

ORDINANCE NO.: 298

SUBDIVISION ORDINANCE

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF A SUBDIVISION ORDINANCE FOR THE CITY OF WINCHESTER, IDAHO; PROVIDING FOR THE TITLE, INTERPRETATION, ENACTMENT AND PURPOSE; PROVIDING FOR DEFINITIONS; TO PROVIDE A PROCESS FOR SUBDIVIDING; TO PROVIDE STANDARDS FOR DEVELOPMENT; TO PROVIDE FOR DESIGN AND UTILITY INSTALLATION AND IMPROVEMENTS; TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT.

WHEREAS, the Mayor and City Council of the City of Winchester find that there is a need to establish a Subdivision Ordinance to provide standards for development and consistency for growth in the city limits of Winchester and the city impact area.

NOW THEREFORE, BE IT ORAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WINCHESTER, IDAHO:

SECTION 1:

This chapter shall be known as the "Subdivision Ordinance of the City of Winchester."

Purpose.

The Purposes of this title are:

- A. To implement the goals and purposes of the city of Winchester comprehensive plan;
- B. To provide for orderly harmonious development within the city limits;
- C. To provide standards for such development;
- D. To ensure adequate access and traffic circulation through the coordination of streets and roads within subdivisions, with relation to other existing or planned streets and roads;
- E. To ensure adequate open space for travel, light, air and recreation;
- F. To ensure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements.
- G. To promote the conservation of land by encouraging its most effective and economical use;
- H. To facility the transfer of real property by accurate description;

- I. To avoid scattered subdivision of land that would result in lack of essential public services, or necessitate expenditure of public funds to supply such services;
- J. To provide logical procedures for the achieving of these purposes;
- K. To otherwise promote the public health, safety and general welfare:
- L. To ensure full consideration is given to the impact of the proposed subdivision on adjacent uses and land uses in the vicinity of the proposed subdivision.

Compliance with Idaho Code.

If a piece of land is subdivided , all subdividers of land located within the city of Winchester shall, prior to recording of a plat, submit all plats to the city of Winchester for approval by its city council in the manner provided by this chapter.

SECTION 2

Definitions.

For the purposes of this chapter, certain words, terms, and phrases are defined as follows:

Affected person: One having an interest in real property which may be affected by approval or disapproval of a proposed subdivision or development.

Agricultural purposes: The use of land primarily for the commercial production of plants, crops, animals, or livestock useful to man, including the ancillary activities essential to such production, and the preparation of the products for use.

Architect: An architect licensed to practice in the state of Idaho.

Block: A piece or parcel of land or group of lots.

City engineer: The city engineer of the city of Winchester being licensed to practice in the state of Idaho.

City master transportation plan: A part of the city comprehensive plan which provides for the development of a system of major streets and highways, including the location and alignment of existing and proposed thoroughfares.

City surveyor: The licensed land surveyor appointed or employed by the city.

Commission: The city of Winchester planning and zoning commission. (If the planning and zoning commission is not established the Winchester City Council will act in this capacity).

Comprehensive plan: A comprehensive plan, or part thereof, providing for the future growth and improvement of the city of Winchester and for the general location and coordination of streets

and highways, public utilities, schools and recreation areas, public building sites, and other physical development, which shall have been duly adopted by the city council.

Conditional approval: An affirmative action by the council that approval will be forthcoming upon satisfaction of certain specified stipulations.

Construction plans: Plans, profiles, cross-sections, specifications, estimates, reports and other required details for the construction and acceptance of public improvements, prepared by an engineer and/or architect in accordance with the approved preliminary plat and in compliance with existing standards of design and construction approved by the council.

Council: The city council of the city of Winchester.

Development master plan (DMP): A preliminary master plan for the development of a land area, the platting of which is expected in progressive stages. A DMP, if required, shall assess the feasibility of developing the land area and shall be designed by the subdivider and shall be subject to approval of the subdivision committee.

Direct access: The access which serves as the principal access to the property and determines the street address of the property.

Easement: A grant by the owner of the use of a parcel of land by the public, corporation, or persons for a specified use and purposes and so designated on a plat.

Engineer: A professional engineer licensed to practice in the state of Idaho.

Exception: Any parcel of land which is within the boundaries of the subdivision which is not owned by the subdivider.

Final plat approval: Unconditional approval of the final plat by the council, as evidenced by certifications on the plat by the city attorney, city clerk, and city engineer, constitutes authorization to record the plat.

Irrigation facilities: Includes canals, laterals, ditches, conduits, gates, pumps, and allied equipment necessary for the supply, delivery, and drainage of irrigation water.

Lot: A piece or parcel of land separated from other pieces or parcels by descriptions, as in a subdivision or on a record survey map, or by metes and bounds, for purposes of sale, or separate use.

(1) "Corner lot": A lot abutting on two (2) or more streets, other than an alley, at their intersection or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The front of a corner lot shall be determined at the time of building permit application.

(2) "Interior lot": A lot having but one side abutting on a street.

(3) "Through (or double front) lot": A lot abutting two (2) parallel or approximately parallel streets or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.

(4) "Reverse frontage lot": A through lot for which the boundary abutting an arterial route or major street is established as the rear lot line.

Lot width: The length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the zone in which the lot is located. The axis of a lot shall be a line joining the midpoints of the front and rear property lines.

Neighborhood plan: A plan designed by the subdivision committee to guide the platting of remaining vacant parcels in a partially built neighborhood so as to make reasonable use of all land, correlate street patterns, and achieve the best possible land use relationships.

Owner: The person or persons holding title by deed to land, or holding title as vendees under land contract, or holding any other title of record.

Pedestrian way: A dedicated public walkway.

Planner: The community development director of the city of Lewiston.

Plat: A map of a subdivision.

(1) "Preliminary plat": A preliminary map, including supporting data, indicating a proposed subdivision development, prepared in accordance with Article VI of this chapter and the Idaho Code.

(2) "Final plat": A map of all or part of a subdivision providing substantial conformance to an approved preliminary plat, prepared in accordance with Article VII of this chapter and Idaho Code, Sections [50-1301](#) through [50-1329](#).

(3) "Administrative plat": A plat of ten (10) or fewer lots, all of which are in conformance with the zoning ordinance, all of which have direct access to an existing improved public street and not requiring any major improvement. The construction of curb, gutter and sidewalk and street patchback needed for street widening shall not be considered major improvements.

(4) "Recorded plat": A final plat or administrative plat bearing all of the certificates of approval required in this chapter and duly recorded in the Nez Perce County recorder's office.

Private street or road: A road within a subdivision plat that is not dedicated to the public and not a part of a public roadway system, meeting the design requirements for fire access.

Public improvement standards: A set of regulations setting forth the details, specifications, and instructions to be followed in the planning, design, and construction of required public improvements in the city of Lewiston, formulated by the state department of health and welfare, the North Central District Health Department, the city engineer, and other city departments.

