

**Gooding County**  
**SUBDIVISION ORDINANCE**  
**No. 102**



**GOODING COUNTY, IDAHO**

ADOPTED BY:  
BOARD OF COUNTY COMMISSIONERS  
APRIL 25, 2011

# Gooding County Board of Commissioners

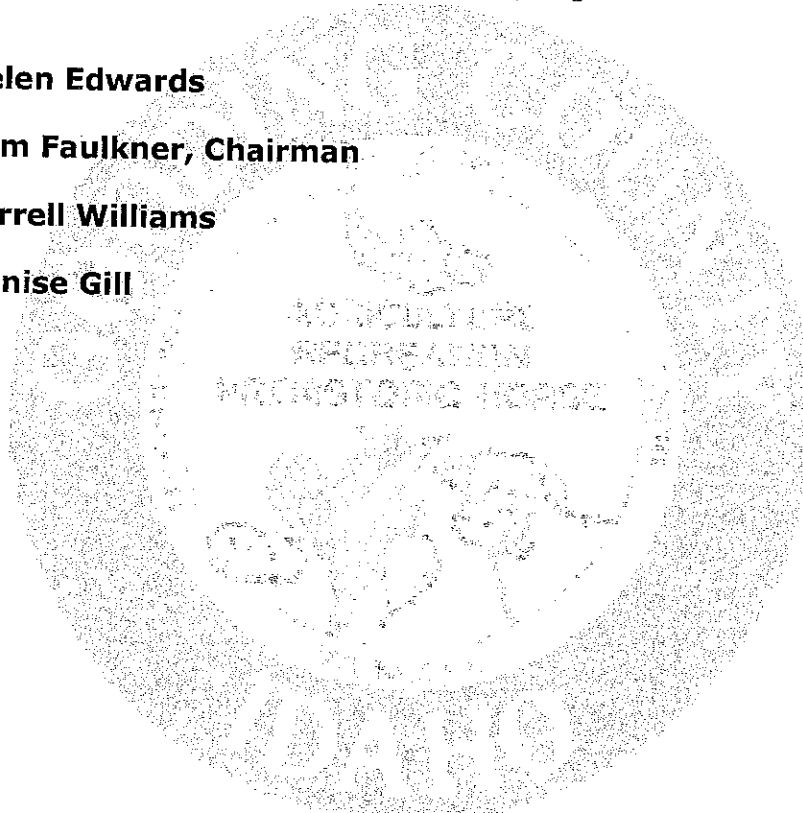
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GOODING COUNTY SUBDIVISION AND PLANNED UNIT DEVELOPMENT  
ORDINANCE NO. 102

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GOODING COUNTY SUBDIVISION AND PLANNED UNIT DEVELOPMENT ORDINANCE

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF SUBDIVISION AND PLANNED UNIT DEVELOPMENT REGULATIONS

ORDINANCE NO. 102

AN ORDINANCE OF GOODING COUNTY, IDAHO PROVIDING FOR REGULATION OF RURAL SUBDIVISIONS IN UNINCORPORATED AREAS OF THE COUNTY: PROVIDING STANDARDS AND REGULATION AND REPEALING ORDINANCE NO. 80; PROVIDING FOR THE REGULATION OF SUBDIVISIONS; PROVIDING FOR PROVISION OF TITLE, AUTHORITY, PURPOSE, JURISDICTION, ADMINISTRATION AND SEVERABILITY; PROVIDING DEFINITIONS, SUBDIVISION ADMINISTRATION, PROCEDURES FOR APPROVAL, PLAT CONTENTS, DESIGN STANDARDS, AND IMPROVEMENT STANDARDS; PROVIDING FOR PLANNED UNIT DEVELOPMENTS, SPECIAL DEVELOPMENT SUBDIVISIONS, VACATIONS, VARIANCES, APPEAL TO BOARD OF COUNTY COMMISSIONERS, DETECTION OF VIOLATIONS, ENFORCEMENT AND PENALTIES; PROVIDING FOR AMENDMENT PROCEDURES AND EFFECTIVE DATE.

These regulations shall be known and cited as the Gooding County Subdivision and Planned Unit Development Ordinance, hereinafter referred to as the "Subdivision Ordinance" and repealing Ordinance No. 80 and all ordinances or parts of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GOODING COUNTY, IDAHO:  
These regulations are authorized by Title 50, Chapter 13 and Title 67, Chapter 65 of Idaho Code, as amended or subsequently codified.

**1. PURPOSE**

This ordinance and regulations have been made in accordance with the Comprehensive Plan for Gooding County and the Gooding County Zoning Ordinance; which Plan and Ordinance are designed to protect and promote the health, safety, and general welfare of the residents. It is therefore to provide:

- A. Protection of private property rights and harmonious development.
  1. Future subdivisions are encouraged to locate in the area of city impact surrounding incorporated cities where they may some day receive city services.
  2. Protection of property values by conserving existing uses and controlling future development.
  3. Equal protection of each citizen's private property from undue encroachment in that each citizen shall have the maximum use of his property without placing an undue burden upon neighbors.

4. Protection from the menace to the public safety that would result from placing of buildings or other structures in such locations or in such a manner as to interfere with present or future traffic movement, and to promote beauty along the highways and elsewhere.
  5. Promote the protection of agricultural lands for production of food, and to foster agriculture and industry together with uses related thereto.
  6. Ensure that the important environmental features of the County and localities are protected and enhanced by establishing adequate standards for development on or around such areas as canyon rims and hillsides.
  7. Promote development of land that is commensurate with the physical characteristics of the land.
  8. Avoidance of undue water and air pollution.
- B. The process of minor land divisions (divisions of an original parcel of land).
  - C. The coordination of streets and roads within the subdivision with other existing or planned streets and roads.
  - D. Adequate open space for agriculture, travel, light, air and recreation.
  - E. The avoidance of scattered subdivision of lands that would result in either of the following:
    1. The lack of water supply, streets or other services.
    2. The unnecessary expenditures of public funds for the supply of such services.
  - F. Standards for the creation and improvement of roads; and the installation of water, sewer, utility mains and piping connections.
  - G. The manner and form of making, filing and amending any plat.
  - H. The administration of these regulations as to the rights and obligations as defined in the Local Land Use Planning Act, Idaho Code Title 67 Chapter 65.

## **2. APPLICABILITY**

This ordinance shall apply to the minor and major division (subdivision) of all property within the unincorporated area of Gooding County, except as may be modified or exempted by this section of the ordinance:

The following divisions of property shall not constitute a subdivision whether minor or major:

- A. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage of the properties involved.
- B. Allocation of land pursuant to an estate settlement or other court decree.
- C. The division of property as a result of condemnation, as defined and allowed in Idaho Code.

D. The expansion or acquisition of street rights of way by a public highway agency.

### 3. JURISDICTION

These regulations shall apply to the subdividing of all land within unincorporated Gooding County unless otherwise provided by any ordinance or statute adopted pursuant to Idaho Code § 67-6526 Areas of Impact.

- A. All Gooding County Ordinances in conflict with this Subdivision Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.
- B. All uses maintained under this Ordinance shall comply with:
  - 1. South Central District Health Department regulations;
  - 2. Irrigation requirements as per Idaho Code §§ 31-3805, 31-3806, 42-1301 through 42-1310, 42-604, 42-905, 42-907, 42-910 and 67-6537;
  - 3. Highway departments and any other controlling jurisdiction;
  - 4. State and Federal laws and regulation as they apply to building and zoning ordinances.

### 4. ADMINISTRATION

The Board of County Commissioners shall appoint an Administrator and Planning and Zoning Commission to carry out the provisions as herein specified. The Administrator shall receive and process all applications.

### 5. SEVERABILITY

Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

### 6. DEFINITIONS

Administrator: An official, having knowledge in the principles and practices of subdividing, who is appointed by the Board to administer this Ordinance.

Affected Person: One who has an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing the development.

Block: A group of lots, tracts, or parcels within well-defined boundaries, usually streets.

Board: The Board of County Commissioners of Gooding County, Idaho.

Bridges: Bridges must be engineered and built to highway district specifications, and include posting of weight and width allowances when required.

Buildable Site: A dwelling construction site which will not require diking or riprap for protection against flooding, nor increase the possibility of flooding, nor increase the possibility of contamination of ground or surface water from septic tanks and drain fields, nor require that the proposed site be excavated so as to oversteepen a slope or toe of a slope.

Building: A structure designed or used as the living quarters for one or more families, or a structure designed or used for occupancy by people for commercial or industrial uses.

Building Setback Line: An imaginary line established by a zoning ordinance that requires all buildings to be situated a certain distance from lot lines.

Canyon Rim(s): See Gooding County Zoning Ordinance

Cemetery: A lot that has been platted for the selling of sites for the burial of animal or human remains.

City: An incorporated municipality.

Cluster Development (CD): A development pattern which preserves agricultural and recreational lands and protects agricultural practices, natural topographic and geologic features, rural landscape, scenic vistas, vegetation and wildlife habitat.

Commission: The Gooding County Planning and Zoning Commission appointed by the Board.

Committee: A Technical Committee, appointed by the Board upon recommendation from the Commission, to assist with the technical evaluation of subdivisions, and to make recommendations to the Commission. The membership of the Committee shall include, but not be limited to, persons that are engaged in either private or public work with specific knowledge in the following areas:

- a. Road design and construction.
- b. Sewer and water facility design and construction.
- c. Health requirements for water and sewer facilities.
- d. Environmental planning criteria such as: geology, water systems, vegetation, nuisance abatement.
- e. Solid Waste.
- f. Recreational and open space.

