

Franklin County Development Code



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Franklin County Development Code:

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CHAPTER 1: GENERAL PROVISIONS- PURPOSE, AUTHORITY, AND GENERAL PROVISIONS

1-1: What This Chapter Does. This chapter establishes the purpose of this ordinance, identifies the enabling statute pursuant to which it is adopted, repeals conflicting ordinances, establishes certain vested rights during the transition from the previous ordinance, provides rules for the continuation of nonconforming uses, and establishes rules for its interpretation.

1-2: Purpose. The purpose of this ordinance shall be to promote the health, safety, and general welfare of the people of Franklin County by fulfilling the purposes and requirements of Idaho Code Title 67, Chapter 65 and implementing the comprehensive plan. Specific statements of purpose accompany selected provisions of this ordinance, but the comprehensive plan provides the full statement of the county's purpose and intent in planning and zoning activities.

1-3: Authority. This ordinance is adopted pursuant to the authority granted by the Local Planning Act of 1975. It includes the zoning ordinance required by I.C. 67 and the subdivision ordinance required by I.C. 67-6513. It also fulfills the other requirements of the Local Planning Act, including the provision for variances required by I.C. 67-6516, the adoption of procedures for processing permits required by I.C. 67-6519, and the adoption of a hearing procedure required by I.C. 67-6534.

1-4: Conflicting Ordinances Repealed. All prior ordinances are repealed to the full extent.

1-5: Vested Rights. A vested right is the right to proceed with development under a previous set of regulations, or the right to proceed under this ordinance, pursuant to a development agreement.

- A. Vested rights to proceed with development initiated prior to the adoption of this Franklin County code shall be established only by:
 - 1. Having previously received approval for a minor partition or Class I preliminary plat, and/or a final plat under the previous subdivision ordinance, prior to the adoption of this Code; or
 - 2. Having properly submitted a completed Application for minor partition, preliminary plat, or combined preliminary/final plat under the previous subdivision ordinance, prior to the adoption of this Code; (Applications will be deemed complete by the Administrator) or
 - 3. Having properly recorded a minor partition or final plat prior to the adoption of this Development Code.
- B. Vested rights to proceed with development under the provisions of this ordinance shall be established only by:
 - 1. Recording a final plat in full compliance with its provisions.
 - 2. Executing a development agreement in full compliance with its provisions, or

3. Obtaining a preliminary subdivision/plat approval, such vested rights expire with the subdivision approval.

1-6: Nonconforming Uses. A nonconforming use is a use that was in existence on the effective date of this Development Code but does not comply with one or more of the requirements of this code at date of adoption. Nonconforming uses may continue subject to the rules established here See Chapter 7 of this code. While the purpose of these rules is to help eliminate nonconforming uses, it is recognized that routine maintenance and repair and, in some cases, a change of occupancy to another nonconforming use are necessary to prevent community blight – see new definition.

1-7: Jurisdiction. This Development Code shall apply to the subdividing and development of all land within the unincorporated areas of Franklin County, Idaho, including any City Area of Impact, unless otherwise specifically negotiated and accepted by Franklin County.

1-8: Most Restrictive Standards Apply. When future ordinances, or state or federal law, impose additional standards on activities governed by this ordinance, the most restrictive standard shall apply.

1-9: Conflict with Private Agreements. This ordinance does not nullify easements, covenants, deed restrictions, and similar private agreements; but where any such private agreement imposes standards that are less restrictive than those adopted here, this ordinance shall apply.

1-10: Burden of Proof. The burden of proof shall, in all proceedings pursuant to this ordinance, rest with the developer.

1-11: Interpretation. All ordinance provisions shall be interpreted as the minimum requirements necessary to protect the public health, safety, and general welfare as implied by the I.C. 67-65, The Local Planning Act and the current issue of the comprehensive plan. This ordinance is designed for consistency with the comprehensive plan and should be construed to achieve that plan’s purposes and intent.

1-12: Severability. If any provision of this ordinance is held to be invalid by any court, the remainder shall continue in full force.

1-13: Liability. No individual, including BOCC or commission members, or other county employees, who acts in good faith and without malice in the performance of duties assigned by this ordinance shall be held liable for errors or omissions in its administration. A suit brought against such an individual shall be defended by the county and any judgment resulting from such a suit shall be the liability of the county.

CHAPTER 2: DEFINITIONS

2-1: What This Chapter Does. This chapter provides definitions for terms used in this ordinance. Any dispute about the meaning of a term shall be resolved using the appeals procedure.

2-2: Rules of Interpretation. Terms include both singular and plural forms, i.e. building includes buildings, and, except where otherwise indicated, terms include their derivatives, i.e. adjacent includes adjoining.

Absolute Standard. An absolute standard is one with which all developments must comply.

Accessory. Accessory buildings and uses are those customarily associated with and clearly subordinate to the principal building or use that exists on the same lot or parcel.

Adjacent. Adjacent includes all lots or parcels that directly border a lot or parcel, and all lots or parcels separated from that lot or parcel by only a public or private easement or right-of-way, including roads, railroads, and irrigation canals.

Administrator. The Planning and Zoning Administrator (Administrator). See Chapter 3 of this code.

Adult Business. Establishments based primarily on materials or performances that depict, describe, or relate to specified sexual activities. Adult businesses must be a minimum distance of one-half (1/2) mile from any church, school, daycare, and/or any other business or use which is primarily intended for individuals under the age of eighteen (18) years old. The distance shall be measured in a direct line from the front door of the adult business to the front door of said business or use.

Affected Person. As defined by Idaho Code Title 67, Ch. 65,

Agricultural/Forest. Land that is actively devoted to agricultural production such as:

1. Used to produce field crops, including, but not limited to grains, feed crops, fruits, trees, and vegetables.
2. Used for the grazing of livestock to be sold as part of a net profit-making enterprise.
3. Used in a crop retirement or rotation program.

Agricultural Building. A structure designed for various farming operations, such as housing livestock, storing equipment and produce, or sheltering crops. No human habitation shall occur in these structures.

Agricultural/Grain Storage. Structures subordinate to the main agricultural use of the property.

Agriculture/Food Processing. A commercial operation that manufactures, packages, labels, or stores agricultural products or food and provides for sale, resale or distribution

Animal Confinement Operation (ACO). See Franklin County Ordinances 2002-2 and 2002-3.

Arterial. Includes all state and federal highways and other major roads in Franklin County as shown on the Franklin County Highway Standards and Road Development Procedures Manual.

Asphalt Plant: An establishment where asphalt, tar, gravel and other materials are combined to produce pavement and other related products.

Automotive wrecking yard or salvage yard. The dismantling or wrecking of two (2) or more used motor vehicles, mobile homes, trailers or the storage, sale or dumping of dismantled or parts. Any premises, excluding fully enclosed buildings, where two (2) or more motor vehicles are not in operating condition are standing more than thirty (30) days or where used motor vehicles or parts thereof are stored.

Bar. Business where the principle business is the sale and consumption of alcoholic beverages on premise, but not including bars within restaurants. This definition includes lounges and Taverns.

Blight. A condition where a property or area exhibits signs of significant deterioration, is unsafe, or poses a threat to public health and safety. The term is used to describe properties or areas that are perceived as problematic due to physical conditions or other issues that negatively impact the community.

Board. The Franklin County Board of Commissioners (BOCC). The elected officials responsible for adoption of this ordinance.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building Envelope. A defined area in which a building is allowed to be built. Generally, building envelopes are defined to protect nearby sensitive areas.

Buffer. A landscaped area, wall, fence, or berm along the perimeter of a site. Buffers are encouraged by this ordinance to help assure land use compatibility.

Campground. Property made available for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device and includes the outdoor recreational facilities located on

the real property. This does not include a manufactured home community or mobile home park. A campground is not intended for year round habitation and may be limited on the number of days of use or for a specific user to stay.

Certificate of Compliance. A certificate issued by the commission upon completion and acceptance of all required improvements.

Commercial. Property used for the sale and/or production of goods and services, except agriculture production.

Commission. The Franklin County Planning and Zoning Commission.

Communication/Personal Wireless Facility: Facilities necessary for the provision of personal wireless services (i.e. towers, support buildings, etc.)

Compatibility. Land uses need not be identical to be compatible, but must be sited, designed, constructed, and used in such a way that the normal functions and operation of neighboring uses do not seriously conflict, and so that their appearance is harmonious.

Conservation Easement. A voluntary, legally binding agreement that limits certain types of uses, or prohibits present and future development on a parcel of land, usually to protect the property's natural resources such as agricultural value, scenic views or wildlife habitat.

Conservation/Cluster Lot: See Preservation Parcel.

County. Franklin County, Idaho.

Dairy Farm. Any place or premises upon which milk is produced for sale or other distribution and where three or more cows or goats, or any combination thereof equaling three or more animals, are kept or maintained for the purpose of producing milk.

Density. The number of dwelling units per gross acre. Gross acreage includes the entire development (roads, common open spaces, etc.). Density is not synonymous with lot size.

Developer. The owner of the parcel on which a development is proposed, but owners may appoint a representative for proceedings required by this ordinance. Development.

Development. A generic term covering any and all activities for which a permit is required by this ordinance.

EPCRA. The Emergency Planning and Community Right-To-Know Act of 1986.

Exempted Parcel. A land division of a parcel of 40 acres or larger pursuant to Chapter 10-2 of this code. Further division of these after a one-time split or division below 40-acres are subject to the subdivision Standards in Chapter 9 of this code.

Extraction. Activities necessary for removing natural resources from a property, the purpose of which is to remove these materials through drilling, injection, pumping, and/or mining.

FEMA. Federal Emergency Management Agency.

FIRM. The official map on which the Federal Insurance Administration has delineated areas of special flood hazard and risk premium zones. The flood insurance study is the official report of the Federal Insurance Administration, including flood profiles, flood boundary maps, and the water surface elevation of the base flood.

Farm. Land and improvements used for the raising and processing of farm products in a rural/agricultural setting by an individual or an association which operates and manages the farm whether as owner or tenant, may include a residence and accessory buildings.

Feed Lot. See Franklin County Ordinance 2002-2 and 2002-3

Flood. Partial and complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source. The base flood is the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Flood Insurance Rate Map. Abbreviated

Fuel yard/Petroleum Storage. One or more stationary tanks which are used for the storage or containment of petroleum. A tank whose capacity is greater than ten thousand (10,000) gallons, 10% or more of the volume shall be below the surface of the ground.

Floodplain. Refers to the special flood hazard areas defined and mapped by the Federal Emergency Management Agency.