Streets: Any public way or other way which is an existing state, county, or municipal roadway; or a street or roadway shown on a plat heretofore approved pursuant to law or by official action; or a street or roadway, whether public or private; or a plat duly filed and recorded in the county recorder's office. A street includes the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, curbs, gutters, sidewalks, parking areas, and lawns.

(1) "Arterial route": A general term including freeways, expressways, and limited access streets; and interstate, state or county highways having regional continuity.

(2) "Minor arterial": Provides for the general inter-neighborhood traffic circulation of the community, taking priority of movement over most intersecting streets, and minimizing direct access to abutting properties.

(3) "Collector street": Provides for traffic movement within neighborhoods of the city and between major streets and local streets and for direct access to abutting properties. (Also called "secondary street.")

(4) "Local street": Provides for direct access to residential, commercial, industrial, or other abutting land and for local traffic movements and connects to collector and/or major streets. (Also called a "minor street.")

a. "Marginal access street": A minor street parallel and adjacent to an arterial route which provides access to abutting property and intercepts local streets and controls access to an arterial route. (Also called "frontage road.")

b. "Cul-de-sac street": A short local street having one end terminated in a vehicular turnaround.

c. "Dead-end street": A short local street terminating at a property line, but capable of future extension.

(5) "Alley": A public service way used to provide secondary vehicular access to property otherwise abutting upon a street.

(6) "Improved public street": A public street that has been paved with an all weather surface.

Subdivider: A subdivider shall be deemed to be the individual, firm, corporation, partnership, association, syndication, trust, or other legal entity that titles the application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter. The subdivider need not be the owner of the property as defined by this chapter.

Subdivision: The division of a tract or parcel of land within the city or area of city impact into two (2) or more lots, tracts, or parcels of land; except that:

(1) The sale or exchange of parcels of land to or between adjoining property owners where such sale or exchange does not create additional lots shall not be deemed a subdivision.

(2) The allocation of property by court decree in settling the estate of a decedent or in partitioning land among owners shall not be deemed a subdivision.

(3) The unwilling sale of land as the result of legal condemnation procedures, or the acquisition of street rights-of-way by a public agency in conformance with the comprehensive plan, shall not be deemed a subdivision.

Subdivision committee: A committee established to review subdivision plats.

Surveyor: Professional land surveyor licensed to practice in the state of Idaho.

Tract or tract of land: A parcel of land which appears on the records of the county as a single ownership as of August 23, 1971. Where two (2) or more parcels under the same ownership are contiguous, they shall be regarded for purposes of this chapter as a single tract except when no new lot lines are created for the purpose of sale.

Usable lot area: That portion of a lot usable for or adaptable to the normal uses made of property consistent with the established or proposed zoning classification, excluding any areas which may be considered wetlands, are excessively steep, or are included in certain types of easements.

Utilities: Installations or facilities, underground or overhead, furnishing public utilities including electricity, gas, steam, communications, water, drainage, solid waste disposal, sewage disposal, or flood control. Said utilities may be owned and operated by any person, firm, corporation, municipal department, or board duly authorized by state or municipal regulations. Utility or utilities as used herein may also refer to the operating persons, firms, corporations, departments, or boards.

Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

SECTION 3: ADMINISTRATION

Subdivision committee.

(a) A subdivision committee is hereby established, to consist of the following members or their duly authorized representatives:

- (1) The administrator of public works or appointed alternate(s);
- (2) Community development director or appointed alternate(s);
- (3) Fire chief or appointed alternate(s);
- (4) Superintendents of water, sewer and streets.

(b) The subdivision committee shall examine all plats of proposed subdivisions for compliance with applicable ordinances of the city of Lewiston. The committee shall report its findings and recommendations through the commission or council, meeting as often as necessary to report within the time limits hereinafter prescribed.

Outline of procedures.

(a) The preparation, submittal, review, and approval of all subdivision plats of lands within the jurisdiction of the city of Lewiston shall proceed through the progressive stages, as described in Articles V, VI and VII of this chapter.

(b) The preparation, submittal, review, and approval of all administrative plats shall proceed as described in Article VIII of this chapter.

Fees.

Fees for the processing of subdivision applications shall be required prior to review of plats. The fee shall be in accordance with the fee schedule adopted by resolution of the city council.

ARTICLE IV. PREAPPLICATION CONFERENCE AND CONCEPT PLAN

Purpose.

The purpose of the preapplication conference and concept planning stage shall be to discuss the proposed subdivision concept, its conformity with the comprehensive plan, its relationship to surrounding development, any site conditions that may require special consideration or treatment, and the requirements of this chapter.

SECTION 4: PRE APPLICATION

Preapplication conference.

(a) The preapplication conference stage of subdivision planning comprises an informational period which precedes actual preparation of preliminary plans by the subdivider. During this stage, the subdivider makes known his intentions to the city and is advised of specific public objectives related to the subject tract, and other details regarding platting procedures and requirements.

(b) In carrying out the purposes of the preapplication stage, the subdivider and the city shall be responsible for the following actions:

(1) *Actions by the subdivider.* The subdivider and/or his agents shall meet with the city at the preapplication conference to present a general outline of the proposed development, which shall include, but is not limited to:

a. Sketch plans and ideas regarding land use, street and lot arrangement, and tentative lot sizes.

b. Tentative proposals regarding required public improvements.

c. Impact statement on adjacent uses and land uses in the vicinity of the, and impact on the local economy, schools, parks and other community services.

d. Other information needed to explain the development.

(2) *Actions by the city.* The city will discuss the proposal with the subdivider and advise him of procedural steps, design and improvement standards, and general plat requirements. Then, depending upon the scope of the proposed development, they will proceed with the following actions:

a. Check existing zoning of the tract and make recommendations if a zone change is necessary or desirable or if other zoning action is necessary. If it is determined that zoning action is required or a permit is required for the subject tract or any part of it, the subdivider shall initiate the necessary rezoning or permit application.

b. Check conformity with the objectives and policies of the comprehensive plan and for conformity to the city's master transportation plan.

c. Inspect the site or otherwise determine its relationship to streets, utility systems, and adjacent land uses, and identify any unusual problems with regard to topography, utilities, flooding, or other conditions.

d. Determine if there is a need for the preparation and review of a development master plan before a preliminary plat can be considered. If the development master plan is required, the subdivider will be advised of this fact, and of the extent to which it should be prepared.

e. Review and discuss with the developer the potential need for special studies, which may include but are not limited to traffic, soil, slope stability, wetlands, foundations or other studies that may be required as a result of site conditions, and the implications of the findings of those studies, if required. The requirement of said special studies shall be determined by the city engineer.

f. Advise the subdivider of the results of these actions, and offer guidance as to any further actions which should be taken.

SECTION 5 DEVELOPMENT MASTER PLAN

Purpose.

