

BALLARD CITY
ORDINANCE 202302-001

**AN ORDINANCE ADOPTING PROCEDURES FOR THE NEGOTIATION OF A
DEVELOPMENT AGREEMENT BETWEEN A SUBDIVIDER AND THE CITY TO
SET FORTH ALL ASPECTS OF A DEVELOPMENT.**

WHEREAS, §10-9a-102 of Utah State Code (as amended) allows the City to enter into other forms of land use controls and development agreements that the City considers necessary or appropriate for the use and development of land within the City, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements; and

WHEREAS, §10-9a-501 and §10-9a-532 of Utah State Code (as amended) set forth the requirements and limitations of development agreements; and it is in the best interest of Ballard City and its residents to set forth specific requirements, elements, and aspects of a development that shall be recorded with the Uintah County Recorders Office and therefore be binding on all successors in the ownership of the affected property(ies).

NOW THEREFORE, be it ordained by the Council of the Ballard City, in the State of Utah, as follows:

SECTION 1: ADOPTION “14.04.045 Development Agreements” of the Ballard Municipal Code is hereby *added* as follows:

A D O P T I O N

14.04.045 Development Agreements(*Added*)

- 1. Purpose.** A development agreement may be negotiated and executed between a subdivider and the City to set forth the specific requirements, elements, and aspects of a development.
- 2. Procedure.** All development agreements, upon proper execution, shall be recorded with the Uintah County Recorder's Office, and shall run with the land and be binding on all successors in the ownership of the affected property(ies). A development agreement shall contain, at a minimum, the following:
 - a.** A legal description of the land subject to the development agreement.
 - b.** The restrictions or conditions to be attached to the property including development standards and the provision of public facilities.
 - c.** The configuration of the property as shown on the project's development plan.
 - d.** A statement of the benefits and value the development agreement will have for the City as a whole, including but not limited to: assurances of design standards, dedication and improvement of open space, parks, trails, amenities,

- or infrastructure such as public rights-of-way, or utilities.
- e. The time frames for performance by parties.
 - f. A description of the various City approvals required before the commencement of construction and other procedures that will be required after approval of the development agreement.
 - g. Provisions for enforcement of the terms and conditions of the development agreement.
 - h. Provisions for making amendments to the development agreement.
 - i. The time limitation of the agreement.
 - j. Such other terms which may be proposed and agreed to between the City and the subdivider.
3. Limitations. A development agreement under this section shall be subject to §10-9a-532 of Utah State Code (as amended) and may not:
- a. Limit the City's authority in the future to enact a land use regulation or take any action allowed under §10-8-84 of Utah State Code (as amended).
 - b. Require the City to change the zoning designation of an area of land within the City in the future.
 - c. Contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the City Council approves the development agreement in accordance with the same procedures for enacting a land use regulation outlined in §10-9a-502 of Utah State Code (as amended), including a review and recommendation from the Planning Commission and the conducting of a public hearing.
 - d. The City may not require a development agreement as the only option for developing land within the City.
 - e. To the extent that a development agreement does not specifically address a matter of concern related to land use or development, the matter or concern shall be governed by Utah State Code (as amended and the applicable land use regulations in this code.
4. Expiration. A development agreement shall be signed and notarized by all parties and recorded in the Uintah County Recorder's Office within one (1) year from the date of City Council approval or it shall be considered null and void. Prior to the expiration of the one (1) year period, an applicant may submit a written request to the Planning Commission for their recommendation to the City Council for an extension of up to six (6) months. Approval of this extension may only be granted by the Council.

SECTION 2: AMENDMENT “14.04.030 Definitions” of the Ballard Municipal Code is hereby *amended* as follows:

A M E N D M E N T

14.04.030 Definitions

The following terms used in this title shall have the respective meanings set forth in this section:

Adjacent Landowner: Any property owner of record, according to the records of the county recorder, whose property meets or touches at some point, or across a street, alley or other public or private right-of-way, property proposed for subdivision, or any portion thereof.