Hazardous Substances. Any material regulated by EPCRA, as amended.

Hearing Board. The decision making body as detailed in this code. May include the Administrator, Planning Zoning Commission or the Board of County Commissioners (BOCC).

Home Office/Occupation. A commercial or industrial activity conducted in a dwelling or a building accessory to a dwelling. The use is incidental and secondary to the primary residential use and the use excludes uses conducted by a person not in residence to the structure. Customers and deliveries should be limited so as not to impact the residential nature of the neighborhood.

Hotel/Motel: Establishments offering rooms as lodging on a less than weekly basis to guests.

Hospital/Medical/Animal Clinic: A business providing medical care, including emergency care.

Improvements, Off-Site. Any construction work or improvement occurring on public or private land, easement or right-of-way not owned by the applicant required as a condition of development including but not limited to dedications, streets, roads, grading, utility extensions and drainage structures.

Improvements, Site. Any construction work or improvement associated or necessitated on the property of the applicant by the development or splitting of property including but not limited to dedications, streets, roads, grading, well, septic system, drainage structures and utilities.

International Fire Code. (IFC).

Idaho Code (IC). The state statutes.

Industrial. Areas available for light to heavy industrial business.

Kennel. Any lot or premises or portion on which three (3) or more dogs, cats or other household domestic animals are maintained, harbored or possessed, boarded, bred or cared for in return for compensation.

Livestock. See Franklin County Ordinance 2002-2 and 2002-3 (ACO Ordinance).

Lot. Lot is used as both a generic term for a development site and to refer to any legal parcel of land created and described by a record of survey or plat.

Lowest Floor. The lowest floor of the lowest enclosed area, including the basement, of a building. An unfinished or flood resistant enclosure, usable solely for parking, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that it does not place the building in violation of the non-elevation design requirements.

Lumber Mill/Sawmill/Wood Processing Plant. A facility where logs are cut into lumber for commercial use.

Machine Shop. A workshop in which work is machined to size and assembled for commercial use. Includes auto and small engine repair.

Manufacturing. Any manufacturing, processing, energy production, storing, assembling, testing and similar uses for commercial use.

Manufactured Home. See Franklin County Ordinances 1998-1 and 1999-4.

Manufactured Home Park. See Franklin County Ordinances 1998-1 and 1999-4.

Minimize. For the purposes of the regulations, “to minimize” (as in the number of access points or impacts on visually sensitive areas) means to show that no alternative plan for the proposed development will result in a smaller impact.

Minimum Lot Size. The minimum size of residential lots is established under Chapter 9 and Chapter 10 of this code.

Minor Land Division. A division of a parcel into four (4) or less lots, parcels or sites for the purpose of sale for building (residential and/or commercial) development.

Multi-Family Dwelling. A Multi-family Dwelling is defined as any housing unit where two (2) or more dwellings are separated by a common wall, floor or ceiling.

Nonconforming. Any use or building that was in existence on the effective date of this ordinance, but that would not comply with one or more of its requirements if submitted for approval.

Occupancy. The use of a building or lot.

Original Parcel. A parcel of land existing as of July 15, 1993.

Open Space. Land with the primary uses for protecting and managing land that is not developed for buildings or intensive uses. Uses include agriculture, parks, recreational areas, and natural areas. Land is preserved for community benefit, environmental health, and recreational opportunities.

Parcel. A contiguous tract of land which has been recorded by the County Recorder under a single ownership. Multiple tracts recorded on separate deeds or legal descriptions which are contiguous and under single ownership are considered one parcel. For purposes of this ordinance, a single contiguous parcel includes tracts under single ownership lying on opposite sides of a public or private right of way or easement. The contiguous ownership rule does not apply to lots created by a legally existing or any full existing or approved parcel acquired by an adjacent owner after July 15, 1993.

Plat. The legal map of a subdivision, created in compliance with this code.

Plat amendment. A minor change in the lot arrangement or routing of rights-of-way or easements in a previously recorded subdivision plat that does not create increased impacts or substantial change to the original approval. Plat amendments are instituted by the recording of an amended plat.

Preservation Parcel. A land holding permanently dedicated to open space, agricultural or habitat conservation through deed restrictions, easements, or other legal mechanisms that limit current and future construction and development. Preservation parcels are managed to the extent necessary to achieve conservation goals, and may include recreational and residential uses that do not conflict with the intended goal(s).

Private Right of Way. A thoroughfare or road which by easement or by ownership has been reserved for a lot owner(s) to be used as private access to serve the lot(s). No public entity shall have responsibility for maintenance or improvements to private rights of way. A maximum of 3 lots/parcels shall be served by a private right of way.

Private Utilities. Cable television, electric power, natural gas, and telephone services.

Recreational Vehicle. As per I.C. 49-2801, a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for recreational or emergency occupancy.

Residential Lot. Any tract of land which is used by the owner thereof solely for residential purposes.

Retail Sales. The retail sale of merchandise not specifically listed in this code.

Riparian Area. The plant and animal community associated with the surface and subsurface hydrology of freshwater rivers and streams and other bodies of water. Riparian vegetation. The plant communities are associated with river and stream corridors. These plant communities contain some or many species different from upland (non-riparian) vegetation due to their association with the surface and subsurface hydrology of the stream corridor.

Roadside stand. A removable structure used or intended to be used solely by the owner or the tenant of a property on which it is located for the sale of seasonal agricultural products produced on the premises and to be removed and stored back of the building line on the property at the conclusion of the seasonal sales.

Seasonal Uses: Uses that do not have year-round maintained roads and as such are limited in use from April 1st through October 31st annually.

Setback. All setbacks are measured at right angles and parallel from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

1. The front setback is measured from the lot line paralleling a public road to the principal building. Corner lots have two front yards, but may treat either as a side yard for the purposes of this ordinance except where the adjacent road is an arterial.

2. The rear setback is measured from the rear lot line to the principal building. The rear lot line is parallel, or more or less parallel, to the road. Corner lots have two rear yards, but may treat either as a side yard for the purposes of this ordinance.
3. The side setback is measured from the side lot line to the principal building.
4. See Franklin County Ordinance 1998-2.

Site Plan. A site plan is a scale drawing, or a series of such drawings, that illustrates all those details of a proposed development needed to demonstrate compliance with this ordinance, including the location of existing and proposed property lines, easements, buildings, parking areas, roads, sidewalks, landscaped buffers, and other feature of the site. Where an erosion and runoff control plan is required, the site plan must be prepared on a detailed topographic Map.

Sketch Plan. A sketch plan is a general or conceptual site plan of a development. It should include enough specific information to allow the Planning and Zoning Administrator and commission to become familiar with the development, its goals, and uses.

Solid Waste. Material being stored, packaged, or processed for ultimate disposal or recycling. For the purposes of this ordinance, the waste normally generated by a farming operation (crop stubble and residue, manure, etc.) is not solid waste until transported from the farm on which it was generated.

Solar/Wind Farms. See Franklin County Ordinance 2024-12-4

Special Flood Hazard Area. Land subject to a one percent or greater chance of flooding in any given year. Designation on Flood Insurance Rate Maps (FIRM) always includes the letter A or V.

Stockyard, slaughterhouse; meatpacking. An Establishment maintained for the use of slaughtering , maintaining, and/or processing of meat products for human consumption.

Stream Corridor. The stream corridor is a complex and valuable ecosystem which includes land, plants, and animals in or near a body of water; including, streams, creeks, rivers, lakes, ponds, reservoirs, etc. .

Structure. Any object, including any mobile object, constructed or installed by man, including without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines. For the purposes of this ordinance, synonymous with “building”.

Subdivision. A division of an original parcel into five (5) or more lots, parcels, or sites for the purpose of sale for building (residential and/or commercial) development as defined by Idaho Code.

Vacation. The process provided by state law (see I.C. 50-1306A) and this ordinance for the elimination of a recorded subdivision plat or public rights of way.

Variance. According to I.C. 67-6516, “A variance is a modification of the 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 affecting the size or shape of structure or the placement of the structure upon lots or the size of lots.” Land use cannot, by definition, be varied.

Vested Right. The right to proceed with development under a previous set of regulations or the right to proceed under this ordinance, pursuant to a development agreement.

Warehousing/Wholesale Plant. Wholesaling and storage of commercial goods and supplies in enclosed buildings.

Wetland. Wetlands shall be defined in the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

Wildlife Habitat. Any area that provides the environmental factors required for the survival of a particular species of wildlife. Critical wildlife habitat includes all important habitat areas shown on the natural resource inventory maps prepared for the county or other areas so identified by the Idaho Fish and Game Department.

Yard. The area between the lot lines and the principal building created by the required setbacks.

CHAPTER 3: ADMINISTRATION

3-1: What This Chapter Does. This chapter establishes the Franklin County Planning and Zoning Administration and Planning and Zoning Commission and outlines the duties thereof.

3-2: Planning and Zoning Administrator (Administrator). The BOCC shall appoint an administrator, who shall perform the following duties:

- A. Assist members of the public in understanding the applicability and requirements of this ordinance;
- B. Review applications for permits required by this ordinance, accepting only complete applications.
- C. If directed by the Commission, shall also arrange for the professional review of applications,
- D. Issue certificates of compliance, based on site inspections, and enforce the provisions of development agreements;
- E. Investigate possible violations of this ordinance;
- F. Properly account for all fees collected in the administration of this ordinance and prepare monthly and annual reports of development activity in the county as requested by the commission and/or BOCC.
- G. Perform all other duties assigned by this ordinance and assist the commission in the execution of its duties.

3-3: Planning and Zoning Department. The Administrator or the zoning administrator's designee that shall be the administrator of the Franklin County Development Code.

3-4: Establishment of Planning & Zoning Commission. Franklin County establishes a commission to be known and designated the Franklin County Planning and Zoning Commission ("Commission"); the Commission shall exercise all of the powers required and authorized by Title 67, Chapter 65 of the Idaho Code.

3-4-1: Membership. The Commission shall consist of seven (7) voting members all appointed by the Chairman of the Franklin County Board of County Commissions ("County Commissioners"). Members shall be confirmed by a majority vote of the County Commissioners and shall:

- A. Members of the Commission must have resided in the county for at least two (2) years prior to their appointment and must remain a resident of the county during their service on the Commission.
- B. Not more than one-third of the members of the Commission may reside within an incorporated city of fifteen hundred (1,500) or more population in the county.
- C. At least one-half of the members of the commission shall reside outside the boundaries of any areas of city impact boundaries.
- D. The term of appointment shall not be less than three (3) years and shall not exceed six (6) years.