A development master plan may be required by the subdivision committee whenever the tract is sufficiently large as to comprise a neighborhood; the tract initially proposed for platting is only a portion of a larger land area, the development of which is complicated by size, transportation or access, unusual topographic, utility, land use, land ownership, or other conditions. The entire land area need not be under the subdivider's control in this case.

Contents of plan – Preparation.

The development master plan (DMP) shall be prepared to a scale and accuracy commensurate with its purpose and shall include:

- (1) General street pattern with particular attention to collection streets and future circulation throughout the neighborhood and the goals and objectives of the city's master transportation plan.
- (2) General location and size of school sites, parks, or other proposed land uses.
- (3) Location of shopping centers, multifamily residential, or other proposed land uses.
- (4) Proposed improvements for sewage disposal, water supply, fire protection and storm drainage.

Significance of development master plan approval.

Upon acceptance of general design approach by the subdivision committee, the DMP shall be followed by the preparation of preliminary plat(s). If development is to take place in several parts, the DMP shall be submitted as supporting data for each part. The DMP shall be kept up to date by the subdivider and the committee as modifications take place.

SECTION 6. PRELIMINARY PLAT

Purpose.

The purpose of the preliminary plat is to allow for the detailed examination of the proposed subdivision, determine conformity to land use and zoning ordinances and applicable state laws and to determine and apply appropriate development standards in conformance with this code.

Preliminary plat.

The preliminary plat stage of land subdivision includes detailed subdivision planning, submittal, review, and approval of the preliminary plat. To avoid delay in processing the application, the subdivider shall provide the city with all information described in this article that is essential to determine the character and general acceptability of the proposed development.

Conformance with zoning requirements.

The subdivision shall be designed to meet the specific requirements for the zoning district within which it is located. In the event that an amendment or variance of zoning is necessary, said action shall be initiated by the property owner or his authorized agent. Processing of the preliminary plat shall not proceed until the subdivision committee has determined that the commission or council has made a favorable decision regarding any proposed zoning change. In any event, any such change required in relation to the preliminary plat shall have been adopted prior to preliminary plat approval.

Sec. 32-16. Preliminary plat submission.

The following material and information shall be submitted by the subdivider in support of the request for preliminary plat approval. Review of the preliminary plat shall not commence until all required information is submitted.

(1) Three (3) copies of the preliminary plat and required data prepared in accordance with requirements set forth in Articles V, VI and IX of this chapter shall be filed with the community development department at least twenty-five (25) working days prior to the commission meeting at which the subdivider desires to be heard. In addition, the subdivider shall submit

one (1) reduced copy of the proposed subdivision plat; said reduced copy shall be clear and readable and shall not exceed eleven (11) inches by seventeen (17) inches in size.

(2) *Reviewing fee.* The subdivider shall, at the time of submitting the preliminary plat, pay to the city a reviewing fee in the amount set by the City Council. The reviewing fee shall also cover the submittal of an amended or revised preliminary plat handled as the same case. If the preliminary plat approval expires before application for final approval, the plat shall be resubmitted for preliminary approval as a new case and the subdivider shall pay the required fee.

(3) The submittal shall be checked by the community development department for completeness and assigned a case number. If incomplete as to those requirements set , the submittal shall be rejected and the subdivider notified in writing within five (5) working days. If the specified fee has been paid, scheduling of the case for commission hearing shall be dependent upon adequacy of data presented and completion of processing.

(4) The subdivider shall submit a title report or a commitment for title insurance indicating the nature of the applicant's ownership of the land included in the preliminary plat.

Preliminary plat review.

(a) The community development department shall distribute copies of the plat and supporting data to the following review offices:

- (1) City engineer;
- (2) City water and sewer divisions or the appropriate service provider;
- (3) City fire chief;
- (4) City street superintendent;
- (5) North Central District Health Department for satisfaction of sanitary restrictions as required by Idaho Code, Section [50-1326](#);
- (6) Superintendent of the appropriate school district;
- (7) If the land abuts a state highway, to the Idaho Highway Department; if the land abuts a county road, to the county commissioners;
- (8) Public utilities;
- (9) State department of health and welfare, division of environment;

(10) Soil and water conservation district.

(b) The reviewing offices shall transmit their recommendations in writing to the community development department which receives and summarizes the recommendations and presents them to the subdivision committee. The community development department prepares the report and recommendations of the subdivision committee, and forwards them to the commission.

Preliminary plat approval.

(a) The city council shall review the preliminary plat within forty-five (45) calendar days of the date a full and complete application was received.

(b) If satisfied that all objectives of this chapter have been met, and that it is in conformance with the comprehensive plan, the council shall approve the preliminary plat, with such conditions as are appropriate. Among the conditions required by council shall be the submission of construction plans and specifications.

(c) If the council finds the preliminary plat requires major revision, the council may reject the plat stating the reason for the rejection. Said reasons for rejection shall be transmitted in writing by the city clerk to the subdivider within five (5) working days following the rejection of the plat by the council.

(d) If a plat is rejected by the council, the review of a new plat for the same tract or any part thereof, if submitted within ninety (90) calendar days of the date of rejection, shall be considered under the original review fee. Should the plat be submitted to the city more than ninety (90) calendar days after rejection, the subdivider shall follow the aforementioned procedure and again shall be subject to the required fee.

Significance of preliminary plat approval.

Preliminary plat approval constitutes authorization for the subdivider to proceed with the preparation of the final plat, and with the construction plans and specifications for public improvements. Preliminary plat approval is based upon the following terms:

(1) The basic conditions under which approval of the preliminary plat is granted will not be changed prior to expiration date.

(2) Approval is valid for a period of twelve (12) months from date of council action. Time for completion of improvements required by the preliminary plat may, upon application by the subdivider, and upon good cause showing, be extended for a period of six (6) months by the city council or as provided for in subsection (4). Should a final plat not be submitted to the city within the specified time period, the review process shall recommence as for a new subdivision and the subdivider shall submit to the city a new reviewing fee and, if necessary, a revised plat

containing any revisions required by amendments in the city code approved since the date of the original submittal.

(3) Preliminary plat approval, in itself, does not assure final acceptance.

(4) However, if circumstances require, a final plat which includes only a part of the approved preliminary plat may be submitted and processed for council approval during the twelve (12) months time period. Approval of the entire preliminary plat shall remain active as long as final plats are submitted at a minimum of twelve (12) month intervals.

Information required for preliminary plat submittal.

(a) *Form of presentation.* The information required as part of the preliminary plat submittal shall be shown graphically or by note on plans, or by letter, and may comprise several sheets showing various elements or required data. All mapped data for the same plat, except the vicinity map, shall be drawn at the same scale of one hundred (100) feet to an inch. Whenever practical, the drawing shall measure twenty-two (22) inches by thirty-six (36) inches and should not exceed forty-two (42) inches by sixty (60) inches.

