one end by a circular area of sufficient size for turning vehicles around.

DEDICATION: An act conveying property rights or interests.

DEVELOPER: The Developer(s) and/or Owner(s) of the project property and subsequent development shall be referred in this Title as "Developer" but shall mean either and/or both.

FINAL ACCEPTANCE [by the city]: The City is satisfied that ALL improvements required Title 12 and the corresponding agreements have been constructed in a satisfactory manner to comply with the specifications.

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 title.

IMPROVEMENTS: All work which the Developer is required to perform by the Construction Improvement Agreement.

LOT: A designated parcel of land established pursuant to title 50, chapter 13 of the Idaho Code.

Commented [DP10]: Because Title 11 and 12 have many intertwined requirements, please review the definitions provided here and those within Title 11 and ensure that they do not conflict.

Commented [DP11]: This as well as City, City Improvement, Improvement, Final Acceptance, Private Utility Improvement and Substantially Complete moved from CIA 1.21

LOT/PARCEL CONSOLIDATION: The combining of two (2) or more existing, contiguous lots or parcels into fewer lots or parcels through the process established by this title.

OFF-SITE: Not located on the property that is the subject of a development application nor on a contiguous portion of a street or right-of-way.

ON-SITE: Located on the lot in question or on the land being subdivided.

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.

MAJOR SUBDIVISION: The division of a tract of land or a lot that is greater than five (5) acres or a division of a tract of land or lot into more than six (6) lots, tracts or sites.

MINOR SUBDIVISION: The division of a tract of land or a lot that is five (5) acres or less in size or a division of a tract of land or lot into six (6) or fewer lots, tracts or sites.

OWNER: The Owner of the real property of the project and generally referred to as "DEVELOPER" within this title.

PARCEL: A unit of land of contiguous quantity in the ownership of one person or entity and constituting a separate tract of land. The act of the County Assessor assigning a parcel number to land does not create a lot of record.

PLAT: A reproducible or permanent drawing of a subdivision and dedications and easements, prepared for filing and recording with the County Recorder in accordance with provision of title 50, chapter 13, Idaho Code.

PRIVATE STREET: A privately owned and maintained right-of-way that provides vehicular and pedestrian access to two (2) or more subdivided parcels, which is not publicly dedicated and accepted for public use, and is not maintained by the City of Hayden in accordance with Hayden City Code 10-3. A private driveway serving more than two addressable structures also requires a road name in accordance with Hayden City Code 9-5.

Commented [DP12]: Check definition with that provided in Title 10.

PRIVATE UTILITY IMPROVEMENT: Improvements owned, maintained, and operated by a private utility or by a private owner or property/homeowner's association.

PROPERTY (BOUNDARY) LINE: See Lot Line in 11-1-2(D).

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.

Commented [DP13]: Check language here with that provided in Title 8 amendments.

STARTER HOME SUBDIVISION: A residential subdivision on at least four (4) acres of land that is designed to provide attainable homeownership opportunities with single-family detached

dwellings on smaller lots in accordance with provisions of title 67, chapter 65, Idaho Code and in accordance with Hayden City Code 11-2-??.

STREET: A public right-of-way, which is improved, maintained, and intended for use by vehicle and pedestrian(s) to provide traffic circulation, primary access to adjacent properties, and parking, that dedication of which has been officially accepted by the City of Hayden. The term "street" also includes the terms highway, parkway, road, avenue, lane, place, drive, trail, way, court, loop, circle and other such terms.

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

SUBDIVISION PLAN: Both written information and all maps, plans or plats that together fully describe a proposed subdivision as required by this title.

SUBSTANTIAL COMPLETION: The time at which, in the opinion of the City, the infrastructure is sufficiently complete in accordance with the Construction Improvement Agreement, as depicted in the construction drawings submitted by the Developer for the purposes for which it is intended. The constructed improvements meet City Standards, and the Engineer's Certification packet and record drawings have been received and approved by the City. The terms "substantially complete" and "substantially completed" as applied to all or part of the infrastructure refer to Substantial Completion thereof.

TOWNHOME: A separate, single-family dwelling unit constructed in a group of two (2) or more units with at least one attached common bearing wall and an extension of the structure from foundation to roof. Ownership of the townhouse on a platted lot is inclusive of the structure, the land it is constructed on, and a yard or open space on not less than two (2) sides.

TRACT: An unbuildable platted area of land within a subdivision.

WILL SERVE LETTER: A letter from the utility provider, generally water or sewer, confirming that the provider has the current availability, capacity, authority and willingness to service the proposal with the requested service. A proper will serve letter will contain the name of the provider, the date of issuance, a brief description of the proposed project, and will state that the provider has the current availability, capacity, authority and willingness to service the proposal with the requested service. The letter must be signed by an authorized representative of the provider. (Ord. 398, 8-31-2005, eff. 10-1-2005; amd. Ord. 578, 1-9-2018; Ord. 582, 710-2018)

12-2-2: INTERPRETATIONS:

When not consistent 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

Commented [SD14]: Do we want to mirror what we have in 11-1? "A building consisting of three or more dwelling units with common bearing walls. Each dwelling unit shall be platted on an individual lot, including both the structure and the land it occupies, at a minimum."

Commented [SD15]: Added per definitions in 11-1

otherwise. Except as expressly defined herein, words used in this title shall be given their ordinary meaning consistent with common usage and context. (Ord. 339, 4-8-2003)

CHAPTER 3: BOUNDARY LINE ADJUSTMENT

12-3-1: APPLICABILITY:

A. The provisions of this chapter establish the requirements for adjustment of common boundary lines of platted lots or legally created un-platted lots and not to lots that are being consolidated. An application for a boundary line adjustment may be submitted to adjust a boundary between adjoining lots or parcels if the proposed boundary adjustment does not

   1. Create any additional lots;
   2. Include any lots or parcels which are not legal lots, as defined by city ordinance;
   3. Already have a boundary line adjustment which had been completed on the subject lot(s) within the previous 365 calendar days other than minor revisions as determined by the Community Development Director; or
   4. Contain land, where an application for a subdivision be proposed within three (3) years; unless the application for a subdivision includes;
      a. All lots that were part of the boundary line adjustment; or
      b. For the lot not included in the subdivision, the frontage improvements and sewer connections at a minimum shall be included unless this is a part of a Phased Subdivision, Condominium Plat, Townhome Plat or Planned Unit Development pursuant to Hayden City Code Title 11 and 12.

Commented [SD16]: Should Townhome Plat be part of this section?

12-3-2: APPLICATION:

A. An application for a boundary line adjustment may be made to the City electronically with the required documentation. Required submittal documents shall include but may not be limited to the following: Current Deeds, draft deed(s) of conveyance, resulting deeds, a certificate from a title insurance company licensed under the laws of the State of Idaho, issued no later than thirty (30) days prior to the date of the application submittal for each of the affected properties and a scaled draft record of survey of the proposed adjustment(s) showing the following:

   1. All existing and proposed boundaries of the affected lots with dimensions;
   2. All existing structures with dimensions and distances from both eaves and foundation lines to existing and proposed boundaries;

3. Existing sewer and water services to the affected lots;
4. Existing street frontages and access to each lot;
5. Existing easements and their purposes.

12-3-3: REVIEW AND APPROVAL:

A. Once the application has been reviewed and accepted and has been determined by the staff to be complete so that sufficient information regarding the proposal can be provided, invoicing will be sent to the applicant. Upon payment of fees, a notice will be sent to outside agencies and jurisdictions which in the opinion of staff, may be affected by the proposal, as well as lienholders of record, as identified in the title policy submitted with the application. Said notices shall include applicant and/or owner's name(s), summary of the boundary line adjustment including affected parcels, associated maps, and the proposed record of survey. Agencies, jurisdictions and lienholders will have thirty (30) days from the date that the materials have been sent to submit comments. The Community Development Director or their designee will approve the boundary line adjustment only after determining that all of the following conditions have been met:

1. Nothing impacts the ability to adjust property lines.
2. If any of the existing lots are currently nonconforming as to lot size, setbacks, and lot coverage, they may be adjusted so long as neither resulting lot exceeds the original degree of nonconformity of the other(s) and so long as no additional nonconformities are created.
3. The lot line adjustment does not result in lots spanning public right-of-way or private road easements unless such condition(s) existed prior to the boundary line adjustment.
4. The lots being adjusted were legally created.
5. No additional lots are being created.
6. The accompanying draft deed(s) of conveyance accurately describes the property to be transferred and the remainder property. Said deed(s) shall also include new aggregate legal descriptions of the adjusted areas. A statement shall be included on the deed of conveyance indicating that the instrument is being recorded for lot line adjustment purposes, and that the portion of property being transferred is not of itself a buildable lot.
7. No existing easements or accesses have been impaired without appropriate remedy.

Commented [SD17]: Can we make agency notices a 14-day period and lienholders 30?

Commented [DP18R17]: Check state, and County code regarding the agency notices.

8. Adjusted lots that are currently served by sanitary sewer and water services have not been adjusted so that they do not, or cannot, have sewer and water services that conform to applicable City policies and standards.

9. The draft record of survey has been prepared by an Idaho licensed surveyor in conformance with the requirements of Idaho State Statutes and this chapter.

10. All new property corners have been monumented as required by this title and Idaho Code.

B. Upon determining that all of the above requirements have been met, the boundary line adjustment will be approved for recordation by the Community Development Director or their designee.

12-3-4: ISSUANCE OF BUILDING PERMITS:

No building permits will be issued on lots or tracts whose boundaries have been adjusted without the approval of the City.

CHAPTER 4: SUBDIVISIONS:

12-4-1: APPLICABILITY:

Every division of land into two (2) or more lots, tracts, parcels, sites or divisions, whether immediate or future, for the purpose of sale, lease, transfer or development within the incorporated area of Hayden shall proceed in compliance with this chapter.

12-4-2: EXEMPTIONS:

The provisions of this chapter shall not apply to the following:

A. The transfer of land between two (2) or more adjacent property owners, which does not result in the creation of any additional building site(s) and/or lot(s) provided a lot consolidation as identified in 12-9-? or a boundary line adjustment as identified in 12-3, approved by the City has been recorded with the Kootenai County Clerk, which shall serve to permanently combine or adjust the subject lots and the requirements identified in this code are met.

B. Any division of land made by testamentary provision or the laws of descent. Lots or tracts so created must comply with lot size, frontage, and other standards established by this Code and other applicable laws to be eligible for a building permit or to qualify for establishment of an authorized land use.