- E. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment. Members may be removed for cause by a majority vote of the County Commissioners.
- F. Members shall be selected without respect to political affiliation and may receive such mileage and per diem compensation as provided by the Franklin County BOCC.
- G. The County Commissioners shall appoint or reappoint members pursuant to this chapter and four (4) of which shall be appointed for three-year terms, and three (3) of which shall be appointed for six-year terms.

3-4-2: Organization of the Commission. The P&Z Commission shall:

- A. Elect a chairman and secretary and may create and fill any other office that it may deem necessary.
- B. The P&Z Commission may establish subcommittee advisory to the commission of neighborhood groups to advise and assist in carrying out the responsibilities under this chapter. All such committees shall be advisory only and shall report to the Commission. All such committees shall be established for a specific term and shall be terminated at the end of said term, unless extended by the Commission.
- C. The Commission may appoint nonvoting ex-officio advisors as may be deemed necessary.

3-4-3: Rules and Records of Meetings of the Commission. The Commission shall establish and adopt:

- A. Written by-laws consistent with this chapter and other laws of the state for the transaction of business of the Commission shall be adopted by the Commission.
- B. A record of meetings, hearings, resolutions, studies, findings, permits, and actions taken shall be maintained. All meetings and records shall be open to the public.
- C. At least one regular meeting shall be held each month for not less than six (6) months in a year.
- D. A majority of voting members of the Commission shall constitute a quorum.

3-4-4: Expenditures of the Commission. With approval of the Board of County Commissioners, the Commission may receive and expend funds. Expenditures by the Commission shall be within the amounts appropriated by the County Commissioners. Within such appropriations, the Commission is authorized to hire employees and technical advisors, including but not limited to planners, engineers, architects, and legal assistants.

3-4-5: Duties of the Commission. It shall be the duty of the Planning and Zoning Commission to:

- A. Conduct a planning process designed to prepare, implement, review and update a comprehensive plan that includes all lands within the governing board's jurisdiction;
- B. Hold public hearings prior to recommending the comprehensive plan, changes to the plan and ordinances, special use permits, rezone applications, planned unit development proposals and variance applications, and zoning ordinance amendments;

- C. Provide ways and means to obtain citizen participation in the planning process;
- D. Recommend subdivision and zoning ordinances;
- E. Recommend changes to a comprehensive plan and zoning ordinance prior to annexation of an unincorporated area;
- F. Recommend a map, a governing plan and ordinances for the area of city impact that are within the unincorporated area of the county; and
- G. Such other duties as established by the Board of County Commissioners or as required by Idaho law and this code.

CHAPTER 4: ENFORCEMENT/PENALTIES

4-1: What This Chapter Does.

This chapter establishes the enforcement authority for the Franklin County Development Code and outlines the duties thereof.

4-2: Enforcement Authority. The Administrator, or designee, shall have the authority to enforce the Franklin County Development Code. The Planning Administrator shall not issue a permit unless the intended uses of the buildings and land conform in all respects with the provisions of this code.

4-3: Non-Pre-emption. Nothing contained in this code shall prevent the BOCC or any other public official or private citizen from taking lawful action necessary to restrain or prevent a violation of this chapter or of Idaho Code. In addition to court actions, the county may impose and recover as penalties all reasonable costs incurred in the investigation, abatement and prosecution of the violation.

4-4: Notice of Violation. Whenever any construction or site work is not in compliance with this code, specific conditions of approval, or other related laws, ordinances or requirements, the Administrator may issue a notice of violation and order any work stopped by written notice. Such notice of violation or stop work order shall be served on any persons engaged in doing or causing such work to be done, and persons shall immediately stop such work until authorized by the Administrator to proceed.

4-4-1: Notice Requirements. A copy of the notice of violation and/or stop work order shall be mailed to the property owner of record and any known holder of any legal interest in the property, if applicable, via certified mail, return receipt requested. The notification shall include:

- A. The property owner and the legal description of the parcel;
- B. A detailed description of the nature of the violation;
- C. A detailed description of all remedial actions that must be undertaken to resolve the violation; and
- D. The length of time allotted to resolve the violation.

4-5: Response and Resolution. The property owner shall have 45-calendar days from the date the notice of violation was mailed to resolve the violation. All activities shall remain stopped until a resolution is accepted by the County. If resolution does not occur within those 45 calendar days, the notice of violation shall be deemed permanent and will be filed in the office of the County Recorder, with a copy mailed to the owner via certified mail.

4-6: Appeal Procedures. The notice of violation or stop work order shall also advise the owner of the process for appeals of notices of violation and stop work orders. An owner or a holder of any legal interest in the property may appeal a notice of violation or stop work order pursuant to Chapter 5 of this code. The appeal shall be heard in accordance with Chapter 5 of this code. If the appeal is denied (i.e., the action is affirmed), the Board of County Commissioners shall specify an exact number of days to gain compliance with this chapter before the notice of violation is recorded and may add or remove conditions of remedial action. If the appeal is approved (i.e., the action is reversed), the Board of County Commissioners shall specify actions to be taken by the Administrator to release the violation.

4-7: Resolution. Prior to or at such time as a violation is resolved, the owner shall pay the fee specified in the current adopted fee schedule unless the enforcement action was reversed by the county or a court of competent jurisdiction. Upon payment of such fees or a determination that payment of fees is not necessary, the Administrator shall cause a release of notice of violation to be recorded in the office of the County Recorder. The release shall contain all of the information contained in the notice of violation, as well as the corrective action taken to resolve the violation. A copy of the release shall be mailed to the owner, via certified mail, return receipt requested.

4-8: Complaints of Violation. When a violation of this code occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis for the complaint and shall be filed with the Administrator. The Planning Administrator has the authority to investigate and take actions on the complaint as provided in this code. The Administrator may also dismiss the complaint based upon a finding that there is insufficient evidence that a violation exists.

4-9: Violations and Penalties. Penalties for failure to comply with or violations of the provisions of this chapter shall be as follows:

4-9-1: Penalty. Violation of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding \$1,000.00 or by both.

4-9-2: On-Going Enforcement. Each day on which a violation continues shall be considered a separate violation for purposes of both civil and criminal action. The landowner, tenant, subdivider, builder, or any other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense. Nothing herein contained shall prevent the BOCC or any other public official or private

citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or of Idaho Code.

4-9-3: County Action. The prosecuting attorney or other attorney who represents the county may also take civil action in district court on behalf of the county to prevent, restrain, correct, or abate any action taken, or which may be taken, in violation of this chapter, to vacate any subdivision plat recorded in violation of this chapter, or to otherwise enforce the provisions of this chapter. In addition to other actions that may be ordered by the court, if the county prevails, the violator shall pay to the county all fees associated with the violation then due and owing. The county may also seek the imposition of a civil penalty in an amount not to exceed \$1,000.00 per violation per day, with a total maximum penalty of \$10,000.00.

4-9-4: Enforcement for All Parties. In cases where multiple individuals, firms, corporations or agents participated in violating this code, they may be held jointly and severally liable for any remedies, penalties or payments.

4-9-5: Withholding of Permits. The Administrator may withhold issuance of permits, including building permits and certificates of occupancy, for subdivisions, lots, or parcels of land that are in violation of any provision of this chapter. Withholding permits may be appealed in accordance with Chapter 5 of this code.

4-9-6 Withholding of Applications. Applications for approvals authorized by this code will not be scheduled for hearing until all violations of this code are corrected, except when the purpose of the approval is to correct the violations of this code.

CHAPTER 5: APPLICATIONS/PUBLIC HEARINGS/APPEALS

5-1: What This Chapter Does. This chapter establishes the application, public hearing, and administrative application requirements for land use, conditional use permits, variances, amendments and appeals pursuant to I.C.

5.2: Public hearing and notification process. All public hearings shall comply with the notification requirements of Idaho Code Title 67, Ch. 65

5-3: Abandonment of an Application. The following shall be the standard for determining the abandonment of an application.

5-3-1: An application that has been filed under the terms of this chapter which has received a notice of incompleteness from the Administrator and has remained incomplete for 120 days minimum may be considered abandoned by the County if:

5-3-2: The Administrator has sent by certified mail a written notice to the applicant, stating that the application is incomplete and will be considered abandoned if not determined to be complete by the administrator within 30 calendar days from the date the notice of violation was mailed; and

5-3-3: The application remains incomplete either because the applicant fails to respond as specified in the section above or the information provided fails to meet the determination of the administrator for completeness by 30 days.

5-4: Appeals and reconsiderations. No request for reconsideration, appeal, or judicial review shall be filed by an affected person until a written decision has been entered by the body considering the subject application. A written decision entered by the body considering the subject application shall be final unless:

5-4-1: The matter is otherwise required to be approved by the BOCC;

5-4-2: An appeal as set forth below is timely filed with the Administrator during regular business hours;

5-4-3: A request to reconsider as set forth below is timely filed with the Administrator during regular business hours; or

5-4-4: A petition for judicial review of the BOCC's decision is timely filed with the County District Court.

5-5: Appeal of Administrator or Planning Commission Decision. An owner or a holder of any legal interest in the property may appeal the decision of the Administrator pertaining to this Code to the Board of County Commissioners. The appeal shall be heard in accordance with Chapter 5-8 of this code.

5-6: Appeal of the Hearing Body. Any "affected person", as defined by Idaho Code Title 67, Ch. 65, may appeal to the BOCC any final decision including final decisions by the administrator or Hearing Body.

5-6-1: Filing time limit. Any affected person may file an appeal of the final written decision of the Hearing Body by submitting a written appeal to the Planning, Zoning and Building Department. The appeal of a final decision shall be filed within 28 days of the date of the final decision. The appeal of a recommendation to the BOCC shall be filed within 15 days of the written decision.

5-6-2: Fee. An appeal shall not be considered filed until such fee has been paid. Failure to file the appeal within the time limits shall cause automatic dismissal of the appeal.

5-6-3: Schedule. The Administrator shall schedule, and the BOCC shall hold a public hearing and make a decision pursuant to the procedures as set forth in this division.

5-6-4: Public Hearing. At the public hearing, the BOCC shall consider the order, requirement, permit, decision, or determination of the Hearing Body, and any attached conditions thereto. The BOCC shall also consider any additional evidence that may be offered by the public, applicant, Administrator, or Hearing Body.

5-6-5: BOCC Action. The BOCC may affirm, reverse, modify, in whole or in part the order, requirement, permit, decision, or determination appealed from, or make or substitute any additional conditions that in its deliberations it may find warranted.