(b) *Identification and descriptive data.*

(1) Proposed name of the subdivision, in accordance with Idaho Code, Section [50-1307](#), and its location by section, township, and range; referenced to a section corner, quarter-corner, or recorded monument.

(2) Name, address, and phone number of subdivider.

(3) Name, address, and phone number of the person preparing the plat.

(4) Scale, north point, and date of preparation including dates of any subsequent revisions.

(5) Vicinity map clearly showing proposed subdivision in relationship to adjacent subdivisions, arterial routes, major streets, collectors, and other important features.

(c) *Existing conditions data.*

(1) Topography by contours related to USCG survey datum, or other datum approved by the city engineer, shown on the same map as the proposed subdivision layout and showing proposed contours adequate to describe future grading. Contour interval shall be such as to adequately reflect the character and drainage of the land.

(2) Soils stability analysis when required by the city engineer.

(3) Location of water wells, streams, canals, irrigation laterals, private ditches, washes, lakes, wetlands or potential wetlands or other water features; direction of flow; location and extent of areas subject to inundation whether such inundation be frequent, periodic, or occasional.

(4) Location, widths, and names of all platted streets, railroads, utility rights-of-way of public record, public areas, permanent structures to remain including water wells, and municipal corporation lines within or adjacent to the tract.

(5) Names, book, and page numbers of all recorded adjacent subdivisions having common boundaries with the tract.

(6) By note, the existing zoning classifications of the tract.

(7) By note, the acreage of the tract.

(8) Boundaries of the tract to be subdivided shall be fully dimensioned.

(d) Proposed conditions data.

(1) Street layout, including location, width and proposed names of public streets, alleys, and easements; connections to adjoining platted tract.

(2) Typical lot dimensions (scaled); dimensions of all corner lots and lots on curvilinear sections of streets; each lot numbered individually; total number of lots.

(3) Location, width, and use of easements.

(4) Designation of all land to be dedicated or reserved for public use within use indicated.

(5) If plat includes land for which multifamily, commercial, or industrial use is proposed, such areas shall be clearly designated together with existing zoning classification and status of zoning change, if any.

(e) Proposed utility methods. The subdivider shall address by note the proposed method of utility services including but not limited to:

(1) Sewage disposal.

(2) Water supply.

(3) Storm water disposal: Preliminary calculations and layout of proposed system and locations of outlets, in conformance with the city storm water management plan and subject to approval of the city engineer.

(4) Fire protection: Preliminary evaluation by the fire chief of available water supply and pressure and required spacing of fire hydrants.

SECTION 7. FINAL PLAT

Purpose.

The purpose of the final plat is to consider and approve the necessary maps, plats and documents that demonstrate conformity to the approved preliminary plat and associated conditions of approval in accordance with provisions of this code and Idaho state statutes.

Final plat.

This stage includes the final design of the subdivision, engineering of public improvements, and submittal of the plat and construction plans by the subdivider. It includes review of the final plat by the appropriate agencies, and submission for final action by the council.

(1) *Zoning.* Zoning of the tract shall regulate the proposed use, and any zoning amendment necessary shall have been adopted by the council prior to submittal of the final plat, and shall be noted thereon.

(2) *Easements.* It shall be the responsibility of the subdivider to provide on the final plat such easements in such location and width as required for utility purposes. Prior to filing the final plat, he shall have submitted the plat to the person(s) authorized to perform plat review for the utility interests. Prior to final plat review by the city engineer, a letter shall have been received from said interested utilities signifying that easements shown on the plat are complete and satisfactory for utility purposes.

(3) *Final plat preparation.* The final plat shall be prepared in accordance with requirements set forth in these regulations and shall conform closely to the approved preliminary plat.

Final plat submittal.

The subdivider shall submit the final plat map prepared in conformance with provisions of this chapter and that information required of this code to the community development department at least twenty-five (25) working days prior to the council meeting at which the subdivider desires to be heard. The community development department, upon receipt of a complete plat submittal, shall record the receipt and date of submittal and forward the submittal to the city engineer who shall then proceed with review action. Should changes or corrections to the plat be found necessary, each resubmittal of the plat shall require an additional twenty-five (25)

working days for review. Following the final approval of the plat by the city engineer and city surveyor, the city engineer shall forward the plat to the city council along with his recommendation for action made in writing.

Final plat review.

(a) The engineer upon receipt of the final plat submittal shall immediately check it for completeness. If incomplete, the date of submittal shall be voided and the submittal shall be returned to the subdivider. If complete, the city engineer shall review drainage and flood control measures and review the plat for substantial conformity to the approved preliminary plat and refer copies of the submittal to the appropriate reviewing offices who will make known their recommendations in writing addressed to the city engineer.

(b) The engineer shall assemble the recommendations of the various reviewing offices, prepare a concise summary of recommendations, and submit said summary together with the reviewer's recommendations to the council.

(c) At the time of submittal of the final plat to the city, the subdivider shall pay a fee as established by the city council.

Final plat approval.

(a) If the engineer concludes that the final plat is not in substantial conformity with the preliminary plat, the engineer shall report his findings to the planning and zoning commission. The planning and zoning commission shall then recommend approval or denial of the final plat to the city council. The city council then shall consider the final plat.

(b) If in the opinion of the engineer, the final plat is in substantial compliance with the preliminary plat, the engineer shall recommend approval to the city council.

(c) The council shall review and act upon the final plat within twenty-five (25) working days of the date of receipt by the engineer.

(d) Upon approval of the plat by the council, the clerk shall transcribe a certificate of approval upon the plat, first making sure that the other required certifications (f) have been duly signed, including letter of agreement between subdivider and serving utilities, that engineering plans have been approved by the engineer, the agreement between city and subdivider (a) has been executed, and that an appropriate guarantee of covering said approved plan improvements has been posted with the engineer. The city shall also record the final plat with the office of the Lewis County recorder.

(e) Should the council reject the plat, in whole or in part, it shall advise the subdivider in writing of the reasons for the denial.

Information required for final plat submittal.

(a) *Method and medium of presentation.*

- (1) The subdivider shall provide a record copy of the final plat prepared as described in Idaho Code, Section [50-1304](#).
- (2) Copies of the recorded plat shall be reproduced in the form of blueline or blackline prints on a white background.
- (3) The plat shall be drawn to an accurate scale of one hundred (100) feet to the inch, or multiple thereof, unless a different scale is previously approved by the engineer.

(b) *Identification data required.*

- (1) A title which includes the name of the subdivision and its location by number of section, township, range, and county. Titles shall comply with Idaho Code, Section [50-1307](#).
- (2) Name, address, and registration number of the seal of the professional engineer or land surveyor, registered in the state of Idaho, preparing the plat.
- (3) Scale, north arrow, and date of plat preparation.