C. Divisions resulting from the conveyance of a lot or tract of land to a taxing district, government agency, or utility regulated by the Public Utilities Commission, providing the lot or tract will not be used for habitable structures such as offices, service centers or public safety stations, provided that one of the following conditions have been met:

Commented [DP19]: Check Reference

1. The improvements, as provided in chapter 6, "Required Subdivision Improvements", of this title, are constructed, or have been constructed on the lot or tract being conveyed, prior to the actual conveyance of said property;
2. With the approval of the City Council, construction of said improvements, as required in chapter 6 of this title, are deferred for a period not to exceed five (5) years, with the owner providing surety, in a form approved by the City Attorney, in the amount of one hundred fifty percent (150%) of the estimated cost of the improvements; or
3. In the event that the lot or tract being conveyed is less than 4,000 square feet and has a right-of-way frontage of less than 100 linear feet, the City may accept surety for improvements as required in chapter 6 of this title.

In all cases, construction plans for required improvements, and cost estimates, as may be required, shall be prepared by the entity requesting such exemption, for review and approval by the City Engineer prior to the commencement of any construction. In the case of actual construction of improvements by the requesting entity, all construction inspections, acceptance of infrastructure, and warranty requirements, as provided for in subsections 12-3-4 K and L of this chapter, shall be applicable.

12-4-3: SUBDIVISION (MAJOR AND MINOR) PROCESS SUMMARY

A. Pre-development meeting: Prior to submitting a formal subdivision application, the developer shall have completed a pre-development meeting with city staff to review the proposal. At the meeting, staff will provide insight into the requirements for the project in relation to the zone designation design standards, potential on-site and off-site impact, potential mitigation requirements, landscaping, lighting, street typical design, utility design, and various infrastructure improvements.

B. Submittal: Applications shall be submitted online electronically to the Community Development Department and/or their designee of the Department. The submittal will request sufficient and detailed information to assist the staff and other decision-making bodies with determining if the application is consistent with the standards of approval. All applications shall be signed by the property owner or their duly authorized agent, so signified by filing an affidavit of representation. The application shall be accompanied by a certificate of a title insurance company licensed under the laws of the State of Idaho dated no later than thirty (30) days prior to the date of application. Details and specifications shall conform to the standards described in section 12-?? of this chapter and Idaho Code. Each application shall be accompanied by a fee in an amount to be established by the resolution of the Council. Upon receipt of the application, supporting documentation, and fees for review and noticing, the staff shall review the request in accordance with standards of approval found in section 12-?? of this chapter.

C. Notices:

Commented [DP20]: Check reference.

Commented [DP21]: Check reference

Commented [DP22]: Check reference

Commented [DP23]: Can we add disclaimer language that this only applies for a single lot and not an entire subdivision of lots less than 4,000 square feet?

Commented [DP24]: Reference 12-5-1(C)

1. Public Agency notices shall be sent via e-mail. The comments (if received in a timely manner) will be included within the staff analysis or provided at the time of the public hearing.

2. Public noticing shall be completed in accordance with section 12-??.

D. Public Hearing, Decisions: A public hearing will be completed either before the hearing bodies or before a hearing examiner dependent on the type of subdivision (major or minor) to be heard in accordance with section 12-??. Upon the conclusion of the hearing process, a Written Decision shall be approved and the appeal tolling period shall begin.

E. At the conclusion of the tolling period for appeals, a Master Development Agreement shall memorialize the conditions of the approval for either a major or minor subdivision, and shall provide for the construction improvement requirements, performance and surety agreements in template form. The agreement shall be signed and recorded to run with the land for the length of the approvals of the project.

Commented [DP25]: Move to new section.

F. Construction Plan Reviews and Commencement of Construction: The construction plans from the preliminary plat shall be revised based on the conditions of approval of the preliminary plat's written decision and will be submitted for review by the City. Upon receipt of the review and construction inspection fees, the City will begin the review. Construction plan requirements are identified in section 12-??. Coordination and review with other agencies are the responsibility of the owner. Upon approval of the construction plans by the City and required outside agencies, the construction improvement agreement shall be signed and recorded, a pre-construction meeting with the Engineer of Record, Owner, and Contractor will be scheduled. After the required permits have been issued, construction may commence. During construction, the City has the authority to conduct periodic inspections of the project site and the required infrastructure improvements.

G. Final Plat, Approval of Infrastructure, and Warranty: At any time after the approval of the construction plans, the final plat submittal in accordance with 12-?? may be made. Upon receipt of review fees, the City will begin review. Final plats and the City/County checklist may be submitted by the Developer to Kootenai County upon approval by the City. Upon completion of the required subdivision construction in accordance with section 12-??, receipt of fees and warranty surety, then the approval of the final plat and acceptance of infrastructure may be placed on the agenda of the next available City Council meeting, and the date of the warranty period begins. Prior to the expiration of the warranty period, a warranty inspection shall be completed. Any warranty items shall be fixed by the Developer prior to release of the warranty surety in accordance with section 12-??

H. Approval Duration: The final plat or the first final plat of a phased subdivision shall be recorded within two (2) years of the approval of the Written Decision of the preliminary plat. The final plat of a phased subdivision shall be recorded within five (5) years of the approval of the Written Decision of the preliminary plat unless a different approval

duration is conditioned by the City Council at time of preliminary plat approval. The Developer may apply to City Council for approval of a one (1)-year extension, no later than thirty (30) days prior to the expiration of the Preliminary Plat approval and no more than three (3) times. The extension may be granted for cause if actual work has commenced and is continuing. Should the final plat not record, and no extension(s) be granted, the preliminary plat and subsequent approvals shall become null and void and reapplication for a new preliminary plat application shall be required.

I. Changes, Alterations or Deletions:

1. Upon issuance of agency and/or public hearing notices, and prior to approval of the preliminary subdivision plan by Written Decision of the preliminary plat, any alterations of the plan must be reviewed by the Community Development Director or their designee to determine if the alterations are considered substantive. If the amendment is major or involves a substantial or significant change to the plan, said changes may be subject to agency and public notice requirements as detailed in section ???.

2. After approval of the subdivision plan by Written Decision of the preliminary plat and before approval of a final subdivision plat, the City Engineer may, in writing, approve minor changes of the plan. If an 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. The public hearing on the proposed amendment shall be limited to the proposed amendment and follow the same process as that for the preliminary plat. The decision will be brought forward as an addendum to the development agreement.

J. Phasing Of Subdivisions:

1. Subdivisions may be phased, to be developed in portions periodically according to a proposed plan and schedule, so long as each phase contains all of the necessary improvements to function as a subdivision without the completion of any of the other phases. The developer 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 and schedule shall coordinate required infrastructure systems, dedications, off-site improvements, open space/parks, landscaping, private utilities, or other elements of a subdivision. The plan and schedule may indicate those requirements which will trigger specific improvements.

Commented [DP26]: Check reference.

K. Transfers and Assignments:

1. The Developer/Owner of the property shall have the right to sell, assign or transfer, any or all of its rights, duties and obligations to any person or entity during the development of the subdivision project; provided, however, that in no event shall the rights, duties and obligations conferred upon Developer be at any time so transferred or assigned except through a transfer of that party's interest in the Property or portion thereof transferred.

Commented [DP27]: From MDA 10

2. Upon the sale, transfer or assignment of Developer/Owner's rights and interests, Developer/Owner shall be released from its obligations with respect to their interest in the Property, or portion thereof, so transferred arising after the effective date of such transfer if:

    a. That Developer/Owner is not then in default of the Master Development Agreement or Construction Improvement Agreement of the project;

    b. That party has provided to City notice of such transfer;

    c. The transferee (New Developer/Owner) executes and delivers to city a notarized written agreement in which

        (1) The name and address of the transferee is set forth; and

        (2) The transferee expressly and unconditionally, upon provision of sufficient surety or other assurance of performance, assumes all obligations of the transferor (Developer/Owner which was applicant and/or received approvals for the project) with respect to the Property, or portion thereof transferred;

    d. City approves the transferee, (which approval the city will not unreasonably withhold) if such transferee is financially capable of performing the obligations of transferor or if surety is provided to guarantee performance.

3. If the transfer of land is known upon preliminary plat approval: Notwithstanding, the city hereby approves Developer's assignment of its rights and interest in this Property and the release of Developer from further obligations upon Developer's conveyance of the Property to transferee.

4. Failure to deliver a written assumption agreement shall not affect the running of any covenants with the land, as required, nor shall such failure negate, modify or otherwise affect the liability of any transferee.

Commented [DP28]: From MDA 10.2

L. Mortgagee Protection; Certain Rights of Cure.

1. Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in the Hayden City Code and Written Decision of the project shall be binding upon and effective against any person or entity including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

2. Mortgagee Not Obligated. Notwithstanding the provisions of Section (K)(1) above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

3. Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of any notice of default given Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed an event of default. If City makes a determination of noncompliance hereunder, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Developer. Each Mortgagee shall have the rights during the same period available to Developer to cure or remedy the event of default claimed or the areas of noncompliance set forth in the City's notice. The Developer is obliged hereby to notify the City of any Mortgagee with an interest in the Project.

M. Professionals retained by the Developer/Owner:

1. The Developer shall retain an Engineer of Record (EOR), registered as a professional engineer under the laws of the State of Idaho, to design and administer the construction of the improvements, including preparing plans and specifications, inspecting and controlling the quality of work and preparing the as-built data. The Engineer shall perform the work described herein in accordance with the City's required procedures for consulting engineers.

2. The Developer shall retain a Land Surveyor (PLS), registered as a professional surveyor under the laws of the State of Idaho, to draft records of survey, plats, and legal descriptions. The Land Surveyor shall perform the work described herein in accordance with the City's required procedures for consulting surveyors.

Commented [DP29]: Not sure that this still applies here?

Commented [DP30]: Should this be removed too?

Commented [DP31]: Moved from MDA 9

3. The Developer shall inform the City of the name and mailing address of the Engineer of Record and/or Land Surveyor it has retained to perform the duties described in L (1 and 2) of this section. Notice to the Developer/Owner may be made to either the Engineer of Record and/or Surveyor, if the Developer/Owner has provided authorization to work directly with either of these professionals to the city. Such notice may also include performance of such duties as required by Hayden City Code and/or the agreements as required. The Developer/Owner shall promptly inform the City of any change in the information required under this subsection and/or a change in the Engineer of Record and/or Land Surveyor retained and provide new authorizations as necessary.

Commented [DP32]: Moved from CIA 2.07, and added language regarding Land Surveyors.