5-7: Reconsideration. Every applicant or affected person seeking judicial review of the BOCC's final decision must first file with the BOCC a request for reconsideration of the BOCC's decision, specifying deficiencies in the decision within 14 calendar days of the date of the decision, along with the applicable fee. A failure to seek reconsideration is also a failure to exhaust administrative remedies.

5-7-1: Initial Decision. The BOCC may consider the reconsideration motion as scheduled on an open business meeting agenda and determine whether to grant or deny the request. If the BOCC grants reconsideration in whole or in part, a hearing before the BOCC will be scheduled to address the specific deficiencies identified by the applicant or affected person and to allow interested persons to have an opportunity to be heard. If the BOCC denies the request for reconsideration, it shall promptly notify the parties in writing.

5-7-2: Public Notice on Hearing. Notice of the public hearing on the reconsideration, identifying the specific deficiencies alleged in the reconsideration request, will be provided as stated in this division.

5-7-3 Decision. Following the hearing on the reconsideration, the BOCC may affirm, reverse or modify its prior decision and shall provide a written decision to the applicant and the affected person(s) within 60 days of receipt of the request for reconsideration. If the BOCC fails to timely decide, the original decision of the BOCC will stand.

5-8: Mediation. Pursuant to Idaho Code § 67-6510, the Board of County Commissioners may require an applicant and affected persons objecting to an application made pursuant to any provision of this code to participate in at least one mediation session. Requests for mediation must be submitted to the BOCC in writing, and may be submitted by the applicant, an affected person, applicant, or the Commission. The BOCC may grant or deny the request for good cause.

5-8-1: If required, the BOCC shall select and pay the expense of the mediator for the first meeting. Compensation of the mediator for additional meetings shall be determined among the parties at the outset of any mediation undertaking. If agreed by both parties, an attorney from the prosecuting attorney's office may serve as the initial mediator.

5-8-2: Mediation may occur at any point during the decision-making process or after a final decision has been made; however, if mediation occurs after a final decision, any resolution of differences must be the subject of another public hearing before the Hearing Body.

5-8-3: The mediation session shall not be a part of the official record for an application.

5-8-4: During mediation, any relevant time limitation on the application shall be tolled. Such tolling shall cease when the applicant or other affected person, after having participated in at least one mediation session, provides the county with a written statement that no further participation is desired, and the other parties are notified. If no mediation is scheduled, tolling shall cease 28 days from the date of the request.

5-9: Zoning Certificate Required. It shall be unlawful for an owner to use or to permit the use of any structure, building, land or part thereof hereafter created, erected, changed, converted, or enlarged, wholly or partly, until a zoning certificate, which may be a part of the rezone or the building permit, has been issued by the Administrator or his authorized representative.

5-10: Fees. No application will be deemed complete and processed until all applicable fees have been paid.

5-10-1: The BOCC shall establish an official fee schedule for land use applications and permits governed under code.

5-10-2: Whenever an application, review or public hearing is required, the person or persons requesting the hearing or review shall pay the fee established in the official fee schedule.

5-10-3: All fees collected shall be nonrefundable unless an application is withdrawn prior to the Planning, Zoning and Building Department's determination that the application is complete, in which case one-half of the fee will be refunded.

5-10-4: Until all required fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. No permit or action shall become effective until all fees have been paid.

5-10-5: The BOCC may waive all or part of any fees for political subdivisions or public agencies.

5-10-6: A copy of the official fee schedule shall be maintained by the Planning, Zoning and Building Department and shall be available for public inspection during normal business hours.

5-10-7: The County reserves the right to charge an applicant any and all costs for the processing of the application including outside consultants including but not limited to engineers, planners, and/or legal.

CHAPTER 6: PROCEDURES

6-1: What This Chapter Does. This chapter establishes the application, public hearing, and administrative procedures for land use/zoning, development agreements, conditional use permits, and variances pursuant to I.C.

6-2 Land Use/Zoning/Comprehensive Plan Amendments. An amendment to the text of this code including the official zoning map may be initiated by the Board of County Commissioners, by the Planning and Zoning Commission, the Administrator, or by a property owner. Any person may initiate a change to the comprehensive plan map.

6-2-1: Contents of an application for a zone change or comprehensive plan map amendment. An applicant shall submit the following:

- A. A detailed site map showing all existing improvements of the property, utilities and significant observations within the area proposed for zone change.
- B. A narrative statement explaining the extent and nature of the requested amendment, including any effects of the zone change upon the delivery of services by entities providing public services, including school, road, public safety, sewer, water, and other relevant services.
- C. A narrative statement explaining how the proposed change is in accordance with the goals and policies of the comprehensive plan or what condition exists in which the comprehensive plan is no longer relevant.
- D. A legal description of the subject property prepared by a licensed surveyor. The Administrator may, after discussion with the County Mapping Department, accept an alternate legal description if it is adequate to ensure accurate boundaries on the official zoning map of the county.
- E. A vicinity map sufficient to show the impact of the proposal commensurate with the scale of the project.

6-2-2: Public hearing and records of amendments. The Commission shall hold a public hearing on every requested change in accordance with the notification requirements of Chapter 5.3 of this code. The Commissions' recommendations on each requested comprehensive plan amendment, zoning ordinance amendment (map and text) or zone change shall be transmitted to the BOCC. At which time the BOCC will conduct a public hearing consistent with the notification requirements of Chapter 5.3 of this code No change shall be accomplished without the written decision by the BOCC and by ordinance or resolution duly passed by the B. The County Recorder shall maintain records of amendments to this division in a form convenient for use by the public.

6-2-3: Required findings. The written recommendation of the Commission and the final decision of the BOCC shall address the follow:

- A. The request is in accordance with the goals and policies of the comprehensive plan.
- B. The request is in accordance with the regulations outlines for the proposed zone district, including the purpose statement.
- C. The zone change request and the uses in the requested zone, shall not be incompatible with the surrounding area, and the uses in that area.
- D. The zone change shall not result in unreasonable adverse impacts upon the delivery of services by any political subdivision providing public services within the planning jurisdiction including, but not limited to, school districts.
- E. The Commission recommendation of approval and/or the BOCC's final written decision for a rezone proposal may not initially meet these criteria, if the applicant can provide substantial mitigation through a written development agreement as provided by Chapter 6-3 of this code. The county may also approve applications that do not meet the criteria listed above if the County finds that the rezone is essential to the public health, safety, or welfare.

6-3: Development Agreements. Development agreements are a discretionary tool that may be used by the BOCC as a condition of rezoning. A development agreement is a written commitment, as contemplated under I.C. Title 67, Ch. 6511A, which, as a condition of rezoning or annexation, specifies the use(s) or use restrictions different from the requirements of a particular zone district.

6-3-1: Initiation of agreements. An agreement may be initiated with the consent of the applicant for the rezoning of a particular parcel of land or collection of parcels of land through the following methods:

- A. On application by the applicant;
- B. By recommendation of the Administrator;
- C. By recommendation of the Planning and Zoning Commission; or
- D. As required by the BOCC.

6-3-2. Jurisdiction. In the event that a Hearing Body finds that a development agreement should be entered into, the Hearing Body shall retain jurisdiction of the matter, defer consideration of the rezone applied for and set a time limit for submittal of a proposed agreement. The Hearing Body shall then proceed as specified herein.

A. In the event of a determination by the BOCC that an agreement should be entered into, the BOCC may remand the matter to the Hearing Body to set a time limit for submittal of a proposed agreement. The Hearing Body shall then proceed as specified in this article.

6-3-3: Time Limits. In the event of findings by the Hearing Body, or by requirement of the BOCC to submit an agreement, all time limits required by the provisions of Idaho Code or this title may be stayed, modified, or extended upon affirmative decision of the Hearing Body or vote of the BOCC. The Hearing Body or the BOCC may establish time limits for submittal of a proposed agreement. Failure by the applicant to comply with such time limits may be deemed to constitute just cause for termination of conditional zoning development agreement proceedings and denial of the zone change application.

6-3-4: Form of agreements. An agreement shall be in the form required by the Administrator. No agreement shall be accepted by the Department which does not include the following:

- A.** The legal name, title and addresses of the applicant, property owner and/or others with a direct vested interest in the conditional zoning development agreement and rezone request.
 - 1.** A legal description of the property that is subject of the rezone request. Such legal description must be acceptable to the county.
 - 2.** The current use of the property for which the conditional zoning development agreement is sought.
 - 3.** The proposed specific use of the property for which the conditional zoning development agreement is sought and an explanation of how the proposed use is permitted or conditionally permitted in the zone for which application has been made.
 - 4.** An affidavit by the owner of the parcel agreeing that upon the BOCC's approval of the requested rezone, the owner shall use the property as agreed in the development agreement.
- B.** A project summary report, which shall include:
 - 1.** A narrative description of the proposed density, amenities, improvements or other uses sought, including, but not limited to: height, setbacks, size, and location of all proposed structures or activities on the property.
 - 2.** The estimated time of start and completion of all proposed development activities. This may be simplified by devising a time line that splits development activities into phases.
 - 3.** Plans for use and reuse of property after proposed project completion.
 - 4.** A narrative description of physical and environmental effects, constraints, or limitations of the proposed development, including infrastructure demands, and proposals for mitigation of identified physical and environmental effects, constraints or limitations.

5. Economic benefits gained or lost from proposed development.
6. Conceptual site plans, with some representation of scale showing the approximate location of any proposed structures, perimeter buffer treatment (as required), road improvements, conceptual drainage strategy, and other proposed usage information. Exhibits on general soil types, topography, slope, vegetation, drainages, and other pertinent land characteristics may also be required.
7. Signed letters of application, approval, or preapproval from any applicable federal, state, or local agencies involved in the permitting process for the specific use proposed. Letters shall include any written agreements made with agencies to perform any specific action. If letters of application, approval, or preapproval are not provided, acknowledgment and consent to comply with all applicable federal, state and local laws, rules, regulations, and standards shall be substituted.
8. A statement by the owner of the property that failure to comply with the commitments in the agreement shall be deemed consent that the property which was the subject of the agreement shall revert to the zone applicable as of the date of submittal of the rezone request which resulted in the proposed development agreement that such reversion of the zoning of the subject parcel will occur at the time of termination of the agreement and shall comply with the notice and hearing procedures set forth in Idaho Code § 67-6509; and that the costs of such zone reversion shall be paid by the applicant, owner and/or developer.
9. Signatures of all applicants, owners, developers, or lawfully authorized agents, shall be notarized, and in the case of lawfully authorized agents, properly executed powers of attorney in a form acceptable to the county's legal counsel shall be presented to the Administrator and shall be made part of the agreement.
10. A clause that the commitment shall run with the land and be binding on the heirs, assigns, and successors in interest of the owner and/or developer.
11. Any other matter mutually agreeable to the parties. This may include, but is not limited to, performance bonding or other fiscal guarantees.