Affected Entity: Means a county, municipality, independent special district under UCA Title I7a, Chapter 2 (Independent Special District(s)), a local district under Title I7b, Chapter 2 (Local Districts), school district, interlocal cooperation entity established under Title 11, Chapter 13 (Interlocal Cooperation Act), specified public utility or the Utah Department of Transportation, if:

- A. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- B. The entity has filed with the county a copy of the entity's general or long-range plan; or
- C. The entity's boundaries or facilities are within one mile of land that is the subject

Alley: A public way which affords a secondary means of access to abutting property and not intended for general traffic circulation.

Applicant: The owner of land proposed to be subdivided or such owner's duly authorized agent. Any agent must have written authorization from the owner.

Bench Mark: A mark affixed to a permanent or semi-permanent object along a line of survey to furnish a datum level.

Block: The land surrounded by streets and other rights of way other than an alley or land which is designated as a block on any recorded subdivision plat.

Building Line: A line parallel to the property line beyond which no exposed portion of a building extends, other than the roof overhang.

City: Ballard City.

City Council: The City Council of Ballard City.

Concept Plan: A sketch or concept drawing submitted prior to the preliminary plat or in lieu of a preliminary plat for minor subdivisions of four (4) to ten (10) lots to enable the subdivider to reach a general understanding with the planning commission regarding the subdivision of property and to review guidelines pertaining to subdivision requirements of the City.

Construction Standard Specifications and Plans: The Manual of Standard Specifications and Plans as adopted by the Utah Chapter of the American Public Works Association (APWA), latest addition.

Culinary Water Authority: The Department, agency, or public entity with responsibility to review and approve the feasibility of the Ballard culinary water system and sources for the subject property.

Developer: As the case may be, either: a) an applicant for subdivision approval, or b) the owner of any right, title, or interest in real property for which subdivision approval is sought, may be used interchangeably with "subdivider".

Development Agreement: A written agreement or amendment to a written agreement between the City and one or more parties that regulates or controls the use or development of a specific area of land. Development agreement does not include an improvement completion assurance.

Easement: The quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.

Established Right-of-way: A right-of-way that has been established by either deed, conveyance, or court order.

Fee Schedule: The schedule of application processing fees adopted by the Council. Final Plat: A map or chart of a subdivision which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified and which can be placed on record in the office of the county recorder.

Flood 100-Year: A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Flood 10-Year: A flood having a ten percent (10%) chance of being equaled or exceeded in any given year.

Floodplain 100-Year: That area adjacent to a drainage channel which may be inundated by a 100-year flood as designated on the most recent flood insurance rate map prepared by the federal emergency management agency (FEMA). This floodplain may also be determined following a physical survey by an individual qualified and licensed to do so. Such determination shall be approved by FEMA.

General Plan: The comprehensive, long range general plan of proposed future development of land in the City.

Improvement Completion Assurance: A surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by the City to guarantee the property completion of landscaping or an infrastructure improvement required as a condition percent to recording a subdivision plat, or development of a commercial, industrial, mixed use, or multifamily project.

Land Use Application: An application required by the municipalities land use ordinances.
Land Use Authority: A person, board, commission, agency or other body designated by the local legislative body to act upon a land use application.

Land Use Ordinance: A planning, zoning, development or subdivision ordinance of the municipality but does not include the general plan.

Lot: A portion of a subdivision or parcel of land intended as a unit for building development or transfer of ownership.

Lot Width: The width of the lot measured along the minimum building setback line.
Master Street Plan: That portion of the general plan which defines the future alignments of major streets and their right of way, including maps or reports or both, which have been approved by the planning and zoning commission and City Council.

Minor Subdivision: A division of land into four or fewer parcels.

Major Subdivision: A division of land for the purpose of accommodating more than 4 buildable lots.

Natural Drainage Course: Any natural watercourse which is open for the continuous or potential flow of water in a definite direction or course.

Owner(s): Includes the plural as well as the singular, and may mean either a natural person, firm, association, partnership, Private Corporation, public or Quasi-public Corporation or any combination thereof.

Outlot: A lot or lots representing the remaining aggregate of un-subdivided land in those instances where large parcels of land are subject to existing uses or development, and may be subject to future subdivision as part of a phased development.