Commented [DP33]: Moved from CIA 2.14

CHAPTER 5: SUBDIVISION PRELIMINARY PLAT

12-5-1: SUBDIVISION PLAN AND PRELIMINARY PLAT:

A. Prior to submitting a formal subdivision request, the developer shall have completed a pre-development meeting with city staff to review the proposal. A pre-development meeting will be scheduled at the earliest available date, upon receipt of the required conceptual plans and application by the City. The scope of the pre-development meeting shall include, but not be limited to:

1. The general subdivision process.
2. Overall design, lot sizes, and street layout.
3. Preliminary utility design.
4. Conformity to this Code, City standards, and policies.
5. Potential off-site impacts/mitigations.
6. Off-site/on-site improvements.

Additional pre-development reviews may be required.

B. Following the completion of the pre-development meeting, a completed application for subdivision plan approval may be submitted to the city. Said application shall be completed in accordance with the City's requirements and shall be made electronically.

Each application shall be accompanied by a fee in an amount to be established by the resolution of the Council. (Ord. 542, 1-27-2015)

C. Subdivision Plan Standards: Every subdivision plan shall consist of a narrative of the subdivision, additional materials as required, and one or more plats, surveys, and construction drawings, prepared by an engineer or surveyor licensed in the State of Idaho. They shall be drawn to a scale that is reasonable and legible with written data which considered together, they shall fully and clearly disclose the following information:

Commented [DP34]: Dulci, Specific required scale?

1. General Information:

a. The name of the proposed subdivision;

b. The legal description of the land contained within the subdivision;

c. The names, mailing addresses, telephone numbers, and e-mail addresses of the applicant and all persons, firms and corporations holding interests in said land;

d. Proof of ownership and consent from all property owners and lienholders granting authorization to subdivide the property and the name and contact information of the authorized agent;

e. A title company licensed to do business in the State of Idaho, shall provide an assessor's map and three (3) copies of self-adhesive labels including the names and mailing addresses of all property owners whose property is within three-hundred feet (300') measured from the external boundary of the entire proposal area. The assessors' maps and the title company search must be dated within sixty (60) days prior to issuing notice to the public agencies. If the information is more than sixty (60) days old at the time the notice is issued, the applicant shall provide current information.

f. The name, mailing address, telephone number, e-mail address, and professional license number of the Idaho licensed engineer that prepared the plan (EOR);

g. A statement of proposed provisions for irrigation/domestic water supplies and sewage disposal in the form of a "will serve" letter from the applicable purveyor, and the Idaho Department of Environmental Quality approved facility plan, if applicable;

2. Plats, surveys, construction drawings.

a. 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;

b. The boundaries and dimensions of all blocks and lots within the proposed subdivision together with the numbers proposed to be assigned to each block and lot. A lot utilized for open space, placement of utility infrastructure such as a lift station, and the like shall be titled a "tract";

c. 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, the density in lots per acre, and the applicable primary setbacks;

(1) Should any of the proposed buildable lots be less than the minimum lot size identified in the underlying zone, then:

i. Identify if the proposed subdivision is to be a "Starter Home Subdivision" as authorized in 12- ?? defined in section 12-?? Of this title, and provide documentation in the narrative and supporting materials of the project as designed meets the design standards provided in 11-?? Of this code; or

ii. Identify if the proposed subdivision is creating lots within an approved Final Planned Unit Development; or

iii. Identify if the proposed subdivision is creating lots per a condition-based approval (12-??) or an exception (12-??); or

iv. Show the lot as an unbuildable tract and provide reasons why in the narrative.

d. A sketch map of the general vicinity in which the land proposed for subdivision lies prepared at a scale of not more than four hundred feet (400') to the inch. The vicinity map shall show all adjacent lots and shall show how the streets and alleys in the proposed subdivision connect with existing and proposed streets and alleys in neighboring subdivisions and unplatted property;

e. Any existing or proposed easements and right-of-way dedications, easements to be labeled with the name of the recipient and purpose of the easement;

f. All existing and proposed streets. Show plan, profile and cross sections along with street names (existing and proposed);

g. All adjacent streets. Show existing right-of-way width, and the location of centerline, swales, curbs and sidewalks, and trees;

h. Show location of existing structures such as septic tanks, drainfields, underground storage, wells, houses and outbuildings with notes to indicate if they will remain or be removed along with setbacks from proposed lot lines and streets. Additionally, show the location of any natural features such as wooded areas, streams, drainageways, flood hazard areas identified on the flood insurance rate map, rock outcroppings, or other sensitive, hazardous, or difficult to develop areas;

i. Location, dimensions and area of all tracts 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. Include information on park amenities and uses demonstrating compliance with the City's park plan, annexation agreements, development agreements and the like;

Commented [DP35]: Check reference.

j. Provide preliminary construction plans (typically 50-70 percent design unless otherwise approved by the City Engineer) for the subdivision demonstrating constructability and functionality which shall include:

(1) Proposed utility infrastructure plan indicating locations, sizes, and approximate centerline grades;

(2) General grading plan showing existing and proposed topography, identifying areas of cut and fill of over two feet (2') along with and existing and proposed all surface water flow patterns. Conceptual stormwater management plans for all proposed subdivision infrastructure shall be provided.

(3) Pedestrian and bicycle circulation plans;

(4) A general right-of-way landscape plan;

(5) Proposed mailbox locations;

(6) Snow storage and removal plan.

3. Narrative/Summary of the project:

a. Provide a graphic and narrative depicting and explaining development phases, or stages, if the project will be done over several years;

b. Provide an analysis of the required snow storage and/or removal plan as proposed;

c. Provide a summary of how the project meets the standards of approval identified in 12-??;

d. Provide enough information to address those items required in the application to complete the analysis of the project.

4. Additional Studies: For projects which may result in potential negative impacts from the proposed development, additional studies to evaluate the impacts and identify potential mitigation measures may be required as part of the project review process. Such studies may include, but not be limited to, the following:

a. Additional transportation impact analysis shall be required for all development as identified in the currently adopted Traffic Impact Analysis policies.

The requirement may be waived by the City Engineer after his/her review of the City's traffic model and a determination that the analysis is not likely to result in the need for mitigation.

The applicant shall be responsible for all costs associated with a transportation impact analysis and potential mitigation as defined in the study.

b. Additional infrastructure plans and feasibility analyses may be required for submittal to the City for sewer collection and pretreatment infrastructure as required by the City's currently adopted Master Sewer Plan.

c. Additional infrastructure plans and feasibility analyses may be required for submittal to the City for stormwater collection infrastructure in accordance with the City standards and Idaho Department of Environmental Quality standards.

d. Additional geotechnical and/or environmental studies may be required to be completed by the applicant for submittal as part of the project review process, in circumstances where:

(1) Construction activities and/or processes will require blasting or construction activities and processes will result in excessive production of noise, smoke, fumes, odors, hazardous materials, emissions or discharges during construction;

(2) The proposed project is located in an area where sensitive or hazardous conditions are present (this may include, but is not limited to, certain soil conditions, shallow bedrock, seasonal high-water table, wetlands, surface water bodies, or slopes in excess of 15%), where said conditions create the need for special precautions during site construction; or

(3) The project contains a documented and unmitigated environmental hazard, including, but not limited to, underground storage tanks, illegal dump sites, contaminated soils, or other such "brown field" conditions as may be documented.

D. Agency, Lienholder, and Public Notice:

1. Once the City staff has reviewed the application and the staff has determined that the application is complete and that sufficient information regarding the proposal can be provided:

a. To involved public agencies, as identified by the City. This notice shall be sent to all applicable agencies at least thirty (30) days prior to public hearing and allow fourteen (14) days for agency comments to be incorporated in the staff analysis;

b. Any applicable lienholder shall be provided a notice at least thirty (30) days prior to public hearing and allow thirty (30) days to provide comment to be incorporated in the staff analysis;

Commented [DP36]: I show in my notes to **SEE SHANNON** and add a new a,b, c, where "a" begins with "This notice..", "b" is Lienholder, and "c" begins with "At least fifteen..."

c. At least fifteen (15) days prior to the public hearing, notice of the public hearing shall be provided as follows:

(1) Adjacent Property Notice shall be provided by mail to those property owners owning land within three-hundred feet (300') of the external boundaries of the land being considered.

(2) Notice shall be provided by mail to those property owners that may be substantially impacted by the proposed subdivision, said determination of substantial impact is to be made by the Planning and Zoning Commission and/or the Hearing Examiner.

(3) When notice is required for two hundred (200) or more property owners, extraordinary notice may be given as provided by State law. Notice will also be provided, posted and maintained in accordance with the standards of section 11-1-4(D) of this Code.

(4) Legal notice shall be published in the official newspaper of the City. Public service announcements shall be provided to various news outlets.

(5) Property notice postings shall be provided on all street frontages.

(6) The applicant shall bear all costs of publication, mailing of the notices, and posting on the property.

E. Staff Analysis: Prior to the public hearing, the City staff (Planning, Engineering, and other staff as required) shall provide a Staff Analysis for the public, and hearing bodies.. This staff analysis shall address the request based on the standards of approval and City Code, adopted long range and facility plans, including but not limited to the comprehensive, transportation, sewer and parks master plans policies and standards, and provide staff recommended conditions of approval to ensure compliance with the City's requirements.

F. Minor Subdivision Hearing Examiner: After the Hearing Examiner has reviewed the subdivision plan and the agency and public comments received as the public hearing, the Hearing Examiner shall approve, approve with conditions, or deny the subdivision and provide a Written Decision of the request. Notice of the decision shall be provided in the same manner as notice for the public hearing to allow affected parties the opportunity to appeal the decision within fourteen (14) days of the decision.

Commented [DP37]: Clare - Can you weigh in how this is written?

G. Major Subdivision Planning and Zoning Commission Recommendation: After the Planning and Zoning Commission has reviewed the subdivision plan at the public hearing, the commission shall forward a written recommendation to the City Council. The commission shall recommend approval, approval with conditions, or disapproval of the subdivision as soon as practicable. The City staff shall provide the written

recommendation of the commission to the developer and shall advise the developer that the subdivision will be placed on the agenda of the City Council at the earliest practicable date, only upon the developer's written request.

Should the Planning and Zoning Commission recommend a substantive change to the preliminary subdivision plan involving a significant change, including, but not limited to, substantial changes in layout, density, or points of access, a public hearing may be required before the City Council, with proposed revisions as recommended by the commission subject to agency and public notice requirements for a public hearing, as detailed in subsection 12-4-??(g) of this section.

Commented [DP38]: Check reference.

Should the applicant wish to contest the recommendations of the Planning and Zoning Commission, the applicant may provide a written statement of their objections regarding the Planning and Zoning Commission recommendations for inclusion in the City Council deliberations on the subdivision request. Such written statements must be received at least five (5) days prior to the scheduled City Council meeting.