Comprehensive Plan: The county land use plan with maps, charts and reports based on the following components: property rights; population; school facilities; economic development; land use; natural resources and hazardous areas; public services, facilities and utilities; transportation; recreation; special areas or sites; housing; community design; national interest electrical transmission corridors and implementation. (I.C. § 67-6508)

Condominium: An estate consisting of an a) undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof; together with b) a separate interest in real property, in an interest or interests in real property, or in any combination thereof. (I.C. § 55-101B)

County recorder: The office of the Gooding County Recorder.

Covenant: A binding agreement, contract or promise of two (2) or more parties.

Cul-de-sac: See "Street, Cul-de-sac"

Culvert: A drain that channels water under a bridge, street, road or driveway.

Dedication: The conveyance of land or interest in land for use by the public by ordinance, resolution or entry in the official minutes as by the recording of a subdivision plat. The dedicated land becomes public property if and when the county or highway district accepts the land for dedication.

Developer: A developer shall be deemed to be the individual, firm, corporation, partnership, association, syndicate, trust, or other legal entity that executes the application and initiates proceedings for the division of land in accordance with the provisions of this ordinance. The developer need not be the owner of the property, but shall be an agent of the owner.

Development: Any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public or private facilities.

Dwelling, Multi-family: A dwelling consisting of three (3) or more dwelling units including apartments, town houses and condominiums with varying arrangements of entrances and party walls. Multi-family housing may include public housing and industrialized units.

Dwelling, Single Family: A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

Dwelling, Two Family, Duplex: A dwelling consisting of two (2) dwelling units.

Dwelling Unit: A single building or part thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking, eating and sanitation, which has a certificate of occupancy issued by Gooding County.

Easement: A right of use, falling short of ownership, and usually for a certain stated purpose.

Engineer: Any person who is licensed in the State to practice professional engineering.

Fire Mitigation: A green area buffer zone between homes and wildland area.

Flood Plain: The Flood Plain includes the channel, floodway, and floodway fringe as specified by the Army Corps of Engineers and described in and regulated by The Flood Plain Ordinance of Gooding County.

Floodway: The channel, watercourse, or portion of the floodplain adjoining the channel which is reasonably required to carry and discharge the flood water of any water course, with a maximum allowable rise of one foot (1') due to potential building encroachment.

Governing Body: The Board of County Commissioners of Gooding County.

Highway: A street designated as a highway by an appropriate governmental agency.

Hillside subdivision: Any land division having an average slope of 15% or more as calculated using data from a topographic map. See Section 12.A.

Improvement: Any alteration to the land or other physical constructions associated with subdivision and building site developments.

Improvement Standards: The standard specifications for public works as officially adopted and amended.

Industrial Uses:

- a. Light Industrial Uses: Warehousing, wholesaling, manufacturing and/or processing of goods and materials which do not emit offensive odor, dust, smoke, glare, gas, light, noise or vibration which cannot be confined to the site itself and which therefore can be designed to operate compatibly in close proximity to adjoining commercial or residential uses. It does not include commercial uses such as retail sales or services.
- b. Heavy Industrial Uses: The manufacture, processing and testing of goods and materials, including the production of power, where the primary or incidental byproducts of such use (such as noise, smoke, odor, glare, gas or heavy vehicle use) may have a negative effect on neighboring property.

Large scale development: A subdivision, the size of which consists of twenty (20) or more lots or dwelling units.

Lot: A parcel, plot, tract, or other land area of suitable size as required in this Ordinance; and created by subdivision for sale, transfer, or lease.

Lot area: The area of any lot shall be determined exclusive of street, highway, alley, road, or other right of ways.

Lot line adjustment: (See Section 9.A Amended Plat, Lot Line Adjustment)

Lot types: As used in these regulations, lot types are as follows:

- a. A corner lot is a lot located at the intersection of two or more streets.
- b. An interior lot is a lot other than a corner lot, with frontage on only one street.
- c. A through lot is a lot with frontage on more than one street other than a corner lot.

Manufactured home: (a) The manufactured home shall be multi-sectional and enclose a space of not less than nine hundred (900) square feet; (b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve (12) inches above grade; (c) The manufactured home shall have a pitched roof, except that no standards shall require a slope of greater than a nominal three (3) feet in height for each twelve feet in width; (d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwelling as determined by the local permit approval authority; (e) The manufactured home shall have a garage or carport constructed of like materials if zoning ordinances would require a newly constructed non-manufactured home to have a garage or carport; (f) in addition to the provisions or paragraphs (a) through (e) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, architectural requirement and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected. (I.C. § 67-6509A)

Manufactured home subdivision: A subdivision designed and intended for exclusive manufactured home residential use. A manufactured home subdivision must be developed as a Planned Unit Development.

Minor Land Division: Division of an original parcel of land (not within a previously recorded subdivision plat) into four (4) or fewer parcels, each of which is a minimum of one (1) acre.

Mobile Home: A single-family dwelling, which after fabrication, is designed to be transported on its own wheels or on a flatbed or other trailer, arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor incidental unpacking and assembly operations; set on blocks or other temporary or permanent foundation, connected to utilities and the like. It is also a structure transportable in one or more sections, which has attached to the structure, a valid insignia, which states that the mobile home is in compliance with the Federal Mobile Home Construction and Safety Standards (HUD). **A manufactured building or travel trailer is not to be considered as a mobile home.**

Modular building: Any building or building component, other than a manufactured home, which is constructed according to standards contained in the International Building Code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

Monument: Any permanent surveyor's marker used to identify any tract, parcel, lot, or street lines, as specified in Idaho Code §§ 50-1303 and 54-1227.

Non-Conforming Use: A non-conforming use is a legal violation of the current zoning ordinance because the use of the land (or structure) existed before the ordinance was passed.

Open space: An area open to the sky, exclusive of streets, buildings, or other covered structures.

Original Parcel: A tract of land designated by the County Assessor by an assigned real property number. Original parcels are determined by the date of tax roll submission for June 2011. Any original parcel created by IDAPA 35.01.03, Property Tax Administrative Rules, Rule 219 Uniform Parcel Numbering System 04, Property Split by County Line, Section Line, or Tax Code Area Boundary will be considered a single parcel. Splits will be accepted until May 16, 2011.

Owner: The individual or entity having sufficient proprietary interest or legal title in the land to be developed to commence and maintain proceedings under this ordinance.

Performance bond: An amount of money payable to the Gooding County Clerk and Recorder by the developer or his surety, which guarantees that the developer will perform all actions required by the governing body regarding an approved plat, and provides that if the developer defaults and fails to comply with the provisions of an approved plat, the surety will pay for the installation of the remaining improvements up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

Planned Unit Development (PUD): An area of land in which a variety of open space, residential, commercial, and industrial uses, developed under single ownership or control, are accommodated in a pre-planned environment with more flexible standards, such as lot size and setbacks, than those restrictions that would normally apply under these regulations.

**Plat:** The drawing, map or plan of a tract of land, or a re-platting of a tract of land, including certifications, descriptions and approvals.

**Power transmission lines:** An electrical line designed to transport sixty-nine thousand (69,000) volts, or more of electrical power.

**Private road:** A road within a plat that is not dedicated to the public and not part of a public highway system but shall be built to highway district specifications.

**Public highway agency:** City, county or state transportation department(s) or highway district or other public agency with jurisdiction over public highway systems and public rights of way.

**Public land survey corner:** Any land survey corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing patent for the land to a private person from the U.S. government, and as further defined in Idaho Code § 50-1301.

**Public right of way:** A strip of land dedicated or acquired for use as a public thoroughfare, which normally includes streets, sidewalks, and other public utilities or service areas.

**Public street:** A street, road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency.

**Recorded Covenant:** A binding agreement contract, pledge or promise of two or more parties, which is recorded.

**Reserve Strip:** A strip of land between a dedicated street or partial street and adjacent property, in either case, reserved or held in public ownership for future street extension or widening.

**Resubdivision:** The subdivision of a lot or parcel created by a previous legal subdivision of land.

**Right-of-Way:** A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks and other utilities or service areas.

**Sanitary restriction:** The requirement that no building or shelter which will require a water supply facility or a sewer disposal facility shall be erected until written approval is first obtained from the state board of health by its administrator or their delegate approving plans and specifications.

**Scenic Corridor:** An area of significant scenic importance to the County as a representation of the rural character and general attractive beauty of the County.

**Setback:** Distance from a specific point a structure can be located. A line established by an ordinance that requires something to be situated a certain distance from a specific point.

**Standard Specifications:** Shall be specified as stated in this ordinance or as officially adopted by the Board.

**State:** The State of Idaho.

**Street:** A right of way which provides access to adjacent properties, the dedication of which has been officially accepted. The term "street" also includes the terms highway, thoroughfare, parkway, road, avenue, boulevard, lane, place and other such terms.

- a. Arterial – a street designated for the purpose of carrying fast and/or heavy traffic.
- b. Collector – a street designated for the purpose of carrying traffic from minor streets to other collector streets and/or arterial streets.
- c. Minor – a street which has the primary purpose of providing access to abutting properties.
- d. Alley – a minor street providing secondary access at the back or side of a property otherwise abutting a street.
- e. Loop – a street with both terminal points on the same street of origin.
- f. Cul-de-sac – a short local street having one end permanently terminated in a vehicular turnaround.
- g. Frontage – a minor street, parallel to and adjacent to an arterial street to provide access to abutting properties.
- h. Partial – a dedicated right of way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.
- i. Private – a street that is not accepted for public use or maintenance which provides vehicular and pedestrian access.