(c) *Survey data required.*

- (1) Boundaries of the tract to be subdivided which shall close within tolerances prescribed by Idaho Code, showing all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.
- (2) Any excepted parcel(s) within the plat boundaries shall show all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.
- (3) Location and description, and Idaho State plane coordinates of cardinal points to which all dimensions, angles, bearings, and similar data on the plat shall be referenced; each of two (2) corners of the subdivision traverse shall be tied by course and distance to separate section corners, quarter-section corners, or to existing recorded monuments.
- (4) Location of all permanent physical encroachments upon the boundaries of the tract.

(d) *Descriptive data required.*

(1) Name, right-of-way lines, courses, length, width of all existing and proposed public streets, alleys, utility easements, radii, points of tangency, and central angles of all curvilinear streets and alleys, and radii of all rounded street line intersections.

(2) All drainageways shall be shown on the plat. The rights-of-way of all major drainageways, as designated by the city engineer, shall be dedicated to the public.

(3) All easements for rights-of-way provided for public services or utilities and any limitations of the easements. Construction within the easement shall be limited to utilities and wood, wire, or removable section-type fencing.

(4) Location and all dimensions of all lots.

(5) All lots shall be numbered by consecutive numbers throughout the plat. "Exceptions," "tracts," and "private parks" shall be so designated, lettered, or named and clearly dimensioned.

(6) All sites to be dedicated to the public will be clearly indicated, the boundaries and dimensions accurately shown, and the intended uses specified.

(7) Location of all adjoining subdivisions with date, book, and page number of recording noted, or, if unrecorded, so marked.

(8) Any proposed private deed restrictions to be imposed upon the plat or any part or parts thereof pertaining to the intended use of the land shall be typewritten and attached to the plat and to each copy submitted.

(9) Sanitary restrictions required by Idaho Code, Section [50-1326](#).

(e) *Dedication and acknowledgment.*

(1) Dedication: Statement of dedication of all streets, alleys, crosswalks, drainageways, pedestrian ways, and other easements for public use by the person holding title as vendees under a land contract, and by spouses of said parties. If lands dedicated are mortgaged, the mortgagee shall also sign the plat.

(2) Dedication shall include a written location by section, township, and range of the tract. If the plat contains private streets, public utilities shall have the right to install and maintain utilities in the street right-of-way.

(f) *Required certifications.*

- (1) Certificate signed by the owner or owners, containing a correct legal description of the land, together with a statement of their intention to include the same in the plat, and making dedication of all streets and alleys shown on the plat. This certificate shall be notarized.
- (2) Certificate signed by an Idaho-licensed engineer or surveyor that the plat is correct and accurate, and that the monuments described in it have been located as described. This certificate shall include the seal of the engineer or surveyor.
- (3) Certificate and seal of the city engineer and of the city or county surveyor that the plat complies with the requirements of Title 50, Chapter [13](#), Idaho Code, and with this chapter.
- (4) Certificate signed by the city clerk that the city council has approved and accepted the plat.
- (5) Certificate, signed by the owner or owners, on the provision of water service to the lots within the subdivision, as provided by Idaho Code, Section [50-1334](#).
- (6) Certificate of satisfaction of the sanitary restrictions, to be endorsed by the county recorder at the time of filing, or subsequent thereto, when the sanitary restrictions shall have been satisfied as required by Idaho Code, Section [50-1326](#).
- (7) Certificate of recording, to be signed by the county recorder at the time of filing.

SECTION 8. ADMINISTRATIVE PLATS

Purpose.

The administrative plat process is intended to provide a streamlined means of subdividing property in those instances in which no public improvements are required, all property fronts upon an improved, publicly dedicated street and ten (10) or fewer lots are being created in conformance with the zoning ordinance. Administrative plats may not contain more than one flag lot as defined in Winchester City.

Administrative plat procedure.

When the proposed land division includes ten (10) or fewer lots, all of which have direct access to a pre-existing improved public street, and not requiring any major improvements as provided in the definition of an administrative plat, the administrative plat procedure may be used. The procedure shall be as follows:

- (1) Preapplication conference as required by this chapter.

(2) The subdivider shall submit to the city a plat map prepared in conformance with provisions of this chapter and that information required in this code to the community development department at least twenty-five (25) working days prior to the council meeting at which the subdivider desires to be heard. The community development department, upon receipt of a complete plat submittal, shall record the receipt and date of submittal and forward the submittal to the city engineer who shall then proceed with review. Should changes or corrections to the plat be found necessary, each resubmittal of the plat shall require an additional twenty-five (25) working days for review. Following the final approval of the plat by the city engineer and city surveyor, the city engineer shall forward the plat to the community development department with his recommendation for council action made in writing. The community development department shall forward the completed plat, along with the city engineer's recommendation to the city council for final action.

(3) At the time of submittal to the city, the subdivider shall pay a fee in the amount set by the city council.

Administrative plat submittal.

(a) Administrative plat application and plat drawings:

(1) The plat shall be eighteen (18) inches by twenty-seven (27) inches in size and shall comply with the other requirements of the Idaho Code, Section [50-1304](#).

(2) The scale of the drawing may be either one (1) inch to fifty (50) feet or one (1) inch to one hundred (100) feet, as best suits the particular case.

(3) The information required by subsections (b)(2) through (b)(4) and (b)(6) of this section shall be included on the plat.

(4) The subdivider shall submit the reproducible plat and three (3) copies of the plat.

(b) In addition to the required subdivision plat map, the applicant shall submit the following material:

(1) Request for administrative plat review and approval.

(2) A statement from the state department of health and welfare that the volume and quality of the proposed water supply is adequate and satisfactory.

(3) Letters from the serving utility companies as required this chapter.

(4) Evidence from the city fire marshal that adequate fire protection is available within the distances required by the Uniform Fire Code and with adequate pressure for the uses intended on the property.

(5) Acknowledgment that curbs, gutters and sidewalks are required .

(6) The subdivider shall submit a title report or a commitment for title insurance indicating the nature of applicant's ownership of the land included in the administrative plat.

(c) For administrative plats that are located on existing public rights-of-way of less than fifty (50) feet in width, the subdivider shall be required to dedicate an additional five (5) feet along that existing right-of-way to the city.

Administrative plat approval and filing.

(a) The council, upon receipt of the plat and written recommendation of the city engineer and community development department, shall proceed as specified

(b) The city shall file the approved administrative plat with the county recorder.

SECTION 9. SUBDIVISION DESIGN PRINCIPLES AND STANDARDS

General.

(a) Every subdivision shall conform to the requirements and objectives of the city comprehensive plan or any parts thereof, as adopted by the commission and/or the city council, to the zoning ordinance, to other ordinances and regulations of the city, and to the Idaho statutes.

(b) The subdivider/developer shall provide an impact statement of the proposed subdivision on adjacent uses and land used in the vicinity of the proposed subdivision.