6-3-5: Approval of agreements. The BOCC may require an agreement to be executed in order to ensure implementation of the project as represented by the applicant and to promote the general health, safety, comfort, convenience, and welfare of the citizens of the county. A conditional zoning development agreement shall not allow a use of the property that is not a permitted use (whether of right or with the appropriate permit) in the zone requested.

A. Conditional zoning development agreements may be recommended for approval by the Hearing Body, and may be approved by the BOCC, only after public hearings complying with the notice and hearing procedures set forth in Idaho Code § 67-6509, and Chapter 5-3 of this code.

B. The Hearing Body may recommend, and the BOCC may add, conditions, terms, duties or obligations to the development agreement.

6-3-6: Recordation of agreements. Following approval of a conditional zoning development agreement and adoption of a companion ordinance rezoning the subject property by the BOCC, the agreement shall be recorded in the office of the County Recorder at the expense of the property owner or applicant. The recorded agreement shall take effect and be in force upon adoption of the approval order or publication of the ordinance rezoning the subject property, whichever occurs later. The agreement, and all conditions, terms, duties or obligations included therein, shall run with the land and shall be considered to be continuing obligations of the owner, all subsequent owners and any other person acquiring an interest in the property.

6-3-7: Duty to comply with terms of agreement. Any owner, subsequent owner, and any other person acquiring an interest in property that is restricted by an agreement adopted pursuant to this chapter, shall comply with all terms, conditions, obligations and duties contained in the agreement.

6-3-8: Modification of Agreements. No substantial modification of an agreement may be made without approval of the BOCC unless the modification is required by changes in state or federal laws, rules, or regulations.

A. An agreement may be modified by the BOCC without a public hearing only upon an affirmative recommendation from the Administrator that the proposed modification is not a substantial change to the terms and conditions of the agreement, or that the modification is required by changes in state or federal laws, rules, or regulations.

B. After recordation of a development agreement, any party bound by the agreement may seek to modify the agreement. Requests for modification of the development agreement shall comply with the procedures set forth in this chapter, and may also follow any procedures contained in the original development agreement which are consistent with those set forth in this article. The Administrator may recommend to the BOCC, and the BOCC may approve, a substantial modification of a previously adopted agreement based upon the following criteria:

1. A public hearing is held which complies with the notice and hearing procedures set forth in Idaho Code § 67-6509 and Chapter 5-3.
2. A finding that the circumstances surrounding the agreement currently in effect have changed and that the proposed modification will:
 - a. Preserve the enjoyment of a substantial property right of the owner;

- b. Not be detrimental to the public welfare; and
- c. Not be injurious to other property in the surrounding neighborhood.

6-3-9: Termination of Agreements. A development agreement may be terminated by the BOCC without the consent of the breaching party for failure to comply with any term, condition, obligation or duty contained in the agreement. Such termination shall take place after a public hearing on the termination, at which time testimony shall be taken to establish noncompliance with the agreement. The public hearing shall comply with the notice and hearing procedures set forth in Idaho Code, § 67-6509 and Chapter 5-3 of this code.

A. A conditional zoning development agreement may contain termination procedures, including, without limitation, notification of the persons bound by the agreement of the alleged violation and establishing a reasonable time to remedy the violation prior to the initiation of termination proceedings.

B. Upon termination of the agreement, the property which was the subject of the agreement shall revert to the zone applicable as of the date of submittal of the rezone request which resulted in the adoption of the agreement. If no such zone then exists, the zone then in effect which most closely conforms to the characteristics and requirements of the prior existing zone, as determined by the Administrator, shall apply. At that time, all uses of the property which are not permitted within the subsequently applied zone following termination of the agreement shall immediately cease. The property owner may apply for the appropriate permit for any use that is permitted within the subsequently applied zone upon approval of such permit.

C. A conditional zoning development agreement shall stipulate that the costs incurred to rezone the property upon termination of the agreement be paid by the applicant, owner and/or developer of the property.

6-3-10: Enforcement of agreements. Development agreements may be enforced by the county through any means deemed to be appropriate, including, but not limited to, specific enforcement, injunctive relief, or damages for violation of any provision of this article or of any agreement approved pursuant to the provisions of this article. The foregoing enforcement options available to the county shall not be deemed exclusive.

6-4: Conditional Use Permits. There are certain land uses that possess unique characteristics relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. A property owner, or his agent, may initiate a request for a conditional use or a modification of an existing conditional use, by filing an application with the Administrator on forms prescribed by the County.

6-4-1: Role of a Conditional Use Permit. Once a conditional use permit is approved, the terms and conditions of the conditional use permit become the controlling plan for the use of the property and may only be changed in accordance with this chapter.

6-4-2: Review of a Conditional Use Permit. Conditional use permits shall be reviewed on an annual basis, and are valid as long as the use is being maintained in the manner approved.

6-4-3: Terms of Conditional Use Permit. Conditional use permits are deemed to run with the land to which it is attached; and other terms of the permits may not be modified or terminated by a change in ownership of the lands. The Commission may determine the length the conditional use permit is valid during the hearing in which the application has been approved.

6-4-4: Conditional Use Application. At a minimum, an application of a Conditional Use Permit shall include the following information:

- A. Name, address and phone number of the applicant;
- B. Authorized signature of at least one owner of the property for which the conditional use permit is proposed;
- C. Legal description of property;
- D. Applicant's interest in title;
- E. Description of existing use;
- F. Zoning district in which property is located;
- G. Description of proposed conditional use or nature of variance requested; and
- H. A narrative statement that addresses:
 - 1. The effects of elements such as noise, glare, odors, fumes and vibrations on adjoining property;
 - 2. The compatibility of the proposal with the adjoining land uses; and
 - 3. The relationship of the proposed use to the comprehensive plan.
- I. A plan of the site, drawn to scale, showing location of all existing and proposed buildings, parking and loading areas, traffic access and circulation, undisturbed areas, open spaces, landscaping, refuse and service areas, utilities, signs and yards.
- J. A "vicinity map", sufficient to show the impact of the proposal commensurate with the scale of the project.
- K. Other information that the Planning Administrator or Hearing Body requires to determine if the proposed conditional use meets the intent and requirements of this chapter, such as information regarding utilities, traffic, service connections, natural resources, unique features of the land or off-site features affecting the proposal.

L. Variances or deviations from standards. An application for a conditional use permit may include a request for one or more variances or deviations from the standards which would otherwise apply to the use for which the permit is sought. Any such request must be specifically identified and addressed in detail in the narrative. The narrative must also explain why the variance or deviation should be approved, including why an undue hardship exists because of characteristics of the site, why the requested variance or deviation is the minimum variance that will make possible the use associated with the applied for permit, and why the variance or deviation would not be in conflict with the public interest.

6-4-5: Notification and Public Hearing. The Planning and Zoning Commission, after a duly noticed public hearing consistent with I.C. Title 67, Chp. 65 and Chapter 5.3 of this code, shall make a recommendation to the BOCC to approve, conditionally approve or disapprove the application as presented. If more information is needed for a determination to grant a conditional use permit, the Commission may request information from the planning staff, public agencies, or applicant concerning social, economic, fiscal and environmental effects of the proposed conditional use. Upon receipt of the Commissions recommendation the BOCC may approve, conditionally approve or disapprove the application, the BOCC shall direct the Administrator to issue a conditional use permit listing the conditions specified for approval.

6-4-6: Required findings. The Hearing Body shall not approve a conditional use permit except upon the following findings:

- A. The applicable procedural requirements have been met.
- B. The proposal is in compliance with the applicable standards for the proposed use without variances, or with such variances as may be approved by the BOCC.
- C. The proposal is compatible, with conditions, with existing homes, businesses and neighborhoods, and with the natural characteristics of the area.
- D. The proposal adequately addresses site constraints or hazards, and adequately mitigates any negative environmental, social and economic impacts.
- E. Services and facilities for the proposal are available and adequate.
- F. The proposal will meet the duly adopted requirements of other agencies with jurisdiction.
- G. The proposal is not in conflict with the comprehensive plan.

6-4-7: Deviation of Standards: Any requested variance or deviation from standards which would otherwise apply to the use for which the permit is sought shall not be approved except upon findings indicating the request meets the requirements of chapter 6-5 of this code.

6-4-8: Denial of an application. If the decision is a denial, the Hearing Body must state the actions, if any, the applicant could take to gain approval.

6-4-9: Permit conditions. Permits for conditional uses shall stipulate restrictions or conditions which uphold the spirit and intent of this chapter and are roughly proportional, both in nature and extent, to the reasonably expected impacts of the approved use, including, without limitation, a definite time limit, hours of operation, suitable landscaping, sight restrictions, or other conditions or safeguards which address reasonably expected impacts of the approved use. Permit approval may be conditioned on approval of other agencies with jurisdiction. Violation of any such conditions, when made a part of the terms under which the permit is granted, shall be deemed a violation governed under Chapter 4 of this code.

6-4-10: Expiration of approval. Conditional use permits approved without an expiration date shall expire after two years from the date of signing the decision of approval for the permit if the use authorized by the permit has not been established through, at a minimum, development activity apparent upon a view of the site or submittal of an application for one or more building permits.

6-4-11: Annual review. All conditional use permits are required to have an annual review from the date of approval. Each applicant shall be required to respond to the request from the Administrator to confirm the continued use on the property and compliance with the approved conditions.

A. Failure to respond within 30 calendar days of the initial annual review letter will initiate a second review letter requiring response with 30 calendar days and a warning that failure to respond will be considered a "no need situation" meaning the applicant no longer needs the conditional use permit and the permit will be set for a revocation hearing with the Commission consistent with the hearing and notification requirements of Chapter 5-3 of this code.

6-4-12: Revocation. A conditional use permit may be revoked upon violation of any of the conditions imposed therein. The Administrator or designee shall verify that a violation has occurred. The permit holder shall be notified that a violation has been noted and shall be given a reasonable time to correct said violation. If compliance is not or cannot be reached within an approved time, the Administrator shall notify the Hearing Body, which approved the original conditional use permit, to review the preponderance of the evidence to determine, if after due process, the conditional use permit should or should not be revoked.