**Subdivision:** A major land division shall be five or more platted lots with a minimum of an acre per lot.

**Surveyor:** Professional land surveyor who is licensed in the State of Idaho as a public land surveyor to do professional surveying.

**Utilities:** Installations for conducting water, sewage, gas, electricity, television, storm water and similar facilities providing service to and used by the public.

**Variance:** Refer to Idaho Code § 67-6516, which states: A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision[s] affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration.

**Vicinity map:** A small scale map showing the location of a tract of land in relation to a larger area.

## **7. LAND DIVISION PROCEDURES AND REQUIRED PLAT CONTENTS**

Every owner proposing a minor land division, subdivision or cluster development, as defined above, shall have a preliminary plat prepared by a licensed engineer/surveyor, which shall particularly and accurately describe and set forth all streets, easements, public grounds, blocks or lots and other essential information.

### **A. SETBACK REQUIREMENTS**

Subdivisions, cluster developments, special development subdivisions, PUDs, and minor land divisions shall be located no closer than three thousand nine hundred sixty (3,960) feet from a CAFO (as

defined in the Gooding County CAFO Ordinance) with the exception of locating within Residential, Transitional, Commercial, or Industrial zoning districts that have been previously established.

## B. EXEMPTIONS

Divisions of forty acres or more for agricultural purposes are exempt from this ordinance (quarter section of quarter section is deemed to be forty acres). Each parcel may have one homesite.

## C. ILLEGAL LAND SPLIT/NON-BUILDABLE LOT

A parcel created by a land division not approved by the procedures set forth in this Ordinance may be deemed a non-buildable lot and ineligible for the issuance of a building permit.

**Any parcel of less than forty acres created after enactment of this ordinance is not eligible for a minor land division (quarter section of quarter section is deemed to be forty acres).**

## D. MINOR LAND DIVISION PROCEDURE AND REQUIREMENTS

1. Any division of land which conforms to the definition of minor land division in this Ordinance shall be subject to the standards set forth herein.
2. Reference date for original parcel: To determine the number of available divisions on a parcel, see the definition of "original parcel."
3. Application: The owner of the parcel subject to minor land division shall, after confirming with the Administrator that the parcel is eligible for a minor land division, complete an application and have a record of survey prepared by a licensed surveyor. Any water rights as part of the parcel are subject to Idaho Code § 31-805, Title 42 Chapter 9 and Chapter 13 and will be recorded as part of each parcel. The application shall contain the following:
  - a. Name of applicant and contact information;
  - b. Copy of the deed showing legal ownership of the parcel involved;
  - c. The location, acreage and general proposal for the minor land division;
  - d. A record of survey that shows the existing parcel boundaries and the proposed division(s) as well as the roads, easements, canals and/or ditches.
  - e. If water rights are available then agreements for water rights, creation of irrigation association, and maintenance of ditches that adhere to Idaho Code will be recorded with deed.
  - f. Maintenance agreement for any private roads within the minor land division.
  - g. Review and approval by the appropriate highway district for ingress and egress.
4. Procedure: Minor land division applications shall be reviewed administratively for compliance with Gooding County ordinances. The Administrator shall, within fourteen (14) days of certifying the application as complete, notify the applicant in writing of the decision. The Administrator may determine if a public hearing is required for review of the minor land division

application. A decision denying the application shall include reasons for denial and indicate what steps, if any, are necessary to obtain a favorable decision.

#### E. PROCEDURE FOR PRELIMINARY PLAT SUBMISSION

A preliminary plat shall be prepared by an engineer or surveyor. All items must be received prior to publication of legal notice. The Developer shall file with the Commission a complete subdivision application form and preliminary plat data as required in this Ordinance.

1. Pre-Application Conference: The owner or developer may arrange for a pre-application conference with the Administrator to review and comment on the proposed subdivision. The pre-application package shall include a sketch plan of the site.
  - a. Sketch Plan: The sketch plan shall include the entire developmental scheme of the proposed subdivision including the following:
    - i. The location, acreage and general proposal for the subdivision;
    - ii. The general layout and approximate dimensions of streets, blocks and lots in sketch form;
    - iii. The existing condition and characteristic of the land on and adjacent to the proposed subdivision site;
    - iv. Outline any areas set aside for schools, parks and other public facilities;
    - v. Show required setbacks, and
    - vi. Water source for fire suppression.
  - b. Administrative Action: Following a pre-application conference, the Administrator shall provide the owner or developer with the appropriate forms, including a fee schedule and a determination of any additional special permits that may be required.
2. The request for approval of a preliminary plat shall be in such form as follows:
  - a. Preliminary Plat:
    - i. Six (6) copies of the preliminary plat of the proposed subdivision, drawn in accordance with the requirements hereinafter stated; each copy shall be on good quality paper, shall have dimensions of not less than eighteen inches by twenty four inches (18" x 24"), shall be drawn to scale, preferably not less than one inch equals one hundred feet (1" = 100'), shall show the drafting date and shall indicate thereon, by arrow, the generally northerly direction of the land depicted.
    - ii. All appropriate information, and in sufficient detail, on the proposed development when located within an area of special concern, such as hillside, floodplain, large scale developments, areas of critical concern, cemetery and mobile/manufactured home subdivisions.

- iii. Name of proposed subdivision, legal description, dimensions of lot lines and blocks, lot block numbers, streets, street names, rights-of-way and road widths, sidewalks, water and sewer.
  - iv. Vicinity map showing the relationship of the proposed plat to the surrounding area (1/2 mile minimum radius, scale optional).
  - v. Include sites reserved for parks, schools, churches, or quasi-public uses.
  - vi. Topography map showing contour lines at two (2) foot intervals where land slope is greater than fifteen percent (15%) and at ten (10) foot intervals where land slope is fifteen (15%) percent or less, referenced to an established benchmark, including location and elevations.
  - vii. Show location of drainage ways for run-off that is generated within the development.
  - viii. Show all proposed or existing utilities, including but not limited to electrical lines, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, watermains, fire hydrants and their respective profiles.
  - ix. If the property is located within a floodplain, show base flood elevation requirements for buildings, roads, sewer systems and wells on each lot located within the floodplain.
  - x. Any dedication to the public and/or easements, together with a statement of location, dimensions and purpose of such.
  - xi. Show existing buildings, wells, or improvements.
  - xii. Review and Letter of Recommendation by Other Agencies: The applicant shall transmit a preliminary plat to all listed agencies. The preliminary plat application must include approved signed or initialed copy of preliminary plat from each agency prior to the Administrator's acceptance of the application.
- b. Application to accompany preliminary plat:
- i. Name of the proposed subdivision.
  - ii. The name, address, fax and phone number of all property owner(s) (including lien holders).
  - iii. The name, address, fax and phone number of the engineer/surveyor who prepared the plat.
  - iv. Legal description of the property.
  - v. Current zoning.
  - vi. Type of subdivision such as CD, PUD, including single or multi-family.
  - vii. Distance from closest incorporated city and its area of impact.

- viii. Names and addresses of all adjoining property owners within three hundred (300) feet of the property line. This should include highway districts, canal companies, etc.
  - ix. Total number of acres to be developed by the owner or developer. Proof of ownership of property is required.
  - x. Minimum and maximum lot sizes and number of lots.
  - xi. Types of water/sewer systems and South Central District Health Department approval on the proposed water/sewer systems. Approvals must be received prior to the approval of the preliminary plat.
  - xii. A copy of the restrictive covenants and/or deed restrictions, or, if none, a statement that none are proposed.
  - xiii. A copy of the establishment of an association to distribute irrigation water to each parcel, if such rights are available as per Idaho Code.
  - xiv. Supply area water logs showing water quality.
  - xv. Supply Nutrient/Pathogen study, if required by South Central Public Health District.
  - xvi. Proposed roads. Private roads may be approved by the Commission upon a written formal request by the developer. Roads must meet the highway districts' standards for width and specifications.
  - xvii. Proposal for fire protection.
  - xviii. Whether or not the proposed is located in a floodplain. If the property is in a flood plain, an Elevation Certificate certified by a state licensed engineer/surveyor is required.
  - xix. Fee: At the time of submission of an application for preliminary plat, a fee shall be paid by the owner or developer to the County as set forth by the Board.
  - xx. Any additional requirements as outlined in Section 12 Special Developments Subdivisions.
3. Incomplete Submission: No plat will be accepted by the Administrator if all the requirements have not been met.
4. Referral to Other Agencies: A list of agencies, include but are not limited to: City review if located within the Area of Impact; Idaho Power, telephone service, water/sewer disposal (DEQ if central systems), EPA (for storm water pollution prevention plan SWPPP, if applicable), solid waste disposal, school district, highway district, county sheriff, county EMS service, local fire district, South Central Health District, Idaho Department of Water Resources, any canal companies as applicable, NRCS for soil evaluation. The applicant shall transmit a preliminary plat to all listed agencies and any other agencies as determined necessary by the Administrator.