H. City Council Decision: Upon receipt of a written request that the subdivision be placed on the Council agenda, the subdivision request will be placed on the next available Council agenda. The City Council, upon receipt of recommendations from the Planning and Zoning Commission, and after opportunity to review the file and minutes from the public hearing, shall act upon the request. The City Council may approve, approve with conditions, or deny the subdivision. City staff will notify the developer in writing of the decision of the City Council.

I. Standards for Subdivision Approval: In reviewing the standards of approval, the hearing body will review the standards of approval in conjunction with the purpose of the subdivision code as defined in 12-1-2. The applicant has demonstrated that all existing and proposed infrastructures meets or can be constructed prior to final plat or within the approval duration identified in 12-3-4(G) to meet the following standards:

Commented [DP39]: Check reference.

1. Infrastructure can be constructed to function in a manner that promotes public health, safety, and welfare.

2. Infrastructure can be constructed and located in an orderly manner that accommodates ongoing maintenance needs when taking into consideration collocation of other infrastructure.

3. Infrastructure is or will be in compliance with applicable City, State, and Federal policies and regulations as follows:

    a. Provisions have been made for a water supply system that satisfies City, Idaho Department of Environmental Quality (IDEQ) and Northern Lakes Fire District requirements.

b. Provisions have been made for a public sewage system in accordance with the City and Hayden Area Regional Sewer Boards (HARSB) adopted Sewer Master Plans, as amended, that satisfied City, HARSB, and IDEQ requirements and that the existing or proposed systems can accommodate the proposed sewer flows.

c. Provisions have been made for snow storage that satisfies the City Public Works Department as the design relates to snow storage and removal practices. If snow storage is proposed to be co-located with stormwater, it shall only be in roadside swale areas and not in regional detention basins unless approved administratively by the City Engineer who shall determine that the likelihood of flooding is minimal.

d. Provisions have been made for stormwater systems that satisfy the City and IDEQ requirements.

e. Provisions have been made for streets that are consistent with the adopted transportation plan, as amended, and the transportation element of the adopted Comprehensive Plan, as amended and that satisfies the City, ITD, adjacent jurisdictions, and local highway district requirements. Where cul-de-sacs are proposed, they are required to be approved administratively by the City Engineer who shall determine that they are limited to portions of developments in which street continuity is not foreseeable due to property configurations and/or that they are needed to address site specific conditions. A cul-de-sac shall be limited to four-hundred feet (400') in length measured from the edge of adjacent street right-of-way to the back of the cul-de- sac, unless an exception to this standard is allowed by the City Engineer.

f. Provisions have been made for parks and open space that are consistent with the adopted Parks Master Plan, as amended, and that satisfies the City's requirement.

4. Provisions have been made for erosion controls and geohazards stabilization both during construction and as needed for permanent controls to the satisfaction of the City.

5. Provisions have been made for gas, power, telecommunications, mailboxes, and similar infrastructure.

6. Provisions have been made for driveway locations that take into consideration the width and location of the driveway in relation to the location of snow storage, utility boxes, crosswalks, adjacent roads, mailboxes and the like.

7. The area proposed for subdivision is zoned for the proposed use and the use conforms to other requirements found in this Code.

8. The developer has made adequate plans to ensure that the community will bear no more than its fair share of costs, if not already provided by the City within the existing built environment, to provide services by paying fees, 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 agreements.

CHAPTER 6: SUBDIVISION CONSTRUCTION

12-6-1: REQUIRED DEDICATIONS AND IMPROVEMENTS:

The following dedications and improvements shall be required of all subdivisions:

A. Right-of-Way Improvements and Dedications:

1. Additional required right-of-way shall be dedicated on the face of the plat for all contiguous existing or proposed streets, with said dedication based upon the adopted City street standards and the functional classification of the street as identified in the City's transportation plan.

2. In subdivisions where contiguous or adjacent streets are not constructed to City street standards as based upon the functional classification identified in the City's adopted transportation plan, the developer shall be required to make improvements to said streets consistent with the City street standard. Said improvements may include widening or replacement of pavement, and construction of curbs, swales, sidewalks and/or bicycle paths, along the frontage of the subject property.

3. Subdivision improvements shall include the design and construction of streets to provide for the continuation of public streets existing in adjoining subdivisions, and the projection of new streets into areas that are not presently subdivided.

4. Payment in lieu of required right-of-way improvements may be permitted in circumstances where the City has a planned public improvement project that would address required improvements, and the City deems such payment to be consistent with the public interest. If payment in lieu of improvements is approved, said payment shall be based upon cost estimates for said improvements, as provided by the developer and approved by the City Engineer, future valued to the date of scheduled City sponsored improvements, as based upon the "Engineering News-Record (ENR) 20-Cities Construction Index" or other construction cost index as may be approved by the City Engineer. In no event, however, shall future valuing exceed a period of ten (10) years. Said payment shall be placed in a reserve account for future street improvements.

5. Right-of-way dedications for all new public streets serving the development shall be dedicated on the face of the plat, in accordance with the adopted City street standards.

6. All new public streets serving the development shall be constructed to City street standards.

7. Private streets serving the subdivision shall be constructed in conformance with standards as detailed in Hayden City Code 10-3 and shall meet all other requirements as detailed therein.

B. Other Required Improvements and Dedications:

1. Water service shall be provided to meet required flows for domestic and fire protection purposes. Water lines shall be installed in accordance with the requirements of the applicable water purveyor, and fire hydrants shall be installed in accordance with the requirements of the fire district. All required water line easements shall be shown on the face of the plat and referenced within the owner's certificate and/or by separate document.

2. All lots shall be served by Municipal sewer, or other private sewer collection system as may be approved by City Council. Sewer mains shall not run cross-country, unless approved by the City Council. Required sewer easements shall be shown on the face of the plat and referenced within the owner's certificate and/or by separate document.

3. Sewer collection lines shall be extended the length of the subdivision boundary along all adjacent street frontages as indicated on the City's current Sewer Master Plan, or in other such manner approved by the City Engineer as to ensure service to properties that would otherwise have been so served by Municipal sewer.

4. Stormwater management systems shall be provided, in accordance with the requirements of Hayden City Code 8-3.

5. All utilities shall be provided to all lots within the subdivision and shall be placed underground, unless as otherwise approved by the City Engineer. The determination of whether a utility may remain above ground, shall be requested at the time of preliminary plat and not at the time of construction plan submittal and shall be identified in the conditions of approval. Utility easements shall be dedicated on the face of the plat

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6. Streetlights shall be installed by the developer at locations approved by the utility provider and the City Engineer.

7. Street identification and traffic control signage meeting MUTCD standards shall be installed by the developer. Street names shall be reviewed by the City in accordance with Hayden City Code 9-5-2 and by Kootenai County.

8. Sight obscuring fencing, and/or landscaping may be required as a mitigation in cases where potentially incompatible land uses are adjacent in conformance with HCC 11-4-4.

9. Construction and dedication of pedestrian or bicycle pathways providing connectivity to proximate pathways, parks, schools, or community facilities shall be required to be consistent with the City's adopted Comprehensive, Parks, and Transportation plans or as necessary to provide connectivity. (Ord. 559, 7-12-2016)

10. A greenway, measured from the back of curb, or if no curb, from the edge of pavement and meeting the standards of a type III visual relief buffer in terms of deciduous vs. evergreen ratios, tree spacing, and ground cover requirements (with the exception that as an approved alternative, ground cover may consist entirely of turf grass) shall be provided in subdivisions located along the frontage of those streets delineated within the City's transportation plan park plan as having both a landscape buffer requirement and a multi-modal path. A greenway does not qualify for a buffer width reduction.

    Where such greenways are required, the developer shall install landscaping and irrigation systems in conformance with City design standards as a required subdivision improvement; said greenways may be utilized to meet requirements for pedestrian or bicycle connectivity, if so required and may also be combined with required street tree buffers. The developer shall be required to form a property owners' association prior to final plat, with said greenbelts to be owned and maintained by a perpetual property owners' association. Alternatively, a property owners' association will not be required for the ownership and maintenance of the greenbelt tract, if the greenbelt is platted as a separate tract of land, to be owned by the property owner fronting the tract, and a nonrevocable covenant, approved by the City, is recorded against the property fronting the greenway which memorializes the obligation of all present and future property owners to maintain the greenway as an unbuildable, landscape buffer, and the obligation that ownership of said greenway shall be conveyed together with ownership of the lot upon which it fronts.

11. All landscaping is required in accordance with the requirements of Hayden City Code 11-4-4.

C. Property (Home) Owners' Associations:

1. Composition; Establishment: Where property owners' associations are required by this Code, as based upon the required or proposed subdivision improvements, said property owners' association shall include the owners of all property served by the required or proposed improvements, with said association established in accordance with the following provisions:

    a. The association shall own and be responsible for the maintenance of private streets, associated drainage facilities, required parks, greenbelts, and other commonly owned properties and improvements.

    b. The developer shall provide written assurance to the City that the association has perpetual existence and will be responsible for maintenance during its existence.

    c. The association documents shall be recorded and referenced on the final plat.

    d. A legal instrument providing a mechanism for funding the perpetual maintenance of the commonly owned property shall be recorded with the County prior to the recordation of the final plat.

2. Separate Lots Required: Commonly owned property and infrastructure improvements must be legally described as a separate lot or lots owned by the property owners' association. The location of such commonly owned property shall be clearly depicted on the face of the plat, and notes shall be included on the face of the plat which shall:

   a. Act to convey to each property owner within the subdivision to be served by the improvement the perpetual right of use and access;

   b. Provide that such perpetual easement shall run with the land.

   c. Provide submittal deeds to record at the time of final plat to transfer the ownership of the tracts/lots from the owner to the property owners' association.

3. Protection Of Public Health, Safety And Welfare: The Mayor may, in the reasonable exercise of his/her discretion, direct the owners or the entity responsible for the maintenance of any commonly owned property or improvements approved in accordance with the provisions of this section to undertake such repair and maintenance activities as it may determine is necessary to protect the public health, safety, or welfare and make such expenditures from the funds reserved therefor as may be required. The owner or entity responsible shall be deemed, as a condition of approval of any such commonly owned improvement, to have agreed to comply with any such order and to reimburse the City of all its costs, including attorney fees, incurred in obtaining or enforcing any such directive. Any directive entered by the Mayor pursuant to this subsection may be enforced by a court of competent jurisdiction, and the City shall be entitled to recover its costs and attorney fees incurred in connection therewith. (Ord. 559, 7-12-2016; amd. Ord. 572, 6-13-2017; Ord. 615, 12-29-2020)

Commented [DP41]: Is this the appropriate person?