Parcel of Land: A contiguous quantity of land, in the possession of, or owned by, or recorded as the property of, the same claimant or person and bearing one county tax number.
Park Strip: The strip of land located within the public right of way between the sidewalk and the curb and gutter.

Planning Commission: Ballard City's planning and zoning commission, unless another planning commission is specifically named.

Preliminary Approval: An approval, with or without alterations, given to a preliminary plat by the planning commission and provides the necessary authority to proceed with the preparation and presentation of the final plat.

Preliminary Plat: A map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with this chapter, to permit the evaluation of the proposal prior to detailed engineering and design.

Protection Strip: A strip of land bordering a subdivision, or a street within a subdivision, which serves to bar access of adjacent property owners to required street improvements installed within the subdivision until such time as the adjacent owners share in the cost of such improvements.

Public Hearing: A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

Public Meeting: A meeting that is required to be open to the public.

Public Improvements: Work objectives, devices, facilities or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, secondary irrigation system, streets, trees, street signs, streetlights, traffic control or safety devices, fire hydrants and such other facilities or construction required by this ordinance.

Record of Survey Map: Means a map of a survey of land, which establishes a boundary, monument, or record of corner changes.

Reasonable Notice: Means posted notice of the hearing or meeting in at least three public places within the jurisdiction and published notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available or actual notice of the hearing or meeting.

Sanitary Sewer Authority: The Ballard City Engineer.

Secondary Water System: Any system which is designed and intended to provide, transport, store, distribute, divert, clean, filter and measure water from a stream or other source for watering of crops, lawns, shrubberies, flowers and other nonculinary uses.

Streets:

- A. Arterial: A major street in the street hierarchy, which has high traffic volume and is not intended to be a residential street. An arterial provides connections with or is a major State or Interstate roadway and is often the location of significant community facilities as well as retail, commercial, and industrial facilities.
- B. Collector: A street whose function is to conduct traffic between major arterial streets and/ or activity centers. It is a principal traffic artery within residential areas and carries relatively high volume. A collector can sustain minor retail or other commercial establishments along its route, which will influence the traffic flow. Cul-De-Sac: A minor street of limited length which terminates in a turnaround of a minimum radius. Provides minimum access to abutting properties only.
- C. Local: A street whose primary purpose is to conduct traffic to and from dwelling units to other streets within the hierarchy. Occasionally a local street will connect with two (2) or three (3) small places or other local streets. Usually, there is no through traffic between two (2) streets of a higher classification.

- D. Major Collector: A street, similar to a collector street except it carries a greater through traffic load.
- E. Private: A thoroughfare within a subdivision which has been reserved by dedication unto the subdivider or lot owners to be used as a private access to serve the lots platted within the subdivision and complying with an approved street cross section and maintained by the subdivider or other private agency.

Specified Public Utility: An electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1 of the Utah Code.

Storm water Drainage System: A system designed to carry off and minimize the effects of run-off water. It may consist of surface grading or subsurface piping or other components as required.

Subdivider: Any person who: a) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who b) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop or advertises for sale, lease or development, any interest, lot, parcel, site, unit, or plat in a subdivision, or, who c) engages directly, or through an agent, in the business of selling, leasing, developing or offering for sale, lease, or development of a subdivision, or who d) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing, and may be used interchangeably with the developer.

Subdivision:

- A. Any land that is divided, re-subdivided, or proposed to be divided into two (2) or more lots, parcels, sites, units, other divisions of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms, and conditions.
- B. Subdivision includes:
 - 1. The division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and
 - 2. Divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

PASSED AND ADOPTED BY THE BALLARD CITY COUNCIL

	AYE	NAY	ABSENT	ABSTAIN
Mayor Robert Abercrombie	_____	_____	_____	_____
Councilmember Mark Reidhead	_____	_____	_____	_____
Councilmember Ben Allred	_____	_____	_____	_____
Councilmember Al Kettle	_____	_____	_____	_____
Councilmember Nile Mathisen	_____	_____	_____	_____

Presiding Officer

Attest

Robert Abercrombie, Mayor, Ballard
City

Kaelyn Meyers, City Recorder,
Ballard City