5. **Concurrent Applications Prohibited:** Subdivision applications with valid approvals shall be withdrawn in writing by the property owner/applicant before any new application for the same parcel(s) of land may be filed with, and considered by, the County. Applications with expired approvals shall be deemed null and void. Concurrent subdivision, resubdivision, short plat, cluster development (CD), planned unit development (PUD) or other such land subdivision applications concerning the same parcel(s) of land shall be prohibited. However, applications for vacation, dedication or plat amendment as well as zoning applications affecting the same parcel(s) of land may be made and decided concurrent with subdivision, resubdivision, short plat, CD and PUD applications.
6. **Site Work:** Site work for the purpose of testing soils, drilling test wells, surveying and similar activities shall be permitted, provided disturbance to the natural terrain and vegetation is minimized. Ground disturbance such as that necessary for construction of infrastructure or other improvements shall be prohibited prior to the approval of a preliminary plat.
7. **Procedure for Phasing of Developments:** Phase Developments shall require a Special Use Permit and shall meet all criteria of the Subdivision Ordinance. No less than ten (10) lots may be phased. Each phase must be able to stand-alone. A preliminary drawing, done to scale, shall be presented to the Commission for their approval in concept. If the Commission approves the drawing in concept, the developer may then file the preliminary application and present the first phase or segment as a preliminary plat. The Commission shall approve, conditionally approve or deny the preliminary plat. When the required conditions on the preliminary plat have been met, the final plat for the phase or segment can be presented to the Commission for recommendation to the Board for their approval. If approved, the plat can then be recorded. Each phase or segment of the subdivision will be presented as a separate preliminary plat and a filing fee will be assessed.
8. **Administrative Review and Certification:** The Administrator shall schedule the request for hearing before the Commission within thirty (30) days after certification that the preliminary plat application is complete.

#### F. PROCEDURE FOR HEARING NOTICE

Each plat submitted for preliminary, amended or final approval shall be placed on the Commission's agenda for hearing only after fulfilling all the requirements of this Ordinance.

Prior to granting a subdivision, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction. Notice shall be provided to property owners three hundred (300) feet beyond the external boundaries of the land owned by applicant that is contiguous to the land being considered and any additional area that may be substantially impacted by the proposed subdivision, as determined by the Administrator. Notice shall be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or residents, in lieu of posted or mailed notification, three (3) notices in the official newspaper or paper of general circulation is sufficient, provided that the third notice appear ten (10) days prior to the public hearing.

## G. COMMISSION ACTIONS

1. **Hearing by Commission:** Prior to the hearing, the Commission shall review the preliminary plat and material submitted with the application, including agency review. At the hearing, the Commission shall hear and review comments from concerned persons and agencies and the report from the Administrator.
2. **Commission Findings:** The Commission shall evaluate the application for preliminary plat according to the provisions of this ordinance and the following standards:
  - a. That the development is in the best interest of the health, safety and welfare of the people of Gooding County;
  - b. The availability of public services to accommodate the proposed development;
  - c. The continuity of the proposed development with the Zoning Ordinance;
  - d. The public financial capability of supporting services for the proposed development;
  - e. To ensure that the development on land is commensurate with the physical characteristics of the land; (I.C. § 67-6502)
  - f. To ensure that the development will avoid undue water and air pollution; (I.C. § 67-6502)
  - g. To ensure that the development will avoid any other health, safety, or environmental problems that may be brought to the Commission's attention;
  - h. To ensure that the development is within the purview of the comprehensive plan.
3. **Action on the Preliminary Plat:** The Commission shall have no less than thirty (30) days or until the next regular meeting, whichever is later, from the date the application for preliminary plat was heard in which they shall submit the preliminary plat with a recommendation to the Board either approving, approving with conditions or disapproving the application. If the Commission opts to table the application to require additional information, then the Commission shall have thirty (30) days following the application's reappearance on the agenda to issue a recommendation. The Board shall consider a preliminary plat within thirty (30) days after receipt of the plat and the Commission's recommendations. The Board shall either approve or reject and provide written findings for its action as well as any conditions attached to the approval. The date of the Board's written findings shall commence a 15-day appeal period. See Section 19 for appeal procedure.
4. **Duration of Approval Period:** Failure to comply with the provisions of Section 7.H Submittal of Final Plat within one (1) year after the Board's written findings of approval or conditional approval of the preliminary plat shall cause all approvals of said preliminary plat to be null and void. Extensions of the preliminary plat deadline may be made by the Administrator, for good cause shown in writing.

## H. SUBMITTAL OF FINAL PLAT

After the approval or conditional approval of the preliminary plat by the Board, the owner or developer may commence preparation of a final plat to be prepared in accordance with the approved preliminary plat. The developer shall submit to the Administrator the following:

1. Application: The final plat application shall include and be in compliance with all items required under Idaho Code. In addition, the final plat application shall show the following:
  - a. Proof of current ownership of the real property;
  - b. Conformance with the approved preliminary plat and fulfillment of all requirements or conditions thereof;
2. Six (6) copies of the Final Plat prepared using acceptable engineering/surveying practices and materials as required by state law and by the Gooding County Recorder for recording plats, and containing all information required under this Ordinance, including the following:
  - a. Agency Review: The Final Plat shall include the signatures of all agencies required to verify full compliance with the preliminary plat standards and/or conditions. The Final Plat is recorded only when construction of the infrastructure has been completed. If the infrastructure is not completed by the applicant, then bonding is required prior to recording of final plat to guarantee completion of improvements.
  - b. Signatures and Certifications: Before the final plat is presented to the Board for its review and approval, the signatures and certifications of the following shall be obtained by the developer:
    - i. Signature of all landowners and lien holders, if any;
    - ii. Certification and signature of the engineer/surveyor who prepared the plat;
    - iii. Signature of the South Central District Health Department or its successor, that all health requirements have been complied with; and certification of the sanitation restrictions on the face of the plat per Idaho Code § 50-1326;
    - iv. Certification and signature of the highway district commission, when public roads are involved, verifying that the roads and drainages are to their specification or a financial guarantee arrangement has been made;
    - v. Letter of approval and signature of the fire district; certifying that all fire codes have been met;
    - vi. If private roads are permitted, a letter from the engineer/surveyor certifying that the roads meet jurisdictional highway district specifications;
    - vii. Certification of the county-designated surveyor that the plat meets the county and state requirements.
    - viii. Certification from the county treasurer that all taxes have been paid.

3. Engineered drawings as required by the Commission, health department or any agency requiring such information. When engineered drawings are required by an agency other than the Commission, a letter from said agency shall accompany the final plat stating that all written and structural requirements have been met;
4. Final plat fee shall be paid by the developer as set by the Board.

#### I. FINAL PLAT REVIEW AND APPROVAL

1. Administrative Review: Upon verification of the final plat's conformance with the preliminary plat, certification by all applicable agencies and the completion of any conditions, the Administrator shall certify that the final plat application is complete and shall affix the date of acceptance thereon for submission to the Board. If the Administrator determines that there are substantial differences between the preliminary and final plats, then the Administrator may require that the final plat be resubmitted to the Commission for public hearing.
2. Submission to the Board: Upon the determination that the full plat is in compliance with the preliminary plat and all conditions and requirements have been met, the Administrator shall request the final plat be included on the Board's agenda for an Administrator's report at the next regular meeting.
3. Board Action: Within thirty (30) days following receipt of the Administrator's report, the Board shall consider the Commission's findings and approve, approve conditionally, disapprove, or table the final plat for additional information within thirty (30) days of the date of the regular meeting at which the plat is considered. If the plat is approved, the Chairman of the Board shall sign and attest that the plat has been approved. A copy of the approved plat shall be filed with the Administrator. If a plat is denied, the Board shall specify in writing:
  - a. The Ordinance and standards used in evaluating the applications; and
  - b. The reason for denial.
4. Duration of Approval of Final Plat: A final plat, and covenants (if any) if not recorded, shall expire one (1) year from the date of the expiration of the appeal period. Extensions of this final plat deadline are allowed, for good cause shown.
5. Method of Recording: Upon approval of the final plat by the Board, the developer or his authorized representative shall submit the final plat to the County Recorder for recording.
6. Fees: Fees shall be established by resolution passed and adopted by the Board of County Commissioners.

#### II. TRANSFER OF OWNERSHIP

No lot or parcel within a proposed development or subdivision shall be deeded or transferred until said development or subdivision plat has been recorded.

## 8. PERMITS

No permits shall be issued by the Planning and Zoning Administrator of the County for any improvements requiring a permit, upon any land for which a plat is required by this Ordinance until all requirements of the Ordinance have been met.

## 9. AMENDED PLAT

This section establishes procedures for making changes to a recorded final plat or parcel. The developer or property owner may request a recorded final plat be modified by one of the following procedures:

- A. Lot Line Adjustment: For amendments to a recorded final plat or parcel that do not create a new lot, applicants shall apply for administrative approval prior to recording an amended plat.
  1. The application shall contain the following information:
    - a. Subdivision name.
    - b. Parcel number for each lot.
    - c. Acreage of each lot.
    - d. Proof of ownership and signed property owner consent for each lot involved (include contiguous lots).
    - e. Copy of existing plat.
    - f. Copy of plat containing proposed changes and signatures certifying approval from relevant agencies including, but not limited to, local highway district, health department, canal companies and utility companies.
    - g. Any other information deemed necessary by the Administrator.
  2. Upon determination that the application is complete, the administrative review shall proceed as follows:
    - a. The Administrator shall notify the applicant that the application is complete and send notification to property owners within the subdivision and within three hundred feet (300') of the proposed modification.
    - b. Written comment shall be accepted for fifteen (15) days after the date of mailing.
    - c. The Administrator shall apply the following standards to determine whether or not approval of the proposed relocation of the original lot line(s) will be granted:
      - i. A relocation of original lot lines must not change the original number of lots in a block as recorded on the plat;
      - ii. A relocation of original lot lines must not change or move any street, easements, or publicly dedicated areas in any manner;
      - iii. A relocation of original lot lines must not reduce the building site below the minimum standards prescribed by this Ordinance; or any covenant pertaining to the plat.
    - d. Administrator may determine if a public hearing process is required for review of plat amendment.
    - e. Administrator shall summarize, in a written report, applicant's request, any comments received and an explanation of the approval or denial of the application. Such report shall

be mailed to the applicant within twenty-eight (28) calendar days after the closing date for accepting written comment.