12-6-2: CONSTRUCTION PLANS:

It shall be the responsibility of the developer of every subdivision to have prepared by a registered engineer licensed in the State of Idaho, a complete set of construction plans, including profiles, cross sections, specifications and supporting data, for all required infrastructure. Such construction plans shall be based on the approved subdivision and shall be prepared in conjunction with the final plat. The planned improvements must be constructed prior to the recordation of said final plat, or in accordance with terms of surety accepted by the City. 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:

Commented [DP42]: This seems out of place -

A. Monuments shall be set in accordance with the Idaho Code, and all street monuments shall be installed in monument boxes approved by the City;

B. Water line construction shall be governed by the standards of the water purveyor and shall include a separate water meter to each lot. Public water supply shall be provided in conformance with the standards of the applicable water purveyor and the Idaho Department of Environmental Quality;

C. Sewer system (lift station, pressure and gravity lines, etc.) construction shall be governed by the requirements in Hayden City Code 8-?, sewer standards and policies and Sewer Master Plan as adopted by the City Council, and state law.

D. Stormwater management facilities shall be designed in conformance with Hayden City Code 8-?, and constructed in accordance with the design standards and policies for the City of Hayden approved by City Council;

E. Adequate provisions for fire protection shall be made in accordance with the International Fire Code (IFC) adopted by the City. Per the IFC and City of Hayden roadway requirements, all subdivisions of more than fifteen (15) lots shall require a secondary ingress/egress to be constructed prior to the first final plat recordation;

F. Sidewalks, multi-modal pathways, and streetlights shall be constructed pursuant to City policies and design standards, as approved by City Council.

G. All utility lines shall be installed underground, unless as identified in the conditions of approval.

H. Typical Section for Streets shall be in accordance with transportation Master Plan.

I. Landscaping of swales adjacent to (front, side, rear) individual building lots shall be a condition of any building permits issued for lots within the subdivision. Prior to the issuance of a certificate of occupancy the landscaping must be completed and constructed consistent with the landscaping plan and swale design approved by the City Engineer and the swale must have passed a perk test. Work within the right of way that is part of the road infrastructure but is deferred until individual lot construction, in this case, final swale landscaping and drainage infrastructure, approaches, street trees, and irrigation systems; shall be guaranteed in accordance with Hayden City Code 7-2-19 and shall be the responsibility of the right of way encroachment permittee as delineated therein

J. Developer shall not proceed with construction of the subdivision, except for movement or stripping of topsoil, until construction plans have been approved, Construction Improvement Agreement has been executed, and a pre-construction conference has been completed between the Developer, Engineer of Record, General Contractor, and the City.

12-6-3: PERMITS, LAWS, AND FEES: The Developer shall acquire and maintain in good standing all permits, licenses and other requirements necessary to its performance under the obligations of the approvals of the project. All actions taken by the Developer shall comply with all applicable statutes, ordinances, rules, and regulations. The Developer shall pay all fees pertaining to its performance in accordance with laws applicable to actions contemplated. Applicable fees shall be required by Hayden Municipal Code and resolutions adopted by the City council implementing Code requirements.

A. Demolition Permits of existing structures: demolition of existing structures to include but not be limited to homes, accessory shops, sheds, etc. require a permit from the building department.

Commented [SD43]: Is this correct? Just a Hayden requirement?

Commented [SD44]: Change to "All utilities" ?

Commented [DP45]: Transitioned from MDA/MOU to code

Commented [DP46]: Moved from MDA 4.5

Commented [DP47]: Moved from CIA 1.02

B. Right-of-way Encroachment Permits:

1. The Developer shall comply with Hayden City Code 7-? and secure all necessary permits and authorizations pertaining to work in public rights-of-way, to include fees, insurance and surety. The installation and construction of all utility improvements shall be in a manner that will prevent delays in construction. While working within the public right-of-way the Developer shall always keep at least one travel lane open and provide the appropriate traffic control, at no cost to the City, to allow for vehicle travel in a safe manner through the construction area. Street closures will only be allowed with prior approval by the City and only upon a showing by the Developer that the construction cannot be accomplished without a street closure. Approval for street closure shall be for a limited duration set by the City, which shall be strictly adhered to by the Developer.

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C. Sewer Connection Permits: Structures which are not connected to municipal sewer which are to remain as occupiable structures at the conclusion of the subdivision must be connected to municipal sewer prior to acceptance of infrastructure. Sewer connection permits and associated fees must be completed.

D. Stormwater Prevention Permit: ??

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12-6-4: CONSTRUCTION:

A. The Developer shall indemnify and hold the City harmless from any claim, action, or demand arising from any act or omission related to Developer's performance of duties. The liability assumed by the Developer pursuant to this section includes, but is not limited to, claims for labor and materials furnished for the construction of the improvements. Developer acknowledges that the work on the Project will take place on land which may be owned or otherwise subject to control by the City. Developer shall provide insurance in amounts sufficient to satisfy the obligations of the City pursuant to the Idaho Tort Claims Act, but in no case less than $1,000,000 per occurrence. The City shall indemnify and hold the Developer harmless from any claim, action, or demand arising from negligent or wrongful conduct of officials, employees, agents, and contractors on the site during construction, subject to consideration and sett-off of negligent or wrongful conduct on the part of the Developer or its contractors.

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B. Disclaimer of Warranty: Neither the City nor any City officer, agent, or employee warrants or represent the fitness, suitability, or merchantability of a property, plan, design, material, workmanship, or structure for any purpose.

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C. Construction Improvement Agreement (CIA): Prior to commencement of construction of improvements on the project, and upon approval of the construction plans, the Developer/Owner shall enter into a Construction Improvement Agreement and shall comply with the terms of that agreement once executed.

Commented [DP52]: Moved from MDA 4.2 & CIA 2.06

1. Standards Specifications are defined as the Design Standards of the City of Hayden, Standards for Public Works Construction and any standards required by Federal or State regulatory agencies as minimum construction standards for completion of the project unless otherwise provided within the CIA.

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D. Pre-Construction Meeting: Upon approval of the construction plans, a pre-construction meeting shall be held with the Developer/Owner, the Engineer of Record, the Contractor and the City at a minimum as well as other service providers as necessary.

E. Quality Control Program: The Developer shall adhere to the City's Engineering Project Certification and Quality Control Standards for the construction of the improvements more specifically identified in 12-6-6.

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F. General Standards of Workmanship:

1. The Developer shall construct all improvements in accordance with plans and specifications **approved by the City**, and with the terms, covenants, and conditions as identified in the Construction Improvement Agreement. The Developer shall not incorporate any material or equipment into an improvement unless the City has approved its use. Unless the City Engineer and/or Public Works Director specifically agrees otherwise in writing, all materials, supplies, and equipment incorporated into an improvement shall be new.

2. If, during construction, conditions appear, which, in the exercise of reasonable engineering judgment, require a modification of, or substitution for, approved materials, equipment, plans, specifications or contracts to meet an acceptable standard of performance, the Developer shall propose such modification or substitution. The City shall review the proposal and either approve the request or provide reason for denial.

   a. Plans and Specifications:

      (1) If the City requires tests and/or studies pertaining to the design of improvements, the Developer shall submit reports of the test results and/or studies with the plans and specifications.

      (2) The City may approve the plans and specifications as submitted or indicate to the Developer deficiencies to be corrected to secure approval, within a reasonable time from the submission of all plans and specifications for the improvements.

   b. Materials:

      (1) If the City requires, the Developer shall submit detailed information concerning all materials and equipment it proposes to incorporate into an improvement. All materials shall comply with the standards adopted by the City.

(2) At the City's request, the Developer shall submit samples of materials or equipment it proposes to incorporate into an improvement.

(3) The City may approve the materials and equipment or indicate to the Developer unacceptable material and equipment within a reasonable time after submittal.

c. The City's approval of is for general conformance with City standards. Ultimate design and function remain the responsibility of the Developer. It shall be the responsibility of the Developer to correct errors and omissions found after City approval prior to final acceptance. Substitutions may be considered subject to review and approval of the City Engineer and/or City Public Works Director.

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3. Unless allowed by the City, on-site borrow areas shall not be allowed within proposed buildable lots. In all areas within the subdivision where the Developer adds fill materials or otherwise replaces existing soils that have been excavated for borrow materials with fill, said fill areas shall be compacted to meet 95% of standard proctor. The Developer shall provide to the City a copy of the compaction tests, and all such fill areas shall be shown on the final record drawings. Alternatively, the fill areas shall be denoted on the face of the final plat, and a geotechnical report shall recorded and referenced within the ownership block of the final plat. Fill materials shall be free of cinders, ashes, refuse, organic and frozen materials, asbestos, or other unsuitable materials.

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G. Public Utilities:

1. Any public utility service contemplated by the Construction Improvement Agreement shall be provided only to areas where the service is allowed by applicable law. All utility service shall conform to the rules, regulations, and tariffs of the State of Idaho to the extent they may apply.

2. If the State of Idaho or other agency having authority disallows any utility service to be provided by the City or any utility following execution of the Construction Improvement Agreement, requirements of this agreement relating to the disallowed service shall be deleted from the requirements of the Develop under this agreement. The disallowance shall not be grounds for any claim, action, or demand against the City.

3. The developer shall bear all cost associated with the installation of all public utilities, including but not limited to broadband, electric, gas, phone, sewer, streetlights, water, etc. These installation costs shall not be passed on to the City unless provided for otherwise within the Written Decision of the project.

4. The developer shall be responsible to either pay the sewer and water cap fees and hookup fees or confirm that those fees have been paid by any property owner, which the developer connects to the City sewer or water system as part of the installation of the public improvement.

5. The developer shall be responsible to pay the cost of operation of the street lights within the development for a period of eighteen (18) months prior to the acceptance of infrastructure by the City.

Commented [DP57]: Moved from CIA 1.10

12-6-6: CONSTRUCTION INSPECTION REQUIREMENTS:

A. Construction Inspection Requirements: All inspections shall be in accordance with the adopted Engineering Project Certification and Quality Control Standards, unless otherwise identified by the City Engineer and/or the Public Works Director.

B. Required Reporting:

1. Quality Control - The Developer shall submit to the City regularly and promptly written reports certified by the Engineer of Record describing the results of all tests and inspections required by the quality control program and all other test and inspection which the Developer may make.

2. Surveys - The Developer shall furnish promptly to the City copies of all final surveys required for the completion of the improvements.

3. Test Hole Logs - The Developer shall furnish the City copies of all test hole logs required for any purpose during the Project.

4. Express or implied approval by the City of any report or inspection shall not authorize any deviation from approved plans and specifications or from the terms of this Agreement unless such express approval notes such deviation.

5. At the completion of construction prior to acceptance by the City, the Engineer of Record shall submit to the City a report certifying that the improvements were constructed in accordance with plans and specifications and that they meet standards established by the City. This certification shall include a cover letter with the engineer's professional stamp, followed by copies of all inspection records, test results, and construction quality control data.