A. Grounds for revocation. Any conditional use permit may be revoked for any of the following reasons:

1. There was a misrepresentation in the original application of hearing.
2. One of more of the terms, conditions or uses upon which such permit was granted has been violated or altered.

3. The annual review by the Department has been no response or a no need situation and the conditional use permit needs revoked.
 4. The use for which the permit was granted has become detrimental to the public health, safety, or general welfare and such was not the condition at the time of approval based on the actions of the owner or unknown at the time of application.
- B. Procedure for Revocation.** Any hearing to revoke a permit shall be conducted in accordance with 5-3 of this code.
- C.** Any property owner, where a conditional use permit has been revoked, may reapply for a conditional use permit as allowed by the land use table in Chapter 5 of this code.

6-4-13: Recordation. The decision letter approving a conditional use permit application and/or the revocation of the permit shall be recorded at the owner's expense.

6-5: Variances. The purpose of this chapter is to authorize such variances from the provisions of this code in specific cases as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this code would result in unnecessary hardship.

6-5-1: Description. A variance is a modification of the bulk and placement requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other provision of this title 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.

6-5-2: Invalid Grounds for Variance Request. No nonconforming use of neighboring land, structures, or buildings in the same zone, and no permitted or nonconforming use of lands, structures, or buildings, in other zones shall be considered grounds for the issuance of a variance.

6-5-3: Applicability. Once granted, a variance is permanent and runs with the land.

6-5-4: Conditions of a Variance. The Commission may attach conditions which it finds necessary to protect the interests of the surrounding property or neighborhood, and otherwise to achieve the purpose of this division.

6-5-5: Consistency with Zoning. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located.

6-5-7: Expense. Expense shall not be considered when considering a variance.

6-5-8: Application. The contents of a variance application shall be the same as for a conditional use permit, and shall also address the standards of Chapter 6-4-4 of this code.

A. Notification. A notice of the hearing shall follow the requirements of chapter 5-3 of this code.

B. Hearing. A hearing shall be noticed and conducted following the requirements of Chapter 6-4-5 of this code.

6-5-9: Granting Variances. No variance shall be granted except upon the following findings.

A. That there are special circumstances or conditions affecting the property that the strict application of the provisions of this Development Code would clearly be impracticable or unreasonable. In such cases the applicant shall state the reasons in writing as to the specific provisions or requirements involved.

B. That the strict compliance with the requirements of this Development Code would result in extraordinary hardship, or that these conditions would result in inhibiting the achievement of the objectives of this Development Code.

C. That the granting of the requested variance will not create a nuisance, result in potential harm to adjoining properties or the neighborhood, be detrimental to the public welfare, or have an adverse effect on the implementation of the comprehensive plan.

D. That there are special circumstances or conditions affecting the property that the strict application of the provisions of this Development Code would clearly be impracticable or unreasonable. In such cases the applicant shall state the reasons in writing as to the specific provisions or requirements involved.

E. That the strict compliance with the requirements of this Development Code would result in extraordinary hardship, or that these conditions would result in inhibiting the achievement of the objectives of this Development Code.

F. That the granting of the requested variance will not create a nuisance, result in potential harm to adjoining properties or the neighborhood, be detrimental to the public welfare, or have an adverse affect on the implementation of the

G. The variance requested is the minimum variance, which will alleviate hardship.

6-6: Takings. This Development Code was written with great care to attempt to balance the need to protect the natural assets, agricultural industry, and environmental concerns with the private property rights of landowners.

6-6-1: Applicability: If any citizen believes that a county decision has affected a taking of property without compensation as prohibited by the Fifth Amendment to the U.S.

Constitution and Idaho Code, the effected party is entitled to request a takings analysis. The following review procedure is the first step which should be taken to ascertain whether or not a taking has occurred.

- A.** The citizen shall file a written request for review with the Administrator.
- B.** The Administrator shall schedule a meeting with the citizen, the Administrator, county attorney, and the chairman of the commission and/or BOCC that has rendered the questioned decision within 15 days, to review the decision.
- C.** The County shall utilize the Idaho Attorney General's Taking Checklist for completion of this analysis.
- D.** The included parties shall review the claim and report its findings to the Commission and/or BOCC at the next regularly scheduled meeting.

CHAPTER 7: NON-CONFORMING USES

7-1: What This Chapter Does. This chapter addresses and regulates nonconforming uses within the County that are created as a result of the adoption of this code.

7-2: Nonconforming Uses. A nonconforming use is a use that was in existence on the effective date of this Development Code but does not comply with one or more of its requirements if submitted for approval after that date. Nonconforming uses may continue subject to the rules established here. While the purpose of these rules is to help eliminate nonconforming uses, it is recognized that routine maintenance and repair and, in some cases, a change of occupancy to another nonconforming use may be necessary to prevent community blight.

7-3: Continuation of a Nonconforming Use: Subject to the provisions of this chapter, a nonconforming use may be continued and maintained in reasonable repair but shall not be altered or extended, except that the extension of a nonconforming use to a portion of a structure that was provided for the nonconforming use at the time the ordinance from which this chapter is derived is adopted shall be permitted, and except that a structure with respect to use but nonconforming with respect to height, setback, or coverage may be altered or extended if the alteration or extension does not further deviate from the standards of this chapter. Nonconforming uses may be continued and maintained following the sale of the property, if the use is continued within one year of the date of sale, but the use shall not be altered or extended.

7-4: Discontinuance of a Nonconforming Use: The following standards shall be used to evaluate if a nonconforming use has been abandoned or discounted:

7-4-1: If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall conform to this chapter.

7-4-2: If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall conform to this chapter.

7-4-3: On lots which have more dwelling units than that allowed by the zone, and one or more of the dwelling units are manufactured homes, a manufactured home may be replaced by another manufactured home if said manufactured home is replaced within one year from the date the initial manufactured home is removed. Replaced means the home has been issued a building permit and has received final approval for occupancy. If the unit is not replaced within one year, another dwelling may not be placed upon the lot. A six month extension may be granted upon written request and approval by the BOCC if the request is received prior to the one year expiration.

7-5: Change of Nonconforming Use. If a nonconforming use is located in a conforming structure, any change in use shall conform to this section.

7-5-1: A nonconforming use located in a nonconforming structure, may upon review by the Administrator, be changed to another nonconforming use, provided the Administrator shall find that the proposed use is equally appropriate, or more appropriate, to the zone than the existing nonconforming use. In permitting such a change of use, the Administrator shall create a written decision finding that the proposed use will:

- A. Generate less traffic.
- B. Decrease hours of operation; and/or
- C. Generally be less offensive.

7-5-2: In permitting any such change of use, the Administrator may require additional appropriate conditions and safeguards in accord with other provisions of this section. Structural alteration may be allowed to any portion of the nonconforming structure, provided it does not increase the existing floor area, and provided the alteration is aesthetically acceptable for the neighborhood in which the structure is located, as determined by the Administrator.

7-6: Destruction of Nonconforming Use. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall conform to this code. This section does not apply to manufactured homes.

7-7: Completion of structure. Nothing contained in this chapter shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this Chapter, except that, if the building is nonconforming or is intended for a nonconforming use, it shall be completed and in use within one year from the time the permit was issued.

7-8: Additional Requirements.

7-8-1: Airport Overlay. Nonconforming uses within the Airport Overlay Zoning District may include trees and shall be required to permit the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft. Such markers and lights shall be installed, operated, and maintained at the expense of the county.

7-8-2: Repair and Maintenance. The repair and, under specified circumstances, replacement of nonconforming uses and buildings is permitted; but no nonconforming use, building, or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of this ordinance.

CHAPTER 8: ZONING DISTRICTS & OVERLAYS

8-1: What This Chapter Does.

This chapter creates zoning districts and overlays zoning districts for the regulation of uses within the county in compliance with the adopted comprehensive plan and adopts an official map of those districts. It also provides rules for the interpretation of zoning district boundaries.

8-2: Zoning Districts. The following zoning districts are established to implement the comprehensive plan:

Commercial (C): To permit the establishment of areas for commercial uses which complement the needs of the county citizens but that do not compete with uses allowed within the cities and their approved areas of city impact.

Industrial/Extraction (I/E): To encourage the development of major manufacturing, processing, warehousing, research and testing operations. Limited office and commercial uses may be permitted as ancillary uses. All development within this land use shall be free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare.

To provide land for the mining, processing and storage of mineral resources. This district is designed to ensure that these resources be properly managed and all land be reclaimed so as not to create a hazard or nuisance which either immediately or in the future adversely affects the health, safety or general welfare of the community.

Public/Semi-Public (PS): To provide for public/semipublic development such as parks, recreation facilities, greenways, schools, and public service facilities such as government offices.

Recreation (RC): To provide for seasonal recreational and residential uses in areas that do not have year-round road access and/or have no access to water and sanitary facilities. Use of this zone will be limited to parcels with seasonal access as determined by the Franklin County Road and Bridge Department.

Residential (R): To provide regulations and districts for various residential neighborhoods. Minimum lot size in an R district shall be determined according to the numeral following the R.

Area of Impact (AI) – Single Family Residential minimum of a (0.5) half-acre with central sewer and/or water. Primarily intended for residential uses within an area of city impact.

Residential One (R1) – Single Family Residential minimum (1) one-acre lot.

Residential Two (R2) – Single Family Residential minimum (2.5) two and a half-acre lot.

Agricultural Residential (AR)- Single Family Residential minimum (10) ten-acre lot. This is the base zoning district for all of Franklin County unless otherwise specified on the Official Zoning Map.

Overlay Districts: Overlays shall be identified with extensions after the primary/underlying zone.

FEMA Floodplain/Floodway Hazard Areas (FEMA Flood Risk Areas) (-FP):To provide protection of landowners and the general public in special flood hazard areas. Development in this overlay shall be restricted based on the allowance of Franklin County Code and the US Army Corps of Engineers. See Specific Use Standards in Chapter 9-4-2 of this code.

Groundwater/Wellhead Protection Areas (All of Franklin County) (-GW): To protect groundwater from contamination and overuse.

High Nitrate Areas: (-HN): Areas identified on the Idaho Department of Environmental Quality Nitrate Priority Area Map. To protect the health, safety and welfare of the public from high nitrate contamination and to regulate uses that will further degrade the area.

Preston City Airport Overlays (Preston Airport Master Plan) (-AO):To provide for the safety of aircraft pilots and passengers and protect a substantial investment of public funds by assuring that land development and construction activities within the Airport Overlay Zoning District are compatible with the safe and continued use of the airport serving Preston City Airport. See Specific Use Standards in Chapter 9-4-1 of this code.