- f. Upon approval, the applicant will prepare the plat in accordance with the provisions of this Ordinance and Idaho Code Title 50 Chapter 13. The final plat shall be submitted to the county surveyor for review and approval. Upon approval of the county surveyor, the plat shall be submitted to the Administrator, who will forward it to the Board for signature. The applicant shall then be responsible to record the signed plat.
- B. Resubdivision: For amendments to a final plat that create a new lot(s), applicants shall use criteria listed in Section 9.A. Amended Plat to apply for approval prior to recording an amended plat. Upon determination that the application is complete, the Administrator shall set the matter for hearing according to Section 7.F. Procedure for Hearing Notice. Additionally:
1. Each portion of the lot shall meet the minimum lot size and frontage requirements as established in this and other county ordinances;
  2. When applicable, a letter from the health department may be required stating that the soils within both portions of the lot will accommodate a septic system.

## 10. DESIGN STANDARDS

All plats submitted pursuant to the provisions of this Ordinance, and all subdivisions, improvements, and facilities done, constructed, or made in accordance with said provisions shall fully comply with the minimum design standards set forth hereinafter in this Section; provided, however, that any higher standards adopted by any highway districts, state highway departments, fire districts or health agency shall prevail over those set forth herein.

### A. DEDICATION

Arterial and collector streets shall be dedicated to the public; in general, all other streets shall be dedicated to public use with the exception of private roads. Private roads must have a homeowner's agreement for maintenance.

### B. LOCATION

Street and road location shall conform to the following:

1. Street Location and Arrangements: When a major street plan or comprehensive development plan has been adopted, subdivision streets shall conform to such plans.
2. Local or Minor Streets: Shall be so arranged as to discourage their use by through traffic.
3. Stub Streets: Where adjoining areas are not subdivided, the arrangement of public streets in new subdivisions may be such that said streets will extend to the boundary line of the tract in order to make provisions for the future extension of said streets into adjacent areas. A reserve strip may be required and held in public ownership.
4. Relation to Topography: Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients.

5. Alleys: Alleys may be provided in multiple dwelling or commercial subdivisions unless provisions are made to accommodate service access, off-street loading and parking. Dead end alleys shall be prohibited in all cases.
6. Frontage Roads: Where a subdivision abuts or contains an arterial street, it may be required that there be frontage roads approximately parallel to and on each side of such arterial street, or that there be such other treatment as is necessary for the adequate protection of residential properties and to separate through traffic from local traffic.
7. Cul-de-sac: A short local street having one end permanently terminated in a vehicular turnaround.
8. Half Streets: Half streets shall be prohibited.
9. Private Streets: Private streets and roads may be allowed upon application and approval by the Commission in Planned Unit Developments (PUD) and, in some instances, in a regular subdivision, with Covenants, Conditions and Restrictions (CC&R's) to provide for road maintenance.

#### C. SPECIFICATIONS

1. Public Streets: Public streets and road right-of-way widths and surfaces shall conform to the requirements of the highway district having jurisdiction.
2. Private Streets: Private streets shall be built to highway district specifications. The subdivision engineer/surveyor shall provide plans and specifications for proposed private roads and drainage.
3. Curbs and Gutters: Curbs and gutters are required in subdivisions adjacent to cities and must follow city and county ordinances. For lots one (1) acre or larger, curbs and gutters will be determined by the commission.
4. Certification for Private Streets: The subdivision engineer/surveyor shall certify to the Commission by letter, that the private roads or streets are built to the plans and specifications as presented and accepted by the Commission.

#### D. STREET DESIGNATIONS, NUMBERING AND ADDRESSING

Gooding County rural grid addressing originates from the northwest corner of Gooding County. A grid system extends south and east with road numbers increasing by 100 for each mile away from the origin.

All addresses assigned and street names in new subdivisions and new parcel surveys will be assigned by the developer and approved by the Gooding County Planning and Zoning Administrator pursuant to the "Gooding County Addressing Standards". All street signs to be furnished and installed by the developer. Street names should be checked with Southern Idaho Regional Communications Center (SIRCOMM).

## E. INTERSECTIONS

Intersections shall conform to the following:

1. Angle of Intersections: Streets shall intersect at ninety (90) degrees or as closely thereto as possible, and in no case shall streets intersect at less than seventy (70) degrees.
2. Sight Triangles: Minimum clear sight distance at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is one hundred (100) feet from the center of the intersection.
3. Number of Streets: No more than two (2) streets shall cross at an intersection.
4. 'T' Intersections: 'T' intersections may be used wherever such design will not unduly restrict the free movement of traffic.

## F. EASEMENTS

Unobstructed utility easements shall be provided along front lot lines, rear lot lines and side lot lines when necessary; total easement width shall be not less than twelve (12) feet where lots adjoin.

## G. BLOCKS

Every block shall be so designated that it will provide two (2) tiers of lots, except where lots back onto an arterial street, natural feature, or subdivision boundary; blocks shall not be less than five hundred (500) feet long in all cases.

## H. CLUSTERS

A development pattern shall be followed, which preserves agricultural and recreational lands and protects agricultural practices, natural topographic and geologic features, rural landscape, scenic vistas, vegetation and wildlife habitat.

## I. LOTS

Lots shall conform to the following:

1. The lot width, depth and total area shall not be less than the requirements of any applicable zoning ordinance or requirements of the health department.
2. No building may take place on land whose slope is greater than 15% unless engineer designed.
3. Areas of Critical Concern: Subdivisions containing areas of critical concern (see Section 15 of this Ordinance) shall bear an appropriate note on the final plat.
4. Future Arrangements: Where parcels of land are subdivided into unusually large lots, the lots may be resubdivided, where feasible, into smaller lots. Easements shall be provided for the extension of streets to accommodate for the possible division of these larger lots, unless prohibited by a recorded restrictive covenant.

J. RESUBDIVIDING: See Section 9.B. Amended Plat, Resubdivision.

## 11. IMPROVEMENT STANDARDS

It shall be the responsibility of the developer of every proposed subdivision to have a registered engineer, a complete set of construction plans, including profiles, cross-sections, specifications and other supporting data, for all required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans, which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with the public agencies' standards or specifications.

### A. REQUIRED PUBLIC IMPROVEMENTS

Every developer shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:

1. Monument: Monuments shall be set in accordance with Idaho Code § 50-1303.
2. Streets, Alleys, Curbs, Gutters and Driveways: The developer shall provide covenants, conditions and restrictions, which provide for a perpetual method of maintenance and operations of private streets and alleys. All dedicated streets, alleys, curbs, gutters and driveways shall meet the requirements set forth by the highway district or state highway department. If adjacent to a city, subdivisions shall follow city and county ordinances.
3. Installation of Public Utilities: Underground utilities are encouraged and may be required by the Commission in areas where overhead facilities would not be compatible with the surrounding properties.
4. Storm Drainage: An adequate storm drainage system shall be required in all subdivisions designed by an engineer when required by the highway district. Drainage water shall not be funneled into irrigation ditches or canals.
5. Public Water Supply and Sewer Systems: All public water supply or sewer systems serving two (2) or more separate premises or households shall be constructed in accordance with the requirements of the South Central Public Health District. All new public water or sewer systems shall be an extension of an existing public system whenever possible. In the event that the proposed public water supply or sewer system is not an extension of an existing public system, there shall be a showing by the developer that the extension is not feasible and not to the best interest of the public. Section 50-1326, Idaho Code, requires that all water and sewer plans be submitted to the State Department of Environmental Quality or its authorized agent for approval.
6. Maintenance and Operations of a Community Water Supply and Sewer Systems: The developer shall provide covenants, conditions and restrictions, which provide for a perpetual method of maintenance and operations of community and/or public water or sewer systems (serving two or more separate premises or households) to insure the continued usefulness of the system.

7. Fire Hydrants and Water Mains: Uninterrupted year round adequate fire protection water source shall be required in accordance with the appropriate fire district standards.
8. Water Stock: All district or canal company water stock for land included in the subdivision shall be placed in trust to any approved association acting as trustee. Said trustee will be bound to administer over the water stock affairs of the property owners within said subdivision.
9. Street Name Signs: Street name signs shall be installed in the appropriate locations at each street intersection in accordance with local highway districts.

## B. GUARANTEE OF COMPLETION OF IMPROVEMENTS

No lot shall be sold until the final plat is recorded. No plat may be recorded until one of the following has occurred.