Commented [DP58]: Moved from CIA 2.15

C. Surveillance

1. The city may monitor the progress of the construction and the Developer's compliance with the Construction Improvement Agreement and perform any inspection or test, which it deems necessary to determine whether the work conforms to the requirements. Such inspections or tests do not relieve the Developer from performing tests and inspections required by Quality Control Program as defined in 12-6-5(C).

2. If the Developer fails to notify the city of inspections, tests and construction progress as required by the Quality Control Program as defined in 12-6-5(C), 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 this Agreement.

3. 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.

Commented [DP59]: Moved from CIA 2.17

D. Stop Work Orders:

1. If the City determines there is a substantial likelihood, based upon reasonable and substantial information, that the Developer will fail to comply, or if the Developer does fail to comply with the Construction Improvement Agreement or the Developer and/or his contractors fail to comply with provisions of occupational health and safety standards promulgated by the State and Federal agencies or his actions present a threat to the public health and safety, the City may stop all further construction of improvements by posting a stop work order at the site of the nonconforming construction and notifying the Developer and its engineer of the order.

2. A stop work order shall remain in effect until the City approves:

   a. Arrangements made by the Developer to remedy the nonconformity; and

   b. Assurances by the Developer that future nonconformities will not occur.

3. The issuance of a stop work order under this section is solely for the benefit of the City. The City does not undertake to supervise the work for the benefit of the Developer or any other person. No suspension of work under this section shall be grounds for any action or claim against the City or for an extension of time to perform the work.

4. The Developer shall include in all contracts for work to be performed, or materials to be used under the Construction Improvement Agreement, the following provision:

   The City of Hayden, pursuant to a Construction Improvement Agreement on file with the City and incorporated by reference herein, has the authority to inspect all work or materials under this contract and to stop work in the event that the work performed under this Agreement fails to comply with any provision of the Construction Improvement Agreement. In the event that the City issues a stop work order, the contractor shall immediately cease all work and await further instructions from the Developer and City.

Commented [DP60]: Moved from CIA 2.18

E. The Developer shall hold the City harmless against any claims made by the Developer's contractors and/or professionals.

Commented [DP61]: Moved from CIA 2.16

F. Access to the Project Site and to Areas of Off-Site Improvements: The City shall have access to all parts of the subdivision necessary or convenient for monitoring the Developer's performance, inspecting, surveying, testing, or performing any other work.

Commented [DP62]: Moved from CIA 2.19

12-6-7: SURETY – PERFORMANCE/WARRANTY GUARANTY

A. Forms of Surety the City will accept for a guaranty include the following:

1. Performance Bond – From a company qualified by law to act as a surety in the State of Idaho. The bond shall be in a form approved by the City Attorney. The bond shall name the City as the sole obligee and the Developer/Owner as the principal.

2. Escrow – Funds may be deposited into an escrow account with a bank or financial institution qualified by law to do business in the State of Idaho. The disbursement of the escrowed funds shall be governed by an escrow agreement in a form approved by the City Attorney.

3. Letter of Credit – A bank or financial institution qualified by law to do business in the State of Idaho may issue an irrevocable letter of credit in a form approved by the City Attorney.

4. Cashier's Check – A cashier's check from a bank or financial institution qualified by law to do business in the State of Idaho may issue a cashier's check which shall be deposited by the City and held as the form of guaranty.

Commented [DP63]: Moved from CIA 2.03, 2.04, & 2.05

B. Performance Guaranty:

1. If allowed by the City in accordance with HCC??, the Developer shall guarantee, for the sole benefit of the City that the Developer shall perform all obligations not yet completed. The guaranty shall be in a form approved by the City in 12-6-7(B)(3). Prior to completion of the project, the Developer/Owner may substitute one type of guaranty for another one in conformance with those allowed in 12-6-7(B)(3).

2. Amount of Guaranty: The guaranty shall be in an amount equal to 150% (one hundred fifty percent) of the estimated cost of all improvements, not including those to be constructed by private utilities. The estimated cost shall be determined as follows

Commented [DP64]: Moved from CIA 2.02

3. Release of Performance Guaranty: The City shall release any performance guaranty which has not been used or encumbered due to a default of the agreements, as long as the warranty guaranty provides sufficient coverage as required by Hayden City Code 12-6-7(C).

C. Warranty Guaranty: Prior to the City accepting the public improvements, Developer or Developer's construction contractor shall warrant the improvements for a period of eighteen (18) months and provide to the city surety in the amount of the warranty. If a lift station is a part of the project, the warranty on the lift station shall be extended to a two (2)-year warranty on the lift station pumps and be provided by the pump supplier in addition to the required warranty of the subdivision.

Commented [DP65]: Moved from MDA 4.6

12-6-8: COMPLETION OF CONSTRUCTION AND ACCEPTANCE OF INFRASTRUCTURE

A. Maintenance:

1. Until the City accepts the improvements, the Developer shall maintain at their expense all road improvements within the Project that are necessary for access or service to property not owned by the Developer. For the purposes of this subsection, existing roads are roads that physically exist, as distinguished from mere rights-of-way dedicated for road purposes. The maintenance required by this subsection includes cleaning, effective dust control measures, snow removal and similar activities, but does not include repair, replacement or reconstruction, except if the need to repair, replace or reconstruct is caused by the Developer's activities or is required as a condition of this Agreement.

2. The Developer shall repair or pay the cost of repairing damage to any improvement that occurs prior to the City's acceptance of the improvements, except for damage caused solely by the City, its agents, employees, or contractors. The Developer shall give reasonable notice to the City before undertaking the repair of any damaged improvement.

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B. Operation of Improvements Prior to Final Acceptance

1. Before final acceptance, the City may enter upon, inspect, control, and operate any improvement if the City determines that such action is necessary to protect the public's health, safety, and welfare.

2. The action described in subsection A of this section shall not constitute the final acceptance of any improvement by the City, nor shall the action affect in any way the Developer's warranty under this Agreement.

3. The Developer or his agents may not connect to or operate any City utilities without written consent from the City. No structure shall be occupied, nor shall any land use be established which requires a building or construction permit, until the improvements required by this Agreement or by applicable provisions of law have been accepted by the City or other responsible public agency or have been completed as required by this Agreement.

4. Developer shall adhere to City imposed "load limits" within subdivision roads planned for dedication to City. Failure to do so is reason to deny Acceptance of Infrastructure.

Commented [DP67]: Moved from CIA 2.22

C. Infrastructure Acceptance: The City shall not accept the improvements required by the Project until the following are completed:

1. Survey Monuments and Record (As-Built) Drawings:
    1. Upon completing the improvements, the Developer shall replace lost lot corners and survey monuments per Idaho Code.
    2. No later than 30 days after the final inspection and prior to final acceptance and certification, the Developer shall provide the City with one paper copy and one electronic copy in a form acceptable to the City of the record drawings. The record drawings shall be certified by the Engineer of Record registered under the laws of the State of Idaho to represent accurately the improvements as actually constructed.
    3. Developer shall provide to the water jurisdiction, department of environmental quality, and the owner of private infrastructure to be owned or maintained by others copies of the record drawings as required.
2. Certificate of Compliance: The Developer shall furnish the City with a certificate of compliance for the work performed. Developer shall also certify that all private utility installation has been completed according to the approved plan, and City Codes, policies, and standards. The project certification shall consist of the following:
    1. A stamped "Certification Letter" which shall include the Certification Statement as follows:

       I (Engineer's Name, P.E.) certify that construction observation and quality control for (project, plans with approval date) was performed under my responsible charge. It is my professional opinion that the project was constructed in accordance with the intent of the plans and specifications. The submittal of record (as-built) drawings and the attached documentation within the certification packet provide evidence to support a recommendation of acceptance of the public infrastructure associated with the referenced project plans and specifications.

       (Provide Engineer's seal, signature and date)
    2. Copies of all project photos, inspection/observation reports and diaries, materials compliance and design submittals, field test documentation and lab reports, organized in a 3-ring binder in a format corresponding with the subjects outlined above.
    3. Electronic copy in a form acceptable to the City.
3. Conveyance of easements and rights-of-way to the City: The Developer shall convey to the City any easement, rights-of-way, or other interest necessary to allow access to the City improvements to operate, maintain, or repair the city improvements. The Developer may condition the conveyance upon the City's

Commented [DP68]: Moved from CIA 3.01

Commented [DP69]: Moved from CIA 3.02

Commented [DP70]: Moved from 3.03

Commented [DP71]: Copied from Engineering Project Certification and Quality Control Standards

acceptance of the improvements. The conveyance may occur concurrently with the recordation of the final plat if the acceptance of infrastructure improvements occurs concurrently with the approval of the final plat by the City.

Commented [DP72]: Moved from CIA 3.04

4. The final inspection of the required subdivision improvements for conformance to the approved construction plans will not take place until the EORs certification package has been received and reviewed. The Developer shall schedule final inspections with the City for all required infrastructure of the project on-site, off-site, and within dedicated easements and right-of-way.
    1. A privately owned utility may inspect any phase of work on an improvement of which it is to assume control.
    2. The City and/or appropriate privately owned utility shall inform the Developer in writing of any deficiencies in the work found in the course of the inspection.
    3. The Developer shall, at its own expense, correct all deficiencies found by inspections under this section. Upon correction of the deficiencies, the Developer shall schedule an inspection. The City or appropriate privately owned utility may continue to re-inspect an improvement until the Developer has corrected all deficiencies in the improvement.
    4. The final inspection is deemed completed when all the improvements have been constructed to City Standards, and the city has received verification from the privately owned utility and/or other public agencies that improvements have been approved.

Commented [DP73]: Moved from CIA 3.05

D. Consequences of Acceptance of Improvements
    1. The City's final acceptance of the City improvements constitutes a grant to the City of all the Developer's right, title, and interest in and to the City improvements.
    2. Upon final acceptance of the improvements, the City will maintain said improvements, except regarding the Developer's obligations covered by the 18-month warranty guaranty.

Commented [DP74]: Moved from CIA 3.06

E. Developer's Warranty
    1. The Developer shall warrant the design, construction materials, and workmanship of the improvements against any failure or defect in design construction, material or workmanship which is discovered for 18 months after acceptance by the City. The warranty guaranty shall be in an amount equal to twenty-five percent (25%) of the total cost of all public improvements in accordance to Hayden City Code 12-6-7. This warranty shall cover all direct or indirect costs of repair or replacement, and damage to the property, improvements or facilities of the city or any other person, caused by such failure or defect or in the course of repairs thereof, and any

increase in cost to the City of operating and maintaining a City improvement resulting from such failures, defects or damages.