8-3: Official Zoning Map. The “Official Zoning Map of Franklin County” when adopted, by reference, becomes part of this ordinance. A dated copy of that map, certified to be correct by the signature of the chairman of the BOCC, shall be maintained for public inspection at the office of the Recorder.

8-4: District Regulations: District regulations shall be as set forth in the official schedule of district regulations, in the development standards in Chapter 9 of this title, and as otherwise provided within this code. The official schedule of district regulations is divided into five (5) land use groups: agricultural, residential, commercial, industrial, and public/semipublic. To determine in which district a specific use is allowed:

- A. Find the use in one of the land use groups;

- B. Read across the chart until either "P" or "C" appears in one of the columns; and
- C. If "P" appears, the use is an allowed use; if "C" appears, the use is only allowed upon the issuance of a conditional use permit and/or a development agreement upon rezone; if no letter appears the use is prohibited.
- D. If a proposed use is not specifically listed in the chart below then the use is prohibited, until a zoning ordinance amendment is approved to regulate the use. When several combined land uses exist, or are proposed, the most intensive land use shall be considered as the primary activity.

OFFICIAL SCHEDULE OF DISTRICT REGULATIONS

(P - Permitted Use / C - Conditional Use / No P Or C - Prohibited Use)

| Table 8-5-1: Land Use Matrix: | | | | | | | | | |
|---|------------------|----|----|----|----|---|-----|----|---------------|
| If a proposed use is not specifically listed in the chart below, then the use is prohibited. When several combined land uses exist, or are proposed, the most intensive land use shall be considered as the primary activity. | | | | | | | | | |
| Land Uses | Zoning Districts | | | | | | | | Use Stanadrds |
| | AR | AI | R1 | R2 | RC | C | I/E | PS | See 9-4 |
| Agricultural: | | | | | | | | | |
| Agricultural and forest | P | P | P | P | C | C | | P | |
| Agricultural Building | P | C | P | P | C | C | | | |
| Dairy farm | P | C | C | C | | C | | | X |
| Farm | P | P | P | P | P | P | | | |
| Farmers' markets (outdoor) | P | P | P | P | C | C | | P | |
| Feedlot (Commercial) | C | | | C | | C | C | | X |
| Agricultural/Grain storage facility | P | | | P | | P | C | | X |
| Temporary Roadside stand | P | C | P | P | P | P | | P | |
| Roadside stand (temporary structure) | P | P | P | P | P | P | | P | |
| Residential: | | | | | | | | | |
| Accessory Structure | P | P | P | P | P | P | C | C | X |
| Accessory dwelling unit | P | P | P | P | C | | | | X |
| Home Office/ Occupation | P | P | P | P | P | P | P | P | |
| Home occupation | P | P | P | P | P | P | P | P | |
| Manufactured/Mobile Home Park | C | C | C | C | C | C | | | |
| Multiple-family dwelling | | C | C | C | C | | | | |
| Single-family dwelling (existing) | P | P | P | P | P | P | P | P | |
| Single-family dwelling (new) | P | P | P | P | C | C | C | C | |

| Commercial: | AR | AI | R1 | R2 | RC | C | I/E | PS | See 9-4 |
|---|-----------|-----------|-----------|-----------|-----------|----------|------------|-----------|----------------|
| Adult business | | | | | | C | | | X |
| Aircraft Landing Field | C | | | | C | C | C | C | |
| Amusement or Recreation Facility | C | C | C | C | | P | P | P | |
| Animal Clinic, Animal Hospital or Veterinary Office | | | | | | P | P | | |
| Automotive gas station or fuel islands/Truck Stops/Car Wash | C | | | | C | P | P | | |
| Automotive, mobile home, travel trailer, and/or farm implement sales | C | | C | C | | P | C | | |
| Banks/financial institutions | | | | | | P | | | |
| Bar/Lounge/Tavern | C | C | C | C | | P | | | |
| Bed and breakfast facility | C | C | C | C | C | P | | | |
| Cabinet/Woodworking Shop | C | | C | C | | P | P | | |
| Cemetery | C | C | C | C | C | C | C | C | |
| Church | C | C | C | C | C | C | C | P | |
| Club or lodge | C | C | C | C | C | P | C | C | |
| Daycare Facility | P | P | P | P | | P | P | | |
| Health clubs, spas, weight reduction salons/Beauty/barber shop | C | C | C | C | C | P | | | |
| Hospital/Medical/ Animal Clinic | C | | | | | P | C | C | |
| Hotel/Motel | | | | | | P | C | C | |
| Kennel | P | C | C | P | C | C | C | C | X |
| Laundromat | | | | | | P | | | |
| Live entertainment events | C | C | C | C | C | P | C | C | |
| Nursing/convalescent home | C | C | C | C | | P | | | |
| Office/Mobile Office | | C | | | | P | | C | X |
| Communication Facilities/Personal wireless facilities (height- 35' or less) | C | C | C | C | C | P | C | P | |
| Communication/Personal wireless facilities (height- 36' - 50') | C | C | C | C | C | P | C | C | |
| Communication/Personal wireless facilities (height over 50') | | | | | C | P | C | C | |
| Racetrack/Riding academies/stables/arenas | C | | | C | C | C | C | C | |
| Recreational Vehicle Park | C | | | C | P | C | | C | |
| Restaurant/Catering Service/Microbrewery | | | | | | P | C | | X |
| Retail sales | | | | | | P | C | | |
| Shooting Range | C | | | | C | C | C | C | |
| Solar/Wind Farm | C | | | C | C | C | C | | |
| Storage/Contractors Yard | | | | | | P | C | C | |
| INDUSTRIAL: | AR | AI | R1 | R2 | RC | C | I/E | PS | See 9-4 |
| Asphalt batch plant | | | | | | C | C | | X |
| Automotive wrecking yard or salvage yard | | | | | | C | C | | |
| Chemical storage and manufacturing | | | | | | C | C | | |
| Concrete batch plant | | | | | | C | C | | |
| Agriculture/Food Processing | C | | | | | C | C | | |
| Fuel yard | | | | | | C | C | | |
| Ice manufacture plant, cold storage | | | | | | P | P | | |
| Research and development | | | | | | C | P | | |
| Junkyard | | | | | | C | C | | |
| Lumber Mill, Permanent or Temporary Sawmill, wood processing plant | C | | | | | P | C | | |
| Machine shop/Auto Repair/Small Engine Repair/ | P | | | P | | P | P | | |
| Manufacturing | | | | | | C | C | | |
| Petroleum storage | | | | | | C | C | | |
| Sand or gravel extraction/yard | C | | | | | C | C | | X |
| Sanitary landfill/Transfer Station/Recycling operation | | | | | | | P | | |
| Stockyard, slaughterhouse, meatpacking | C | | | C | | C | C | | X |
| Truck and equipment repair and sales (heavy) | C | | | C | | | P | | |
| Warehousing/wholesaling plant | | | | | | P | P | | |

| Public/Semi-Public: | AR | AI | R1 | R2 | RC | C | I/E | PS | See 9-4 |
|--|-----------|-----------|-----------|-----------|-----------|----------|------------|-----------|----------------|
| Airport | | | | | | C | C | P | |
| Campground (public or private) | C | | | | C | C | | P | |
| Fairgrounds | P | P | P | P | P | P | P | P | |
| Golf course and related services | C | C | | | C | C | C | C | |
| Government building, offices | | | | | | P | P | P | |
| Library | | | | | | P | | P | |
| Museum | | | | | | P | | P | |
| Park and recreation facilities | C | C | C | C | C | C | C | C | |
| Portable classroom | C | | | | C | C | C | C | |
| Public service facilities | C | | | | C | C | C | C | |
| Public utility yard | | | | | | P | P | | |
| School, public or private | C | C | C | C | C | C | C | C | |
| OFFICIAL SCHEDULE OF DISTRICT REGULATIONS: P—Permitted Use, C—Conditional Use, No P or C—Prohibited Use | | | | | | | | | |

8-5: Standards for Ensuring Land Use Compatibility:

8-5-1: Potential Nuisances. All potential nuisances and hazards shall be mitigated by appropriate means.

- A. No development shall create excessive levels of noise or vibration beyond its property line. Excessive noise, as measured at the property line.
- B. Maximum Sound Levels. No development that creates excessive levels of sound beyond its property line shall be permitted. Excessive sound, measured at the property line of the receiving use, exceeds the standards established within the following table.

Table 8.5.1:

| RECEIVING USE | MAXIMUM SOUND LEVEL |
|--|--|
| Residential and Commercial | 80 dBA, During Daylight Hours 50 dBA, Dusk to Dawn. |
| Note: “dBA” is the measure of sound levels in A-weight decibels. | |

- C. This standard applies to sounds generated by the occupancy or operation of a development, including sound generated by the operation of trains, motor vehicles, and heavy equipment on the site. It does not apply to the movement of trains on existing railroad rights-of-way, the movement of motor vehicles on public roads, the

operation of farm machinery, the operation of watercraft, or other sources of noise that are not attributable to a particular development.

- D. No development shall direct hazardous light, glare, or heat beyond its property line. Illumination of signs is specifically addressed in the Franklin County Sign Ordinance (2006-3).
- E. Solid waste shall be handled in a manner that does not:
 - 1. attract rodents, flies, or other animals;
 - 2. generate odors perceptible beyond the property line
 - 3. generate liquid runoff
 - 4. permit the blowing of paper and other lightweight waste.
- F. Industrial or commercial solid waste handling and storage areas shall be effectively screened from the public view by enclosure in a building location on the site, or the construction of a fence, wall or landscaped buffers.
- G. No development shall channel storm water or snow melt runoff in a way that adversely impacts neighboring properties or public ways.
- H. No development shall change the landscape in a way that creates sustained dust and debris (other than during construction phases) beyond the normal existing conditions.

8-5-2: Hazardous Substances. Any development that is, or that may reasonably be expected to be, subject to the reporting requirements of EPCRA (the Emergency Planning and Community Right-To-Know Act of 1986) shall demonstrate continuing compliance with state and federal requirements for the storage and handling of hazardous substances.

8-5-3: Weed Control. As required by I.C. 22-2407, "It shall be the duty and responsibility of all landowners to control noxious weeds on their land and property..."

8-5-4: Livestock on Residential Lots. The keeping of livestock on residential lots shall be governed by Franklin County Ordinance 2002-2, unless restricted further in the development's recorded Covenants, Conditions & Restrictions (CCR's).

8-5-5: Buffering. Buffering shall be required if a development falls under any one of the conditions listed under "Potential Nuisances" above. A guideline for creating buffers can be found in this Chapter.