1. Construction of all public improvements: The construction of improvements required by this Ordinance shall have been completed by the developer and certified by an engineer.
2. Surety Bond:
  - a. Accrual: The bond shall accrue to the County covering construction, operation and maintenance of the specific public improvements;
  - b. Amount: The bond shall be in an amount equal to one hundred twenty percent (120%) of the total estimated cost for completing construction of the specific public improvement, as estimated by an engineer and approved by the Board;
  - c. Term Length: The term length in which the bond is in force shall be for a period to be specified by the Board for the specific public improvement;
  - d. Bonding for Surety Company: The bond shall be with a surety company authorized to do business in the State of Idaho, acceptable to the Board; and
  - e. The surety bond proceeds shall be drawn and placed in escrow as directed by the Board.
3. Cash Deposit, Certified Check, Negotiable Bond, or Irrevocable Bank Letter of Credit:
  - a. Treasurer, Escrow Agent, or Trust Company: A cash deposit, certified check, negotiable bond or an irrevocable bank letter of credit, such surety acceptable by the Board, shall be deposited with an escrow agent or trust company;
  - b. Dollar Value: The dollar value of the guarantee shall be equal to one hundred twenty percent (120%) of the total estimated cost of construction of the public improvement(s), as estimated by an engineer and approved by the Board;
  - c. Escrow Time: The escrow time for the cash deposit, certified check, negotiable bond or irrevocable bank letter of credit shall be for a period to be specified by the Board; and
  - d. Progressive Payment: An agreement between the Board and the developer may provide for progressive payments out of the cash deposit or reduction of the certified check,

negotiable bond, or irrevocable bank letter of credit to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

4. Penalty in Case of Failure to Complete the Construction of a Public Improvement: In the event the developer shall, in any case, fail to complete such work within the period of time as required by the conditions of the guarantee, it shall be the responsibility of the Board to have such work completed. In order to accomplish this, the Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the developer has deposited in lieu of a surety bond, or take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the Board and the developer.
5. Road and Drainage: Whenever bonding for public roads and drainage is completed, the developer shall make arrangements for such bonding with the highway district that is responsible for the roads in that particular area. All references to the Board, County, or County Surveyor in the preceding paragraphs shall also apply to the highway district or highway district engineers.

## **12. SPECIAL DEVELOPMENT SUBDIVISIONS**

The purpose of this section is to identify those types of developments that pose a special concern to the Commission and elected officials. Therefore, this section outlines the specific regulations and design standards that shall be taken into consideration when reviewing and acting upon special development subdivisions. The provisions of this article are in addition to the plan requirements and design standards that are required.

### **A. HILLSIDE SUBDIVISIONS**

The developer shall comply with this section only in those areas of the subdivision having average slopes of fifteen percent (15%) or more on the building envelope, as established by the topographic map submitted with the application.

1. Hillside Development Evaluation: All development proposals shall be judged on the basis of the following:
  - a. Planning of the development to fit topography, soils, geology, hydrology and other conditions existing on the proposed site;
  - b. Grading and other site preparation is kept to a minimum;
  - c. Submittal of an erosion control plan where large areas are left undisturbed during winter and spring;
  - d. Accomplishing all paving, curbs and gutters, as rapidly as possible after grading; and
  - e. The allocation to open space and recreational use of those areas not well suited to development because of soil, drainage, topography and other natural features.

2. Engineering Plan: The developer shall retain professional engineers to investigate and make available reports on the following:
  - a. Soils:
    - i. Soil characteristics, nature, distribution and strength.
    - ii. Conclusions and recommendations for grading procedures.
    - iii. Opinions and recommendations covering the adequacy of sites to be developed.
  - b. Geology: An adequate description of the geology of the site and conclusions and recommendations regarding the effect of geologic conditions on the proposed development.
  - c. Hydrology: An adequate description of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development.
3. Grading Plan: A grading plan shall be submitted with the preliminary plat. Such plan to show:
  - a. Details of terrain and area drainage;
  - b. Approximate limiting dimensions, elevation of finish contours to be achieved by grading, including all cut and fill slopes, proposed drainage channels and related construction;
  - c. Plans and locations of all surface and subsurface drainage devices, dams, sediment basins, storage basins, storage reservoir and other protective devices, together with a map showing drainage areas, drainage networks, drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains; and
  - d. No grading shall be done that may cause run-off from the development to be directed into irrigation districts' canals or ditches without irrigation district approval.
  - e. No grading shall be done that may cause run-off from the development to be directed into natural waterways without complying with the Clean Water Act.
4. Development Standards:
  - a. Soils:
    - i. Fill areas shall be prepared by removing organic material, such as vegetation and rubbish, and any other material which is determined by the soils engineer to be detrimental to proper compaction or otherwise not conducive to stability; no rock or similar irreducible material with a maximum dimension greater than eight (8) inches shall be used as fill material in fills that are intended to provide structural strength.
    - ii. Fills shall be compacted to at least ninety-five percent (95%) of maximum density, as determined by AASHO T99 and ASTM D698.

- iii. Cut slopes shall be no steeper than two (2) horizontal to one (1) vertical; subsurface drainage shall be provided as necessary for stability.
- iv. Fill slopes shall be no steeper than two (2) horizontal to one (1) vertical; fill slopes shall not be located on natural slopes 2:1 or steeper, or where fill slope toes out within twelve (12) feet horizontally of the top of an existing or planned cut slope.
- v. Tops and toes of cut and fill slopes shall be set back from property boundaries a distance of three (3) feet plus one-fifth (1/5) of the height of the cut or fill, but need not exceed a horizontal distance of ten (10) feet; tops and toes of cut and fill slopes shall be set back from structures a distance of six (6) feet plus one-fifth (1/5) the height of the cut or fill, but need not exceed ten (10) feet.
- vi. The maximum horizontal distance of disturbed soil surface shall not exceed seventy-five (75) feet.

b. Roadways:

- i. Road alignments should follow natural terrain and no unnecessary cuts or fills shall be allowed in order to create additional lots or building sites.
- ii. The width of the graded section shall extend three (3) feet beyond the curb back or edge of pavement on both the cut and fill sides of the roadway. If sidewalk is to be installed parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus one (1) foot beyond the curb back.
- iii. Standard vertical curb (six inches) and gutter shall be installed along both sides of all paved roadways.
- iv. A pedestrian walkway plan shall be required.

c. Driveways and Parking:

Combinations of collective private driveways, cluster parking areas, and on-street parallel parking bays shall be encouraged, to attempt to optimize the objectives of minimum soil disturbance, minimum impervious cover, excellence of design and aesthetic sensitivity.

5. Vegetation and Re-vegetation:

- a. The developer shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation; the vegetation to be removed and the method of disposal; the vegetation to be planted and slope stabilization measures to be installed. The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality and fish and wildlife.
- b. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas as each stage of grading is completed. Areas not contained within lot boundaries shall be protected with perennial vegetal cover after all construction is completed. Efforts shall be made to

plant those species that tend to recover from fire damage and do not contribute to a rapid rate of fire spread.

- c. The developer shall be fully responsible for any destruction of native vegetation proposed for retention. He shall carry the responsibility both for his own employees and for all subcontractors from the first day of construction until the notice of completion is filed. The developer shall be responsible for replacing such destroyed vegetation.
6. Maintenance: The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved, or a building permit granted, under the provisions of this Ordinance shall continuously maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures or means and other protective devices, plantings and ground cover installed or completed.
  7. Utilities: All new service utilities shall be placed underground.

## B. MANUFACTURED AND MOBILE HOME SUBDIVISIONS

Manufactured and mobile home subdivisions shall be subject to any requirements set forth in this ordinance and Idaho Code.

1. Special Requirements: Manufactured and mobile home subdivisions shall be subject to the following special requirements:
  - a. Developed as a Planned Unit Development;
  - b. Screening from adjacent areas, other than subdivisions of the same type, by aesthetically acceptable fences, walls, living planting areas and existing natural or man-made barriers; and
  - c. Creation of a Home Owners' Association to ensure that all common areas are adequately maintained.

## C. LARGE-SCALE DEVELOPMENT SUBDIVISIONS

1. REQUIRED INFORMATION: Due to the impact that a large-scale development would have on public utilities and services, the developer shall submit the following information along with the preliminary plat:
  - a. Identification of all public services that would be provided to the development (i.e., fire protection, police protection, central water, central sewer, road construction, recreation, maintenance, schools and others);
  - b. Estimate the cost of providing adequate public services to the development;
  - c. Estimate tax revenue that will be generated from the development;
  - d. Suggested public means of financing the services for the development if the cost for public services would not be off-set by tax revenues received from the development;

- e. Environmental Impact Statement required; and
- f. Statement of why this development would not be better served in the impact area of the city.

### **13. PLANNED UNIT DEVELOPMENTS**

It shall be the policy to guide a major development of land and construction by encouraging planned unit developments (PUD) to achieve the following:

#### **A. PURPOSE**

1. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements.
2. A more useful pattern of open space and recreation area and, if permitted as part of the project, more convenience in the locating of accessory commercial uses, industrial uses, and services.
3. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns.
4. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
5. A development pattern in harmony with land use density, transportation facilities, and community facilities objectives of the Comprehensive Plan.

#### **B. PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENT**

Whenever there is a conflict or difference between the provisions of this article and those of other articles of this Ordinance, the provisions of this article shall prevail. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in this Ordinance.

#### **C. MINIMUM AREA**

A planned unit development for the following principal uses shall contain an area not less than:

1. Three (3) acres for residential development.
2. Five (5) acres for residential use with subordinated commercial or industrial uses.
3. Ten (10) acres for commercial use.
4. Ten (10) acres for industrial use.