2. The Developer's warranty shall not extend to any failure or defect caused solely by changes in design, construction or materials required by the City.

3. Except as provided in 12-6-8(E)(2), the fact that the City takes any action, or omits to take any action, but limited to, operation or routine maintenance of the improvements prior to acceptance or surveillance, inspections, review or approval of plans, tests or reports shall in no way limit the scope of the Developer's warranty.

Commented [DP75]: Moved from CIA 3.07 & 3.08

4. a. Public Infrastructure: Upon approved completion of the required infrastructure improvements, EOR's Certification package, completion of the final platting process as required in chapter 7 of this title, and receipt of warranty surety for public infrastructure, the developer shall apply to the City for acceptance of infrastructure.

   b. Private Infrastructure: Upon approved completion of the required infrastructure improvements, EOR's Certification package, the developer shall complete the final platting process as required in chapter 7 of this title. The approval of the final plat as described in section 12-4-5 of this title shall constitute the completion of the project.

Commented [DP76]: Check Reference.

   c. Public And Private Infrastructure: Where the required improvements for a single development consist of both public and private infrastructure, the developer shall be required to follow the procedures for public infrastructure, excepting that the conditions of the warranty surety, and the City's acceptance of infrastructure shall only apply to public infrastructure improvements.

5. Staff review of the application for acceptance of public infrastructure, completion of all required terms and conditions, and payment of all required fees, payment in lieu of improvements, and surety, must be accomplished before the request for acceptance of infrastructure will be forwarded to the City Clerk, with staff's recommendation that it be scheduled for City Council approval.

F. Warranty Inspection, Cities Remedies Under Warranty, and Release of Warranty Guaranty (Surety):

1. City Remedies Under Warranty

   a. The City shall notify the Developer in writing upon its discovery of any failure or defect covered by the warranty. The City shall notify the Developer before conducting any test or inspections to determine the cause of failure or defect to the extent the circumstances will allow and shall notify the Developer of the results of all such tests and inspection.

b. The Developer shall correct or make a diligent effort to correct any failure or defect covered by the warranty within thirty (30) days of receiving notice of the failure or defect from the City. The Developer shall correct the failure or defect at its own expense and to the satisfaction of the City.

c. If the Developer fails to correct the failure or defects within the time allowed by this section, the city may correct the failure or defect at the Developer's expense. If the Developer fails to pay the City for the corrective work within thirty (30) days of receiving the City's bill, the City may pursue any remedy provided by law to recover the cost of the corrective work, including calling upon the Developer's security. The City's attorney's fees in pursuit of such remedy shall be an allowed cost.

d. In case of an emergency affecting public health and safety, the City may make immediate required repairs and shall notify the Developer and contractor as quickly as possible.

Commented [DP77]: Moved from CIA 3.09

2. The Developer shall request a warranty inspection of the required Project, within sixty (60) days prior to the completion of the eighteen (18) month warranty period. Those infrastructure improvements that are identified as in need of repair shall be corrected by the developer, at their own expense before the end of the eighteen (18) month period. The warranty will not be released until the developer receives inspection approval from the City.

CHAPTER 7: PLATS:

12-7-1: APPLICATION

Commented [DP78]: Check for consistency in the code?

A. Final Plat Approval: Upon review and approval of the construction plans, and prior to submission of the final plat to the County for review and approval, the final plat shall be submitted to the City for review to determine that the plat meets all of the requirements of the Idaho Code, this title and the subdivision plan approval, including any conditions imposed by the City Council. (Ord. 542, 1-27-2015)

1. Every final plat required by this title shall be prepared in accordance with title 50, chapter 13 of the Idaho Code as it now exists or is subsequently amended. (Ord. 542, 1-27-2015)

B. Submittal For Final Plat Approval:

1. Subdivisions (Minor/Major): Upon completion of the County review process, the developer may request final plat approval by the City. The City shall verify that all required on-site and off-site public improvements have been completed and are ready for acceptance by the City or have been suitably guaranteed; and, that all private improvements have been completed in accordance with the approved

construction plans in conformance with Hayden City Code 12-6-?. No final plat shall be recorded until a certificate of approval has been issued pursuant to Idaho Code 50-1326 so that sanitary restrictions are not in place at the time of recording. The application shall include any payment in lieu of improvements, and surety where required.

2. All other plats: Submittals shall include current warranty deed, water and sewer will serve letters, agency approval to include at a minimum fire department, Idaho Division of Building Safety (electrical/plumbing), Panhandle Health District, and water jurisdiction. Noticing to agencies, lienholders, and affected properties shall occur prior to an administrative decision. The plat shall provide a sheet which shall identify the setback lines of the primary structures and/or building envelopes as may be required. (Ord. 578, 1-9-2018)

3. All signatures, with the exception of the City and the County's Recorder, shall be on the mylars at the time of submission to the City for final plat approval. The mylars and any additional documents to be recorded concurrently with the final plat shall be provided with the submittal.

4.

12-7-2: AGREEMENT AND BOND/GUARANTEE FOR IMPROVEMENT:

A. Before recordation, the developer shall install all required public and private infrastructure improvements and restore any existing streets and other public facilities damaged in the development of the subdivision. As a rule, subdivision construction shall be completed for all required infrastructure in accordance with Titles 7, 8, 9, 10, 11 and 12. By special request and due to circumstances beyond the Developer's control, the City may enter into an agreement for the completion of all required public improvements and repairs to public infrastructure associated with the subdivision. The agreement shall specify the period within which required public infrastructure improvements and repairs shall be completed and specify all improvements that shall be completed prior to the issuance of certificates of occupancy within the subdivision. Based on the need to maintain access to existing infrastructure, public safety needs, and the like, the City Engineer shall determine which improvements may be bonded for and, if applicable, those which shall be constructed prior to final plat recordation. The agreement shall be accompanied by surety, consistent with Hayden City Code ??, in the amount of one-hundred fifty percent (150%) of an engineer's stamped estimated cost of the required subdivision construction accompanied by detailed support documentation for the public improvements to be completed. In no event, the performance surety shall not be less than the warranty surety for the project. In the event that the developer does not meet timely completion of 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 Developer.

Commented [DP79]: This should be a may not an absolute. Thoughts?

B. For a phased subdivision, the required surety shall be for the phase which is being developed. (Ord. 542, 1-27-2015)

12-7-3: COUNCIL REVIEW:

When staff review of the final plat submittal is completed and all required terms and conditions are satisfied, and all required fees, payment in lieu of improvements, and surety have been paid, staff may forward the final plat to the City Clerk with staff's recommendation that it be scheduled for City Council review. 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. The City Engineer's signature shall be the final approval assigned to the plat by the City prior to recordation at Kootenai County.

12-7-4: RECORDATION:

A. After the plat is signed by the Mayor, City Clerk and City Engineer, the City shall notify the applicant that the plat and associated documents are ready to be recorded with the County Recorder. Developer/Owner shall be solely responsible for all platting of the property. The approved plat and concurrently recorded required documents must record within thirty (30) days of the City Engineer signature or the approvals will become null and void. (Ord. 542, 1-27-2015). Upon recordation, the applicant shall submit the recorded documents to the City electronically.

Commented [DP80]: Moved from CIA 2.01

B. Should the project require lift station and associated pressure mains to be constructed, the final plat of the subdivision does not entitle the Developer/Owner to the issuance of building permits for any structures that will require the provision of or generation of wastewater. Deed restrictions shall be recorded on the lots which prevent transfer of title while the performance bond is in place concurrent to the final plat of the project; with the exception to this being the lift station lot and any related easements, for which title shall be transferred prior to the date of recordation of the Final Plat.

Commented [DP81]: Moved from 2.2.

12-7-5: BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY:

A. No building permits will be issued for lots depicted on the final plat until the final plat has been recorded, a copy of the recorded plat has been received by the City, and the interior monuments have been set in accordance with Idaho Code.

B. No certificates of occupancy will be issued until all required infrastructure improvements have been constructed, a certification package including record drawings of the infrastructure, test results, field inspection notes and signed and stamped by the project engineer of record have been received by the City, the public infrastructure has been accepted by the City, and the interior monuments have been set in accordance with Idaho Code.

C. Should the project require off-site wastewater infrastructure, only when that infrastructure is substantially complete, may building permits be issued. In no event shall Certificates of Occupancy, either Temporary or Final, be issued until the performance bonded infrastructure is completed and accepted by the City and other required regulatory agencies with jurisdiction.

Commented [DP82]: Moved from MDA 2.2

12-7-6: LOT CONSOLIDATION:

A. The provisions of this section establish the requirements for the combining of platted lots and/or unplatted parcels into one legal lot. An application for a lot consolidation may be submitted to combine adjoining lots or parcels if the proposed lot consolidation does not

1. Create any additional lots;
2. Include any lots or parcels which are not legal lots, as defined by city code;
3. Create nonconforming lots or parcels

B. An application for a lot consolidation may be made to the City electronically with the required documentation. Required submittal documents shall include but may not be limited to the following: Current Deed for each parcel/lot, Owner(s) Authorization to combine parcels, City/Kootenai County Checklist, CP&Fs, and Consolidation Plat of the proposed adjustment(s) showing the following:

1. Plat shall be prepared in accordance with title 50, chapter 13 of the Idaho Code as it now exists or is subsequently amended.
2. All existing and proposed boundaries of the affected lots with dimensions;
3. Existing easements and their purposes;
4. Signature blocks in accordance with plat requirements (owners, agencies, City of Hayden, and reviewing entities);

Should parcels included in the lot consolidation not have been previously platted, a Will Serve Letter for water and/or sewer purveyors shall be included in the submittal documents.

C. Once the application has been reviewed and accepted and has been determined to be complete, invoicing will be sent to the applicant. Upon payment of fees, the City Engineer will make their determination and forward the plat and checklist to the Kootenai County Surveyor, if approved. Once the County Surveyor has placed the plat in a status for mylar production, applicant shall have mylars printed, signed by all outside agencies, and deliver to City of Hayden. At that time, the City Engineer shall determine the next available City Council meeting for plat approval, and once approved and signed by the City's representatives, applicant shall take mylars to the County for signatures and recordation and submit the fully recorded plat and associated documents to the City electronically.

Commented [DP83]: I believe that there is a combined review here..so should this say City?

Commented [DP84]: Can we point this back to a process in Final Plats?

D. Permits may be reviewed but not issued on lots or tracts (utility only structures) where a Lot Consolidation request is pending approval and recordation.

E. Permits will be not be reviewed or issued on lots or tracts (utility only structures) whose boundaries have been adjusted without the approval of the City.