(c) The subdivider/developer shall provide an impact statement of the proposed subdivisions impact on the local economy, schools, parks and community service.

(d) The subdivision shall include the entire tract of land unless an approved preliminary plat, planned unit development or approved development master plan shows development in phases. When development is planned in phases, a schedule will be submitted with the preliminary plat showing the anticipated completion time for each stage.

(e) Where the tract to be subdivided contains all or any part of the site of a proposed park, school, flood control facility, or other public area as shown by the city's comprehensive plan or future acquisitions map the city shall comply with the provisions of Idaho Code, Section [37-6517](#).

(f) Land which is within a known floodplain, land which cannot be properly drained, or other land which, in the opinion of the subdivision committee, is unsuitable for residential use shall

not be subdivided; except that the subdivision of such land upon receipt of evidence from the North Central District Health Department and/or city engineer that the construction of specific improvements can be expected to render the land suitable; thereafter, construction upon such land shall be prohibited until the required improvements have been planned and approval gained from the Idaho Department of Water Resources and the Army Corps of Engineers and construction guaranteed in conformance with the provisions of Article XI of this chapter.

(g) Where the tract to be subdivided is located in whole or in part in terrain having an average slope exceeding ten (10) percent, design and development shall conform to the findings of a suitability study as required by the city engineer.

Street location and arrangement.

(a) Whenever a tract to be subdivided embraces any part of a street designated in the adopted city master transportation plan and/or bike and pedestrian way designated in the adopted comprehensive plan such street, bike way or pedestrian way shall be platted in conformance therewith.

(b) Street layout shall provide for the continuation of such street as the subdivision committee may designate.

(c) Whenever a tract to be subdivided is located within an area for which a neighborhood plan has been approved by the commission, the street arrangement shall conform substantially to said plan.

(d) Certain proposed streets and utilities, as designated by the subdivision committee, shall be extended to the tract boundary to provide future connections with adjoining unplatted land.

(e) Local streets shall be so arranged as to discourage their use by through traffic.

(f) If a proposed subdivision abuts or contains an existing or proposed arterial route, the subdivision committee may recommend, and the commission may require, marginal access streets or reverse frontage with access control along the arterial route, or such other treatment as may be justified for protection of abutting properties from the nuisance and hazard of high volume traffic, and to preserve the traffic function of the arterial route.

(g) If a subdivision abuts or contains the right-of-way of a railroad, a limited access road, an irrigation canal, drainage facilities or abuts a commercial or industrial land use, the subdivision committee may recommend location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for appropriate use of the intervening land. Such distance shall be determined with due regard for approach grades, drainage, bridges, or future grade separations.

(h) Streets shall be so arranged in relation to existing topography as to be in conformance with city standards.

(i) Either alleys or utility easements along rear lot lines may be required. The subdivision committee shall decide which is required in individual cases. Its decision shall be made in conference with the subdivider, and shall be based on all relevant circumstances such as topographic traits, lot sizes, and continuity of existing alleys and easements.

(j) Half streets within the subdivision boundaries shall be discouraged, except where essential to provide right-of-way, to complete a street pattern already begun, or to insure reasonable development of a number of adjoining parcels. Where there exists a platted half street abutting the tract to be subdivided and said half street furnishes the sole access to residential lots, the remaining half shall be platted within the tract. Where the half street has had no improvement or construction, the subdivision committee may recommend that the subdivider provide a full right-of-way to serve his development.

Street design.

Street design shall be based upon the classification of the street and shall be in conformance with adopted city standards.

Block design.

(a) The desirable maximum length of block measured along the center line of the street and between intersecting street center lines shall be nine hundred (900) feet; except that in developments with lot areas averaging one-half (1/2) acre or more, or where extreme topographic conditions warrant, the maximum may be exceeded by four hundred twenty (420) feet.

(b) Maximum length of cul-de-sac streets shall be six hundred sixty (660) feet measured from the intersection of right-of-way lines to the extreme depth of the turning circle along the street center line. An exception may be made where topography or property ownership justifies, but shall not be made merely because the tract has restrictive boundary dimensions, wherein provision should be made for extension of street pattern to the adjoining unplatted parcel and a temporary turnaround installed.

Lot planning.

(a)(1) Lot width, depth, and area shall comply with the minimum requirements of the zoning ordinance and shall be appropriate for the location and character of development proposed, and for the type and extent of street and utility improvements being installed. Side lot lines shall be substantially at right angles or radial to street lines, except where other treatment may be justified in the opinion of the subdivision committee.

(2) Where steep topography, unusual soil conditions, or drainage problems exist or prevail, the commission may recommend special lot width, depth, and area requirements of the particular zoning district.

(b) Proposed streets shall be arranged in close relation to existing topography and shall conform to adopted city standards. Where steep topography prevails, the design shall conform to the findings of any special study required by the city engineer.

(c) Single-family residential lots extending through the block and having frontage on two (2) parallel streets shall not be permitted; reverse frontage shall be prohibited except where expressly permitted in accordance with section or where justified in the opinion of the subdivision committee.

Easement planning.

Easements shall be provided for all utilities and shall be in conformance with the standards of the utility providing service.

(1) Easements for utilities shall be provided as follows:

a. Where alleys are provided: Four (4) feet for aerial overhead on each side of alley shall be provided by dedication but need not be delineated on plat.

b. Along side lot lines: Five (5) feet on each side of lot lines for distribution facilities and one foot on each side of lot lines for street lighting as may be designated.

(2) For lots facing on curvilinear streets, utility easements or alley may consist of a series of straight lines with points of deflection not less than one hundred twenty (120) feet apart. Points of deflection should always occur at the junction of side and rear lot lines on the side of the exterior angle. Curvilinear easements or alleys may be provided, providing that the minimum radius for the alley or easement shall not be less than eight hundred (800) feet.

(3) Land within a public street or drainage easement or land within a utility easement for major power transmission (tower) lines or pipelines shall not be considered a part of the minimum lot area except where lots exceed one-half (1/2) acre in area. This shall not be construed as applicable to land involved in utility easements for distribution of service purposes.

Street naming.

Subdivider shall propose the street names, subject to approval by the city council, at the preliminary plat stage.

SECTION 10. STREET AND UTILITY IMPROVEMENT REQUIREMENTS

Purpose.

The purpose of the article is to establish in outline the minimum acceptable standards for improvement of public streets and utilities, to define the responsibility of the subdivider in the planning, construction, and financing of public improvements, and to establish procedures for review and approval of construction plans

Developer's responsibility.

All improvements required as a condition of preliminary plat approval shall be the responsibility of the subdivider.

Construction plans and specifications.

(a) The subdivider shall submit to the city engineer construction plans and specifications pursuant to the approved preliminary plat as required by Articles X and XI for his approval. Said construction plans shall be prepared by an engineer licensed to practice in the state of Idaho.