#### **D. USES PERMITTED**

All uses that may be allowed within the zoning district may be permitted within a PUD. Up to ten (10) percent of the gross land areas may be directed to other residential, commercial, industrial, public and

quasi-public uses that are not allowed within the zoning district, provided there is a favorable finding by the Commission:

1. That the uses are appropriate with the residential uses;
2. That the uses are intended to serve principally the residents of the PUD;
3. That the uses are planned as an integral part of the PUD;
4. That the uses be located and so designed as to provide direct access to a collector or an arterial street without creating congestion or traffic hazards;
5. That a minimum of fifty (50) percent of the residential development occur prior to the development of the related commercial or industrial land uses.

#### E. OWNERSHIP REQUIREMENTS

An application for approval of a PUD may be filed by a property owner or a person having existing interest in the property to be included in the planned unit development. The PUD application shall be filed in the name or names of the recorded owner or owners of the property included in the development. However, the application may be filed by the holder(s) of an equitable interest in such property.

Before approval is granted to the Final Development Plan, the title must be presented with the Final Development Plan.

#### F. COMMON OPEN SPACES

A minimum of ten (10) percent of the gross land area developed in any residential planned unit development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The required amount of common open space land reserved under a planned unit development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the public and retained as common open space for parks, recreation, and related uses. Public utility and similar easements and right-of-ways for water courses and other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Commission.

The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

Every property developed under the planned unit development approach should be designated to abut upon similar areas. A clustering of dwellings is encouraged. In areas where town houses are used, there shall be no more than eight (8) town house units in any contiguous group.

#### G. UTILITY REQUIREMENTS

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems, which can be effectively screened, may be excepted from this requirement if the Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

## H. INCREASED RESIDENTIAL DENSITY

To provide an incentive for quality PUD, the Commission may authorize an increased residential density of up to fifteen (15) percent of the allowable number of dwelling units. Character identity and architectural and siting variation incorporated in a development shall be considered cause for density increases, provided these factors make a substantial contribution to the objectives of the PUD, which are as follows:

1. Landscaping: (a maximum increase of five [5] percent) streetscape; open spaces and plaza; use of existing landscaping, a pedestrian way treatment; and recreational areas.
2. Siting: (a maximum increase of five [5] percent) visual focal points; use of existing physical features such as topography; view; sun and wind orientation; circulation pattern; physical environment; variation in building setbacks; and building groups (such as clustering).
3. Design Features: (a maximum increase of five [5] percent) street sections; architectural styles; harmonious use of materials; parking areas broken by landscaping features; and varied use of housing types.

## I. ARRANGEMENT OF COMMERCIAL USES

PLANNED UNIT DEVELOPMENTS may include commercial uses, commercial buildings and establishments. Commercial uses shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections. Planning screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.

The plan of the project shall provide for adequate and properly arranged facilities for internal traffic circulation, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding non-commercial areas.

All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner.

## J. ARRANGEMENT OF INDUSTRIAL USES

PLANNED UNIT DEVELOPMENTS may include industrial uses if it can be shown that the development results in a more efficient and desirable use of land.

Industrial uses and parcels shall be developed in park-like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks, and/or outdoor storage of raw materials or products. A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as are required. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic.

Project side yards of forty (40) feet and a rear yard of fifty (50) feet shall be required if the project is located adjacent to any residential uses. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas, and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

#### K. PROCEDURE FOR APPROVAL OF A PUD

When a PUD also qualifies as a subdivision, the processing of the special use permit and subdivision application shall occur at the same time. The granting of a special use permit for a PUD shall require a pre-application, the submission of a preliminary development plan, and approval by the Board of a final development plan as specified within this Ordinance.

#### L. PRE-APPLICATION MEETING

The developer shall meet with the Administrator prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Ordinance and the criteria and standards contained herein, and to familiarize the developer with the Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, and such other plans and ordinances as deemed appropriate. Environmental and Health Authorities of the jurisdiction should be included in this meeting.

#### M. CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN

An application for preliminary planned unit development shall be filed with the Administrator by a property owner or person having existing interest in the property for which the planned unit development is proposed. At a minimum, the application shall contain the following information filed in triplicate:

1. Name, address, and phone number of applicant;
2. Name, address, and phone number of registered surveyor, registered engineer and/or urban planner assisting the preparation of the preliminary development plan;
3. Legal description of property;
4. Description of existing use;
5. Zoning districts;
6. A vicinity map at a scale approved by the Commission, showing property lines, streets, existing and proposed zoning, and such other items as the Commission may require to show the relationship of the planned unit development to the Comprehensive Plan and to existing schools and other community facilities and services;
7. A preliminary development plan at a scale approved by the Commission showing topography at two (2) foot intervals; location and type of residential, commercial, and industrial land uses; layout, dimensions, and names of existing and proposed streets; right-of-ways; utility easements; parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvements drawings showing water, sewer, drainage, electricity, telephone, and natural gas; and such other characteristics as the Commission deems necessary;
8. Proposed schedule for the development of the site;
9. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan in two (2) years:

The application for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion the planned unit development would be in the public interest.

#### N. PROCEDURE FOR PUBLIC NOTICE

Prior to approving a preliminary development plan, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction. Notice shall be provided to property owners three hundred (300) feet beyond the external boundaries of the land owned by applicant, and any additional area that may be substantially impacted by the proposed PUD as determined by the Commission. Notice shall be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or residents, in lieu of posted or mailed notification, three (3) notices in the official newspaper or paper of general circulation is sufficient, provided that the third notice appear ten (10) days prior to the public hearing.

#### O. APPROVAL IN PRINCIPLE BY THE COMMISSION

Within thirty (30) days after the public hearing, the Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this Ordinance; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the inter-relationship with the land uses in the surrounding area justify the deviation from standard zoning district regulations. The Commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels, or engineering feasibility.

The Commission shall consider the general standards applicable to special use permits and criteria for special uses before approving in principle a preliminary development plan. (See SPECIAL USE in Gooding County Zoning Ordinance).

#### P. EXPIRATION AND EXTENSION OF APPROVAL PERIOD

The approval of a preliminary development plan for a planned unit development shall be for a period not to exceed two (2) years to allow for preparation of the final development plan. If the final development plan has not come before the commission within the two (2) year period, the plan shall be void. Extensions of the time limit of the approved preliminary development plan may be approved, if the Commission finds that such extensions are not in conflict with the public interest.

#### Q. CONTENTS OF APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN

Upon approval in principle of a preliminary development plan, an application for approval of the final development plan may be filed with the Administrator by at least one property owner or person having a presently existing interest in the property for which the planned unit development is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two (2) years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

1. A survey of the proposed development site, showing the dimensions and bearing of the property lines, area in acres, topography, existing features of the development site including major wooded areas, structures, streets, easements, utility lines, and land uses.
2. All the information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, non-residential building intensity; and land use considered suitable for adjacent properties.
3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated residential population by type of housing; estimated non-residential population; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit for the development whenever the applicant proposes an exception from standard zoning districts or other ordinances governing development.
4. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone, and natural gas installations; waste disposal facilities; street improvements, and nature and extent of earth work required for site preparation and development.
5. Site plan, showing buildings(s), various functional use areas, circulation and their relationship.
6. Preliminary building plans, including floor plans and exterior elevations.
7. Landscaping plans.
8. Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas, which are to be commonly owned and maintained.

#### R. RECOMMENDATION BY THE COMMISSION

Within sixty (60) days after receipt of the final development plan, the Commission shall recommend to the Board that the final development plan be approved as presented, approved with supplementary conditions, or disapproved. The Commission shall then transmit all papers constituting the record and the recommendations to the Board.

The Commission shall find that the facts submitted with the application and presented to them establish that:

1. The proposed development can be initiated within two (2) years of the date of approval;
2. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard zoning district regulations.

3. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development.
4. Any proposed commercial development can be justified at the locations proposed.
5. Any exception from standard zoning district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the planned unit development and the adopted policy of the Board.
6. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
7. The planned unit development is in general conformance with the Comprehensive Plan.
8. The existing and proposed utility services are adequate for the population densities and non-residential uses proposed.

The Commission shall notify those persons who either appeared in writing or in person at the public hearing of the Commission's recommendations.

#### S. ACTION BY THE BOARD

Within sixty (60) days after receipt of the final recommendation of the Commission, the Board shall either approve, approve with supplementary conditions, or disapprove the application as presented. Upon granting or denying the application the Board shall specify:

1. The Ordinance and standards used in evaluating the application;
2. The reasons for approval or denial; and
3. The actions, if any, that the applicant could take to obtain a permit.

If the application is either approved or approved with conditions, the Board shall direct the Administrator to issue permits only in accordance with the approved final development plan and the supplementary conditions attached thereto.

#### T. METHOD OF RECORDING

Upon approval of the final plat by the Board, the prepayment of recording fees for construction of off-site improvements or posting of an escrow bond and the inclusion of the following signatures on the final plat, the Administrator shall submit the final plat to the County Recorder for recordings:

1. Certification and signatures of the Board verifying that the PUD has been approved;
2. Certification and signature of the County Clerk, if required, and the County Building Inspector or Engineer verifying that the PUD meets the County requirements and has been approved by the Board.
3. Certification of the sanitation restriction on the face of the plat as per Section 50-1326, Idaho Code.

## U. EXPIRATION AND EXTENSION OF APPROVAL PERIOD

The approval of a final development plan for a planned unit development shall be for a period not to exceed two (2) years to allow for preparation and recording of the required subdivision plat and the development of the project. If no construction has begun within two (2) years after the approval is granted, the approved final development plan shall be void. A one time two (2) year extension may be approved if the Commission finds that such extension is not in conflict with the public interest.