12-7-7: CONDOMINIUM PLAT

A. APPLICABILITY:

Every division of an existing or permitted building under construction, or building and land in combination, into two (2) or more distinct lots or tracts of ownership, in such a manner as to create a common ownership interest in any portion of the structure, or structure and lands in combination, or otherwise creating boundaries of ownership along a common wall or structural separation between stories of a structure, shall proceed in compliance with this chapter. (Ord. 582, 7-10-2018; amd. Ord. 619, 4-13-2021)

B. GENERAL REQUIREMENTS:

Condominium subdivisions, with each unit and/or a portion of the original lot independently owned, having lot lines along common walls, may be permitted in any zones allowing for such use in Title 11, providing that:

Commented [DP85]: Reference Idaho State Code here - Title 55 Chapter 15 or maybe remove it here as it is referenced below?

1. The parent lot, including all areas of land and building proposed for common and independent ownership, when considered as a whole, meets the minimum lot size and all building setback requirements for the type of structure within the existing zoning designation. As a special exception, condominium platting of structures determined to be nonconforming by reason of restrictions on area, lot coverage, height, building setback or location on the lot may be allowed, if said nonconformity is not further increased by the proposed division, and the proposed condominium plat is not found to be contrary to the public interest.
2. The proposed condominium subdivision does not result in the creation of any additional development sites.
3. All applicable City, State, and Federal building regulations and Fire Codes pertaining to common wall and zero lot line construction shall be complied with.
4. Common walls shall be adequately soundproofed in accordance with International Building Code requirements.
5. Electric, domestic water supply, sewer service, heating and air conditioning systems, and all other incorporated utility systems shall be appropriately designed for each unit of occupancy.

6. Deeds or covenants pertaining to buildings shall contain appropriate provisions regarding maintenance of individually or commonly owned indoor or outdoor walls, common areas, and outdoor yard areas.

7. Maintenance or encroachment easements shall be recorded as necessary for individual owners to assure access to all commonly and individually owned yard areas and outdoor walls.

8. The development otherwise complies with all requirements of Idaho Code title 55, chapter 15, and title 11, "Zoning Regulations", of this Code and all other applicable City ordinances and codes. (Ord. 416, 5-9-2006)

C. SUBMITTAL FOR PRELIMINARY CONDOMINIUM PLAT:

1. At any time after the issuance of the building permit for a proposed condominium structure and the installation of footings for the permitted structure that include sufficient detail to determine where each of the exterior walls for the individual units will be located, a preliminary condominium plat for the permitted structure may be submitted to the City for review.

2. For buildings under construction at the time of application, no certificates of occupancy shall be issued for any condominium structure until the final condominium plat has been approved by the City and recorded with Kootenai County. For Residential Condominiums, at the time of building permit, should a multi-dwelling unit structure not request to construct as a townhome under the IRC, then that multi-dwelling unit structure (except a duplex) shall be constructed under the International Building Code (IBC). For non-residential and/or multi-dwelling unit structures under the IBC are not required to condominium plat prior to completion of the structure as a whole.

3. Applications for a condominium plat shall be submitted electronically and include:

    a. Applicable fees, as established by City Council.

    b. Diagrammatic floor plans of the building, as approved, and any associated lands, in sufficient detail to identify:

        (1) The exact dimensions of the building footprint, as approved, and any associated lands, relative to a minimum of two (2) survey monuments recognized by the County Surveyor;

        (2) Each unit, its dimensions and relative location;

        (3) All relevant floor elevations, referenced to the City's established vertical datum, where multilevel or multi-story structures are diagrammed; and

(4) Common and limited common areas shall be designated on said diagrams.

c. Record of ownership, and copies of the certificates consenting to condominium project by the owner of record and holder of any recorded security interest in the property, pursuant to Idaho Code title 55, chapter 15.

d. A declaration of condominium, articles of incorporation and bylaws, pursuant to Idaho Code title 55, chapter 15. (Ord. 416, 5-9-2006).

e. A preliminary condominium plat showing the subject lot(s) or tract(s), with the location of the building in sufficient detail to identify each unit and its relative location within the lot(s) or tract(s). The preliminary condominium plat shall be legibly drawn at a scale suitable to ensure the clarity of all lines, bearings and dimensions. The preliminary condominium plat shall also include the following: (Ord. 582, 7-10-2018)

(1) Condominium project name, north arrow, scale and vicinity map showing location and boundary of the subject tract, existing road patterns and adjoining properties in the vicinity.

(2) Location, dimensions and area of all proposed units to be developed as condominium units.

(3) Existing wells, springs, drainage channels, overhead and underground utilities lines, structures, sanitary sewer lines and culverts immediately within the tract and adjacent thereto.

(4) All easements of record, including sufficient recording data (recordation number, book, and page) to identify conveyance.

(5) All portions of the building or associated lands intended to be dedicated as common areas, with the uses indicated.

(6) Any other information as may be deemed necessary for consideration of the application. (Ord. 416, 5-9-2006)

D. PRELIMINARY CONDOMINIUM PLAT REVIEW:

1. Upon determination that the submission is complete, the preliminary condominium plat will be reviewed by City staff. Preliminary approval shall be granted only if the application meets the following standards for approval:

a. The proposed condominium plat is in conformance with the survey requirements found in Hayden City Code 12-6-??; and

Commented [DP86]: How much of this could be included in a general plats requirement? Or maybe still separate?

Commented [DP87]: Scale??

Commented [DP88]: Should this be included for all plats?

(1) The application is in conformance with the requirements of Idaho Code title 55, chapter 15; and

(2) The application and supporting documents demonstrate that all utility providers have approved of the change in status from single record owner to multiple record owners. Any mitigation which may be required prior to final plat of the condominium plat, shall be addressed within the submittal.

(3) ADA accessibility shall be reviewed in accordance with applicable site and building standards at the time of application.

Commented [DP89]: We require all new construction to meet ADA accessibility. Can we require it of Condominium and Townhome Plats as well? Even if it is a built environment?

2. Approval of the application by City staff may be conditioned upon revisions necessary to meet the above-mentioned standards. (Ord. 416, 5-9-2006)

3. Preliminary condominium plat approval shall have approval duration of one year from date of notification. Upon written request by the applicant to the Community Development Department, the Director or their designee may approve an additional one-year extension of preliminary condominium plat approval, provided it is determined that said extension will not be detrimental to the public interest.

Commented [DP90]: Shouldn't this be similar to that provided for a subdivision?

4. Any decisions or determinations made by City staff in the administration of the provisions of this section may be appealed to City Council, in accordance with section 11-1-9 of this Code. (Ord. 416, 5-9-2006; amd. Ord. 572, 6-13-2017; Ord. 619, 4-13-2021)

E. FINAL PLAT APPROVAL:

Upon preliminary condominium plat approval, the applicant shall follow procedures detailed in chapter 7, "Final Plat Approval", of this title.

12-7-9: TOWNHOME PLAT

A. A Townhome Plat may be submitted on vacant land or after a building structure has begun construction. Should a request be submitted for townhome plat after a structure has begun construction, then no certificates of occupancy shall be issued for any townhome until the final townhome plat has been approved by the City and recorded with Kootenai County. At time of building permit, any structure identified to be built to the International Residential Code (IRC) for a townhome, must plat prior to receiving a certificate of occupancy.

B. Applications for a townhome plat shall be submitted electronically and include:

1. Applicable fees, as established by City Council.

2. Record of ownership, and copies of the certificates consenting to townhome project by the owner of record and holder of any recorded security interest in the property, pursuant to Idaho Code title 55, chapter 15.

3. A declaration of townhome, articles of incorporation and bylaws, if applicable. (Ord. 416, 5-9-2006).

4. The preliminary townhome plat shall be legibly drawn at a scale suitable to ensure the clarity of all lines, bearings and dimensions. The preliminary townhome plat shall also include the following: (Ord. 582, 7-10-2018)

    a. Project name, north arrow, scale and vicinity map showing location and boundary of the subject tract, existing road patterns and adjoining properties in the vicinity;

    b. Location, dimensions and area of all proposed lots to be developed as townhome dwelling units;

    c. Existing wells, springs, drainage channels, overhead and underground utilities lines, structures, sanitary sewer lines and culverts immediately within the tract and adjacent thereto;

    d. All easements of record, including sufficient recording data (recordation number, book, and page) to identify conveyance;

    e. All portions of the building or associated lands intended to be dedicated as common areas, with the uses indicated; and

    f. Any other information deemed necessary for consideration of the application. (Ord. 416, 5-9-2006)

C. PRELIMINARY TOWNHOME PLAT REVIEW:

1. Upon determination that the submission is complete, the preliminary townhome plat will be reviewed by City staff. Preliminary approval shall be granted only if the application meets the following standards for approval:

    The proposed townhome plat is in conformance with the survey requirements found in Hayden City Code 12-6-??; and

    a. The proposed utilities to each residential single-family lot do not encroach upon neighboring lots. For clarification, the utilities shall not be run through attic space or crawl spaces from one unit to another across lot lines;

    b. The application and supporting documents demonstrate that all utility providers have approved of the change in status from single record owner to multiple record owners. Any mitigation which may be

Commented [DP91]: Scale??

Commented [DP92]: Should this be included for all plats?

required prior to final plat of the townhome plat, shall be addressed within the submittal;

c. ADA accessibility shall be reviewed in accordance with applicable site and building standards at the time of application.

2. Approval of the application by City staff may be conditioned upon revisions necessary to meet the above-mentioned standards. (Ord. 416, 5-9-2006)

3. Preliminary townhome plat approval shall have approval duration of one (1) year from date of notification. Upon written request by the applicant to the Community Development Department, the Director or their designee, may approve an additional one (1)-year extension of preliminary townhome plat approval, provided it is determined that said extension will not be detrimental to the public interest.

4. Any decisions or determinations made by City staff in the administration of the provisions of this section may be appealed to City Council, in accordance with section 11-1-9 of this Code. (Ord. 416, 5-9-2006; amd. Ord. 572, 6-13-2017; Ord. 619, 4-13-2021)

D: FINAL TOWNHOME PLAT APPROVAL:

1. Upon preliminary townhome plat approval, the applicant shall follow procedures detailed in chapter 7, "Final Plat Approval", of this title.

Commented [DP93]: We require all new construction to meet ADA accessibility. Can we require it of Condominium and Townhome Plats as well? Even if it is a built environment?

Commented [DP94]: Shouldn't this be similar to that provided for a subdivision?

B. Code Amendment Review - Title 11 Zoning Regulations

4. **REPORTS**
   A. Final Workshop on Code Amendments *ACTION ITEM*
5. **ADJOURNMENT**

Assistance for persons with disabilities will be provided, upon provision of verbal or written notice to city staff 24 hours in advance of the meeting. The phone number for City Hall is (208) 772-4411.