(b) In the event the subdivider wishes to file the final plat prior to the construction of public improvements, the subdivider shall enter into a public improvement agreement with the city for the construction of the public improvements. The council's approval of the public improvement agreement shall constitute approval of the construction plans and specifications.

(c) In the event the subdivider wishes to complete the public improvements prior to submitting the final plat for approval, the subdivider shall submit the necessary construction plans and specifications to the city engineer for review and approval prior to commencing any construction. Upon completion of said public improvements in conformance with the approved plans, the subdivider shall submit the "as built drawings" of the improvements along with the final plat map for review and action by the city. In this case, no public improvement agreement is necessary save for certification that the subdivider shall provide the city with evidence of compliance with the one year warranty period as required in section [32-42](#), Warranty of Improvements.

As built drawings.

Upon completion of the construction and prior to the acceptance by the city of the required public improvements, the developer shall submit to the city engineer a set of "as built drawings" which accurately depict the grade, alignment size and other pertinent features of the installation as actually constructed. Said "as built drawings" shall be stamped by an engineer licensed to practice in the state of Idaho who shall certify that the drawings accurately depict the installation as actually constructed. The city of Winchester shall not accept the improvements for public maintenance or ownership without said "as built drawings."

Warranty of improvements.

Upon completion of the required public improvements and prior to the acceptance of said improvements by the city, the developer shall provide to the city as written warranty that the improvements shall perform as designed for a period of one (1) year. Any flaw or defect found or encountered within the year warranty period shall be the financial responsibility of the developer who shall promptly repair said flaw or defect to the satisfaction of the city and shall provide an additional warranty period for the repair as specified by the city engineer, said additional warranty period not to exceed one (1) year in duration.

Grading and erosion control during construction.

Construction grading and erosion control during construction shall conform to city standards as prepared by the city engineer and adopted by the city council.

Construction and inspection.

(a) Prior to the construction or installation of any required public improvements for water supply or sewerage systems, for any site grading, construction of storm water detention systems or parking areas, the developer shall apply for and receive the appropriate permits from the city of Winchester for said improvements.

(b) All relocation, tiling, and reconstruction of irrigation facilities shall be constructed to standards of the owning utility and the city engineer.

(c) All improvements in the public right-of-way shall be constructed under the inspection and approval of the city department having jurisdiction.

(d) All underground utilities to be installed in streets shall be constructed prior to the surfacing of such streets. Service stubs to platted lots within the subdivision shall be placed to such length as not to necessitate disturbance of street improvements when service connections are made. If connected to a city-owned system, application and fee shall be the responsibility of the subdivider in accord with city requirements.

Required improvements.

The subdivider shall design and construct all improvements in conformance with adopted city standards and codes. Should unique conditions exist such that these standards cannot reasonably be met, the subdivider may petition the council for amendments to the specific standard. Said request for amendment shall be accompanied by an engineering report which identifies the standard proposed and the reasons justifying such request.

The subdivider is responsible for the design and installation of the following improvements:

(a) *Streets and alleys.* All streets and alleys within the subdivision shall be graded and surfaced to cross-sections, grades and standards approved by the city engineer. Where there are existing

streets adjacent to the subdivision, subdivision streets shall be improved, and, if necessary, feathered to the center of such existing streets. Dead-end streets serving more than four (4) lots shall be provided a graded and surfaced temporary turning circle.

A traffic report may be required to document the traffic impacts of the subdivision; the subdivider shall be responsible for the installation of both off-site and on-site improvements recommended in the traffic report.

(b) *Curbs.* Portland cement concrete curb and gutter or roll curb, as designated by the city engineer, shall be installed in accordance with approved city standards.

(c) *Sidewalks.* Portland cement concrete sidewalks shall be required on all streets in all zones. They shall be constructed to a width, line, and grade approved by the city engineer in accordance with approved city standards. Where unique topographical characteristics exist and the installation of sidewalks is not practical, the commission may recommend that certain portions of sidewalks within the subdivision be waived.

(d) *Pedestrian and bicycle ways.* Pedestrian and bicycle ways shall be constructed to a line and grade approved by the city engineer. Paving, fencing, and/or landscaping may be required by the commission as recommended by the subdivision committee. Appropriate means shall be provided to prevent the use of the pedestrian ways as thoroughfares for bicycles and motorcycles.

(e) *Storm drainage.* Proper and adequate provision shall be made for disposal of storm waters; this shall apply equally to grading of private properties and to public streets. Existing watercourses shall be maintained and dedicated as drainage ways. The type, extents, location, and capacity of drainage facilities shall be determined for the individual subdivision by the engineer for approval by the city engineer and shall be constructed in accordance with approved city standards.

(f) *Sanitary sewage disposal.* Septic tanks are not permitted in the city limits of Winchester. (This section is for the impact area of Winchester .) Sewage disposal facilities shall be installed to serve each lot and shall be subject to the following standards and approvals:

(1) Individual systems may be constructed only in areas not reasonably accessible to a public sewer system, and then, only when the following conditions are met, to the satisfaction of the state department of health and welfare and subject to the approval of the public works administrator:

a. Soil absorptivity is adequate for drainfields.

b. Construction complies with approved standards for sewerage systems.

c. Location of septic tanks and seepage pits or leach lines or disposal beds in relation to property lines, buildings, water supply wells and water lines are acceptable to the department. Location shall be such that efficient and economical connection can be made to a future public sewer.

d. Lots of one (1) acre and larger.

(2) Public sanitary sewers shall be installed in areas which are in the city limits of Winchester and shall be constructed to plans, profiles, and specifications approved by the state department of health and welfare and city departments having jurisdiction.

(3) In areas where public sanitary sewers are not reasonably accessible, but where the city, or independent sewer district having jurisdiction, agrees to provide temporary disposal of sewage, or where an engineering design for a sewer system for the area in which the subdivision is located has been adopted by the city, the subdivider shall plan and construct sewers within and for the subdivision for connection with a future public system.

(g) *Water supply.* Each lot (within the city limits of Winchester) shall be supplied with potable water in sufficient volume and pressure for domestic use and adequate water, in pressure and volume, for fire protection, in accordance with city standards.

(h) *Monuments.* Permanent monuments shall be installed in accordance with current city standards at all corners, angle points, points of curve, and at all intersections. After all improvements have been installed, an Idaho registered land surveyor shall check the location of monuments and certify their accuracy and conformance to Idaho Code, Section [50-1303](#).

(i) *Lot corners.* Iron pipe or pins shall be set at all corners, angle points, and points of curve for each lot within the subdivision prior to the recording of the plat in conformance with Idaho Code, Section [50-1303](#).

(j) *Utilities.*

(1) The subdivider shall be responsible for the requirements of this section and shall make the necessary arrangements with each of the serving utility companies involved for the installation of underground utilities. Letters from each of the serving utility companies indicating that such arrangements have been made shall be submitted to the city engineer at the time the final plat is submitted for approval.