## V. RELOCATION OF LOT LINES

The administrator may approve the relocation of the original lot lines of any lot as shown on a recorded PUD. The application process shall be as follows:

1. A written application for approval of the proposed relocation of lot line shall be submitted to the Administrator.
2. The applicant shall submit a record of survey to the Administrator. Said record of survey shall indicate the proposed relocation of the lot lines, and shall contain appropriate certification language and signature lines as follows:
  - a. Certificate of each owner of an affected lot that he/she owns the subject lot, and agrees to the proposed relocation of lot lines;
  - b. Certificate of surveyor that the survey represented on the record of survey was performed in accordance with the laws of the State of Idaho relating to plats and surveys;
  - c. Certificate of the Gooding County Engineer/Building Inspector that he/she has checked the record of survey and found that it complies with the laws of the State of Idaho relating to plats and surveys;
  - d. Certificate of the Gooding County Recorder that the record of survey has been recorded, and stating the instrument number, date and time of recording, and any other information required by law; and,
  - e. Certificate of the Administrator that the administrator has approved the relocation of the original lot lines.
3. The administrator shall apply the following standards to determine whether or not approval of the proposed relocation of the original lot line will be granted:
  - a. A relocation of original lot lines must not change the original number of lots in a block as recorded on the PUD plat;
  - b. A relocation of original lot lines must not change or move any street, easements, or publicly dedicated areas in any manner;
  - c. A relocation of original lot lines must not reduce the building site below the minimum standards prescribed by this Ordinance; or any covenant pertaining to the PUD.
4. All required fees must be paid prior to recording of relocation.

5. A lot lines relocation shall be effective upon recording of a record of survey which contains the certificates required above, executed by all owners of affected lots, the surveyor, the Gooding County Engineer/Building Inspector, and the Administrator.

#### **14. CEMETERIES**

- A. Function: The developer shall provide the Commission with written documentation that will sufficiently explain if the proposed cemetery will be used for either human or animal remains and the functions that are anticipated on the property.
- B. Compliance with Idaho Code: The developer shall submit a written statement that has been prepared by an attorney and that assures the compliance of the proposed cemetery with the procedural platting requirements and management requirements that are outlined in Title 27, Idaho Code.

#### **15. SUBDIVISION WITHIN AN AREA OF CRITICAL CONCERN**

- A. General: A hazardous or unique area may be designated as an Area of Critical Concern by the Board upon recommendation of the Commission. Special consideration shall be given to any proposed development within an Area of Critical Concern to assure that the development is necessary and desirable and in the public interest in view of the existing unique conditions. Hazardous or unique areas that may be designated as Areas of Critical Concern are as follows:
  1. Unstable soils
  2. Floodplain
  3. Airport flight operational zones
  4. And any other Areas of Critical Concern as recommended by the Commission.
- B. Plan Submission: An engineer shall prepare and submit an environmental assessment along with the preliminary plat application for any development that is proposed within an Area of Critical Concern. The assessment shall address the issues as determined by the Commission.

#### **16. SUBDIVISIONS WITHIN A FLOODPLAIN**

Development must be in accordance with the provisions of Gooding County Floodplain Ordinance.

- A. Flood Area: For any proposed subdivision that is located within or partly within a floodplain, the developer, in addition to the regular requirements and requirements above, shall provide the Commission with a development plan of adequate scale and supporting documentation that will show and explain at least the following:
  1. Location of all planned improvements;
  2. Location of the flood plain as delineated on the current Flood Insurance Rate Maps on record in the Planning and Zoning Office;
  3. The location of the present water channel and major drainageways;

4. Any planned rerouting of waterways;
  5. Means of flood proofing buildings;
  6. Means of insuring loans for improvements within the floodplain; and
  7. Evidence that the homeowner would be able to obtain flood insurance.
- B. Justification for Development: Upon the determination that buildings are planned within the floodplain or that alterations of any kind are anticipated within the floodplain that will alter the flow of water, the developer shall demonstrate conclusively, to the Commission, that such development will not present a hazard to the public's health, safety and welfare and will not have adverse effects on the safety, use, or stability of public way, or drainage channel, or the natural environment.
- C. All proposed subdivisions, PUDs, manufactured home developments, and large-scale developments greater than five (5) acres must include base flood elevation data.
- D. No subdivision or part thereof shall be approved if levees, fills, structures or any other features within the proposed subdivision will, individually or collectively, significantly increase flood flow, flood heights, or flood damage. If only part of the proposed subdivision can be safely developed, the Board shall limit development to that part.

## 17. VACATIONS

Vacations shall be set in accordance with Title 50 Chapter 1317 Idaho Code as may be amended.

## 18. VARIANCES

- A. Application For Variance: A variance from the terms of this Ordinance shall not be granted by the Commission unless and until written application for a variance is submitted to the Administrator and the Commission containing:
1. Name, address and phone number of applicant(s).
  2. Legal description of property.
  3. Description of nature of variance requested.
  4. A narrative statement demonstrating that the requested variance conforms to the following standards:
    - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
    - b. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance;
    - c. That special conditions and circumstances do not result from the actions of the applicant; and

- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same zoning district.
- B. A variance shall not be granted unless the Commission makes a specific finding of fact based directly on the particular evidence presented to it which supports conclusions that the above-mentioned standards and conditions have been met by the applicant.
- C. Findings: No variance shall be favorably acted upon by the Commission unless there is a finding, as a result of a public hearing, that all the following exist:
1. That a modification of the bulk placement requirements of the Ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other Ordinance provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots exists;
  2. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights;
  3. That special conditions and circumstances do not result from the action of the applicant;
  4. That granting of the variance shall not be considered a right or special privilege, but may be granted only upon a showing of undue hardship due to the sole characteristics of the site and that the variance is not in conflict with the public interest; and
  5. That such variance will not violate the provisions of Idaho Code § 67-6516 as may be amended.
- D. Public Hearing: Prior to granting a variance, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction. Notice shall be provided to property owners three hundred (300) feet of the external boundaries of the land owned by applicant, and any additional area that may be substantially impacted by the proposed variance as determined by the Commission. Notice shall be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or residents, in lieu of posted or mailed notification, three (3) notices in the official newspaper or paper of general circulation is sufficient, provided that the third notice appear ten (10) days prior to the public hearing.
- E. Action Of Commission: Within ninety (90) days after the public hearing, the Commission shall either approve, approve with conditions, or deny the application as presented. If the application is approved or approved with modifications, the Commission shall direct the Administrator to issue a variance listing the specific conditions attached by the Commission. Upon granting or denying a variance application, the Commission shall specify:
1. The Ordinance and standards used in evaluating the application;
  2. The reasons for approval or denial; and

3. The actions, if any, that the applicant could take to obtain a variance.

F. **Notification To Applicant:** Within ten (10) days after the decision has been rendered, the Administrator shall provide the applicant with written notice of the action on the request.

## **19. APPEAL TO BOARD**

The applicant or any affected person who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Board, provided the appeal is submitted to the Board within fifteen (15) days from the Commission's action.

Within fifteen (15) days after the appeal has been filed, the Board shall set a hearing date to consider the appeal. During the hearing, County staff may be available to present the application and answer questions. The Board shall consider such findings, reports, minutes of the Commission's meeting and hearing, comments and recommendations as are forwarded to them by the Commission. The Board may uphold, uphold with conditions, or overrule the Commission. The Board shall only overrule the Commission by a favorable vote of a majority of the full Board.

## **20. DETECTION OF VIOLATIONS, ENFORCEMENT AND PENALTIES**

- A. **Detection Of Violation:** The Administrator may periodically research the County Assessor's records and perform the necessary investigation to detect any violations of the Ordinance.
- B. **Enforcement:** No subdivision plat required by this Ordinance or Idaho Code, as may be amended, shall be admitted to the public land records of the County, or recorded by the County Recorder, until such subdivision plat has received final approval by the Board. No public board, agency, commission, official or other authority shall proceed with the construction of, or authorize the construction of, any of the public improvements required by this Ordinance until the final plat has received the approval by the Board. The Gooding County Prosecuting Attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this Ordinance.
- C. **Penalties:** Penalties for failure to comply with the provisions of this Ordinance shall be as follows:

"Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. The landowner, tenant, developer, builder, public official, or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense. Nothing herein contained shall prevent the Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Ordinance or of Idaho Code, as may be amended.

## 21. AMENDMENT PROCEDURES

The Board may, from time to time, amend, supplement, or repeal the regulations and provisions of this Ordinance in the manner prescribed by Idaho Code.

A proposed amendment, supplement or repeal may be originated by the Board, Commission, or by petition.

All proposals not originating with the Commission shall be referred to it for a report thereon before any action is taken on the proposal by the Board.

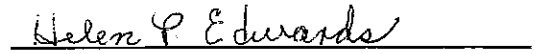
## 22. EFFECTIVE DATE

This Ordinance shall be in full force and effect upon publication following passage and approval.

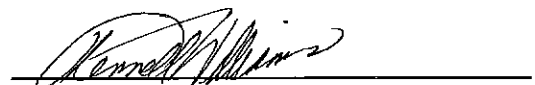
Regularly passed and adopted by the Board of County Commissioners of Gooding County, Idaho, on this 25th day of April, 2011.



Chairman, Tom Faulkner



Commissioner Helen Edwards



Commissioner Terrell Williams

ATTEST to by:   
County Clerk Denise Gill