(2) New utility lines, including, but not limited to, electric, communication, and television transmission lines, shall be installed underground in accordance with the standards of the current edition of the National Electric Safety Code. When facilities

are installed in the public right-of-way, the location shall be approved by the city engineer.

(3) When overhead utility lines exist within the property being platted, said existing lines shall be removed and replaced by new underground installations.

(4) When overhead utility lines exist on the periphery of the property being platted, said existing lines and any additions or improvements needed to increase capacity or improve service reliability may remain overhead..

(5) When, as a result of the subdivision development, it is necessary to relocate, renew, or expand existing facilities within the platted area, the subdivider shall arrange with the serving utility for the installations to be placed overhead, except on private property.

(6) The subdivider shall arrange with the serving utility for, and be responsible for the cost of service lines to approved street light locations a specified in this section.

(7) When, due to subsurface soil conditions, rock, and/or other special conditions, it is determined by the city engineer that it is impractical to construct facilities underground, the council may recommend approval of the overhead installation of facilities.

(8) Those electrical transmission lines of greater than three thousand (3,000) kva (kilovolt-amperes), as rated by the American Standards Association, are excluded from the requirements of this section.

(k) Street lights.

(1) In all subdivisions or commercial or industrial developments, street lights and their required electrical service lines shall be installed as directed by the public works administrator. The street light type, size and locations shall be indicated on the approved construction plans and specifications. All fixtures, poles, conduit and other facilities shall meet the specifications and standards of the utility providing service.

(2) If required, the developer will reimburse the city for all installation costs and monthly street light service fees in accordance with the current utility provider fee schedule and the subdivision improvement agreement, until such time as the subdivision or development is approved and accepted by the city council.

(3) Once the subdivision or development has been approved and accepted by the city council, the monthly street light service cost will be borne by the city. (Ord. No. _____)

Review fee and approval of construction plans.

A fee for review of the construction plans shall be paid to the city prior to the time review of the plans is conducted by city personnel. The review fee shall be in the amount set forth by the city council.

SECTION 11. GUARANTEE OF CONSTRUCTION

Public improvement agreement.

(a) Agreement between city and subdivider. Prior to the approval by the city council of the final plat, the subdivider shall execute an agreement between himself and the city which shall be reviewed and approved by the city attorney and shall address the following points:

(1) Planned increments of improvements: The subdivision improvements may be constructed in practical increments of lots, as specified by the subdivider, subject to provisions for satisfactory drainage, traffic movements, and other services as determined by the city engineer.

(2) Planned construction schedule: The improvements, shall be completed within an agreed upon time period for each increment, provided that an extension of time may be granted under such conditions as may be specified in the agreement.

(3) Adherence to approved plans and city construction standards: The improvements, , shall be completed in accordance with the plans approved by the city engineer.

(4) Abandoned or uncompleted improvements: Any work abandoned or not completed by the subdivider may be completed by the city, and the city shall recover the costs thereof from the subdivider or his surety.

(5) Inspection of completed work: Construction of all improvements within streets and easements, except those utility facilities specified in this chapter, shall be subject to inspection by the city engineer. A fee may be charged for this inspection.

Financial guarantee of construction.

(a) To reasonably insure construction of the required improvements, the subdivider shall post with the city prior to the recording of the final plat, one or a combination of the following, which shall be subject to review and approval of the city attorney:

(1) A performance and completion bond executed by a surety company authorized to do business in the state of Idaho;

(2) Cash; or

(3) An appropriate agreement between the applicable title insurance and trust company or a city-approved financial institution and the city of Lewiston committing the amount referred to in subsection (b) of this section for installing said improvements.

(b) For each subdivision increment, the total amount posted by methods (1), (2), and/or (3) above shall be equal to one hundred thirty-five (135) percent of the entire estimated costs of installing the said improvements, the engineering and inspection costs for that increment, and the cost of replacement or repair of any existing streets or improvements damaged by the subdivider in the course or development of the subdivision, All public improvements for which a financial security has been provided pursuant to this section shall be constructed within one (1) year after the city council approval of the subdivision improvement agreement. In the event the improvements are not constructed by the subdivider within one (1) year as herein provided, the city shall have the authority to execute on the financial security to construct the public improvements.

(c) There shall be no lots released for sale from the indicated increment of lots until either the bond, cash, or agreement referred to above has been posted with and accepted by the city clerk and a written statement issued by the city clerk to the title company within five (5) working days of receiving the agreement that the requirements of subsection (b) of this section have been met.

(1) No construction of residential units shall be permitted until all required public improvements have been accepted by the city and/or other serving utility and the approved plat has been filed by the city in the courthouse.

SECTION 12. VARIANCES

Variations generally.

(a) That there are such special circumstances or conditions affecting the property that the strict application of the provisions of this title would clearly be impracticable or unreasonable; In such cases the subdivider shall first state his reasons in writing as to the specific provisions or requirements involved;

(b) That the Strict compliance with the requirements of this title would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this title.

(c) In modifying the standards or requirements of these provisions as outlined above, the council may make such additional requirements as appear necessary, in its judgment, to secure substantially the objectives of the standards or requirements so modified.

(d) That the granting of a specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated;

(e) That such variance will not violate the provisions of Idaho Code.

SECTION 13. PROHIBITION AGAINST CIRCUMVENTION OF CHAPTER

Prohibition against circumvention of chapter generally.

No person, firm, corporation, or other legal entity shall, for the purpose of circumventing any of the provisions of this chapter, hereafter sell, or offer for sale any lot, piece, or parcel of land which is within a subdivision as defined without having first recorded a plat thereof in accordance with the provisions of this chapter.

SECTION 14. VIOLATIONS, PENALTIES, AND REMEDIES

Violations, penalties and remedies generally.

(a) Any person or any member or officer of any firm, corporation, or other legal entity who violates any provision of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, may be punished by a fine of not more than three hundred dollars (\$300.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of these regulations.

(b) The violation of any provision of this chapter is hereby declared to be a public nuisance. In addition to any other remedy, either criminal or civil, provided by this chapter or by the laws of the state of Idaho, any condition existing in violation of any provision of this chapter may be abated by action in law or equity before any court of competent jurisdiction.

SECTION 15. VALIDITY OF THE CHAPTER

Validity of the chapter.

Severability. If any provision of this chapter is held invalid, such invalidity shall not affect any other provision which can be given effect without the invalid provision, and, to this end, the provisions of this chapter are declared to be severable.

SECTION 16: EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its passage, approval, and publication.

Passed under suspension of all rules and regulations of this City Council, upon which proper roll call votes were duly taken and duly enacted as an Ordinance of this City at a regular meeting of the Mayor and City Council of the City of Winchester, Idaho, held on this ____ day of _____, 2021.

Miriam J Youngren, Mayor

ATTEST:

LeAnn J Trautman, City Clerk