- A. Installation of landscaped buffers between potentially incompatible land uses and/or along public roads shall be in compliance with Table 8-5-5 of this code.
- B. Retention of existing, mature vegetation that serves buffering functions shall be encouraged.
- C. For Commercial/Industrial developments, effective and reasonable buffers shall be required when within 500 feet of an incompatible use as defined in Table 8-5-5 of this code.
- D. Installation of buffers and/or building placement requirements to minimize the obstruction of natural view.

8-5-5-1 Landscaping: Landscaping requirements are an essential element in mitigating potential land use conflicts and enhancing the visual appeal of the county. The purpose of this Chapter is to assure that the landscaped buffers required by these regulations effectively accomplish those goals.

- A. **Minimum Buffer Requirements.** The width of required buffers shall vary with the nature of the uses being separated, the height of the buildings being separated, and the construction of the buffer, as shown in the **Table 8-5-5**. The basic buffer width given in that table is the width required where the buffer consists of the following:
 1. A level or gently sloping area of sod or ground cover.
 2. At least five major trees per hundred lineal feet of buffer, where the dripline of mature trees will touch or just overlap.
 3. At least 10 shrubs per hundred lineal feet of buffer. Shrubs are to have mature height of 36 inches or more. Ground cover has a mature height of 35 inches or less.

The table also shows where a solid fence, wall, or berm, is required as part of a buffer.

- B. **Height Adjustment.** The basic buffer width shall be increased by the height adjustment factor, where one is established. The height adjustment factor is a ratio expressing the number of feet that must be added to the basic buffer width for each foot in height over 25 feet of the building being buffered.
- C. **Buffer Width Reduction.** Berms, Walls, And Fences: The basic buffer width requirements may be reduced where a berm is included in the buffer. The width reduction shall be twice the height of the berm, but the maximum permitted reduction shall be 10 feet. No berm shall have a slope of more than 3:1 except where a retaining wall is incorporated into the berm on the side opposite the use or

public way being buffered. Berms, walls, or fences may be required in cases where the potential nuisances being mitigated are noise or dust/debris.

- D. **Buffer Width Reduction.** Additional Plantings. The basic width requirements may be reduced where a greater density and diversity of plantings is included in the buffer. The buffer width reductions permitted in this section are cumulative and may result in a total reduction of up to 30%. The buffer width reductions permitted are also cumulative with those permitted here.
 - 1. Major Trees. The required buffer width shall be reduced by 10% where six or more major trees per hundred lineal feet are planted or retained.
 - 2. Shrubs. The required buffer width shall be reduced by 10% where 20 or more shrubs per hundred lineal feet are planted or retained.
- E. **Minimum Buffer Width.** No required buffer shall be less than half the basic buffer width or less than 10 feet in width, regardless of any reductions permitted.
- F. **Buffer Crossings/Inclusions.** Buffers may be crossed by access driveways, utility lines, sidewalks, and pedestrian trails. A sidewalk or pedestrian trail may also run along the length of a buffer, with its width, up to a maximum five feet, being included in the required buffer width. Buffers may also include permitted signs.
- G. **Plant Materials Specifications.** Plant materials installed in required buffers shall be warranted for one year and meet the following specifications:
 - 1. All trees shall be containerized or bagged and bur lapped stock in good condition with a caliper of at least 1.5 inch, measured one foot above grade, for deciduous trees, and a height of at least six feet for coniferous trees.
 - 2. All shrubs shall be minimum one-gallon containerized stock in good condition with a mature height of 36 inches or more.
 - 3. Ground covers shall have a mature height of 35 inches or less.
- H. **Maintenance.** Perpetual maintenance of buffers is required. If the use of the development lot changes, the buffer requirements may change also. This will be handled on a case-by-case basis.

Table 8-5-5-2: Buffering Requirements:

Buffering Requirements

| Type of Development/Zoning | Abutting use/Zoning | Basic Buffer Width (ft) | Height Adjustment | Headlight Buffer | Berm, Wall or Fence Required (Noise, Dust & Debris Mitigation) |
|--|---------------------------------------|-------------------------|-------------------|------------------|--|
| Industrial | Residential | 50 | 1:1 | For Parking | Yes |
| Industrial | Any Public Way | 12 | None | No | Yes |
| Industrial or Commercial | Adjoining visually sensitive Area | 50 | 1:1 | No | Yes |
| Commercial | Residential, Platted Residential Lots | 20 | .75:1 | For Parking | Yes |
| Commercial Outdoor Material Storage, Handling, or Sales Areas over 10,000 SF | Residential | 50 | None | Yes | Yes |
| Commercial Outdoor Materials Storage, Handling, or Sales Areas, any size | Any Public ROW | 12 | None | No | Yes |
| Parking Areas | Single Family Residential | 20 | 0.80:1 | For Parking | Yes |
| Residential | Visually sensitive Area | 20 | None | None | No |
| Recreational | Any Public ROW | 30 | 0.75:1 | For Parking | Yes |

8-5-6: Stub Street, Cross Access and Connections. All developments are encouraged to be designed to optimize functional connections with adjoining developments, including shared access to roads shared parking and service access, shared buffers and open space, and shared pedestrian circulation.

- A. Development should be designed to limit the number of individual access points onto arterials and state highways and direct access whenever possible to controlled intersections.
- B. All development shall comply with the requirements of the Franklin County Road and Bridge Department and adopted standards.
- C. Zoning may be limited to Recreational (RC) by the Franklin County Road and Bridge Department due to the availability of a maintained all season road.

CHAPTER 9: DENSITY, DIMENSIONAL STANDARDS, USE STANDARDS, & DEVELOPMENT DESIGN

9-1: What this Chapter does. This chapter establishes the development and dimensional standards for development in Franklin County.

9-2: Density and Dimensional Standards.

Table 9-2-1:

| Schedule of Building Height and Lot Area Regulations | | | | | | | |
|--|----------------------------------|---|----------------------|-------|-------|--------|------------------|
| Zoning District | | Maximum Height | Minimum Yard Setback | | | | Minimum Lot Area |
| | | | Front | Back | Side | Corner | |
| Base Districts | | | | | | | |
| R-A | Agricultural Residential | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 10-acres |
| AI | Rural Residential | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 1-acre* |
| R1 | Residential One | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 1-acre |
| R2 | Residential Two | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 2.5-acres |
| RC | Recreation | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 1-acre |
| C | Commercial | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 1-acre |
| I/E | Industrial/Extraction | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | 1-acre |
| P/PS | Public/Semi-Public | 40 ft | 50 ft | 10 ft | 10 ft | 50 ft | No Minimum |
| Overlays | | | | | | | |
| F | FEMA | Must Comply with base District & Section 9-4-2 of this code | | | | | |
| GW | Groundwater/Well Protection | Must Comply with base District & Section 9-4-3 of this code | | | | | |
| HN | High Nitrate | Must Comply with base District & Section 9-4-4 of this code | | | | | |
| PA | Preston Airport | Must Comply with base District & Section 9-4-1 of this code | | | | | |
| Extensions | | | | | | | |
| DA | Development Agreement | <i>Indicates that there is a formal agreement on the property that may have specific conditions and limitations</i> | | | | | |
| CS | Cluster/Conservation Subdivision | Must Comply with base District & Section 10-6 of this code | | | | | |

* Minimum lot size in the AI zone may be reduced to 1/2-acre when central water or central sewer is available

| | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|
| *Note Conditions: | | | | | | | | | |
| A. Setback reductions (to be measured from the foundation to the property line): | | | | | | | | | |
| 1. Building eaves may extend no more than 2 feet into any setback; | | | | | | | | | |
| 2. Open structures such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections shall be | | | | | | | | | |
| 3. Open porches for residential dwelling units shall not project more than 5 feet into the required front yard setback provided that the remaining | | | | | | | | | |
| 4. A single-family dwelling unit that utilizes a side entry garage shall be permitted to have a 5 foot reduction in the minimum required front yard | | | | | | | | | |
| 5. Upon the submittal of the waiver application and findings adopted by the zoning administrator addressing compliance with the following criteria, accessory structures may be permitted to be located within a minimum of 15 feet of the rear property line: | | | | | | | | | |
| B. The applicant shall provide written approval of the setback reduction from all adjoining property owners at the time of application submittal. If written approval cannot be obtained, then the county shall notify the adjoining property owners and inform them in writing about the applicant's setback reduction. The adjoining property owners shall have 10 calendar days from the decision date to appeal. In the event of a denial, the applicant shall be allowed to appeal the PZA's decision. If no appeal is submitted, the decision is final. | | | | | | | | | |
| C. Except for single-family attached dwellings, an additional 5 feet per story side setback is required for multi-story structures. Height not to exceed maximum allowed within the zone. | | | | | | | | | |
| D. All residential buildings in other than agricultural or residential districts must meet residential official height and area regulations. | | | | | | | | | |
| E. Front yard setback from arterial and collector streets (as designated by Franklin County Road & Bridge) is 100 feet from road centerline in all residential zoning districts. | | | | | | | | | |
| F. Street side setback on arterial and collector streets (as designated by Franklin County Road & Bridge) is 100 feet from road centerline in all residential zoning districts. | | | | | | | | | |

9-3: General Standards. The following standards shall be used to evaluate all applications for development or rezoning within the county:

9-3-1: Natural Features Analysis: All applications for development shall prepare and submit at the time of application a natural features analysis that addresses and illustrates the following:

- A. **Water Quality.** All developments shall demonstrate continuing compliance with state and federal water quality regulations.
- B. **Runoff and Erosion Control.** For any development where a cumulative total of more than one acre of land will be disturbed, a professionally prepared site grading and storm water management plan shall be submitted before start of construction. The plan shall:
 - 1. Show the location of the site, the name, address, and phone number of the owner and/or developer, the name, address, and phone number of the person/firm that prepared the plan.
 - 2. Show the existing site topography, identifying run-off and erosion hazard areas.
 - 3. Demonstrate compliance with best management practices for surface water management and methods that will be used during construction to control erosion, siltation, and sedimentation.
 - 4. Include a plan for residue slopes, excavation, grading, and other site preparation and development.
 - 5. Show how water quality in adjoining or nearby streams and wetlands will be protected by retention of existing vegetation, installation of vegetative filter strips, and similar means.

6. Be subject to review by the Franklin County Soil & Water Conservation District and the County Engineer.
 7. Be subject to site inspections by the County during any construction/grading of the site to ensure proper implementation of the approved plan.
- C. **Wetlands.** All developments shall demonstrate compliance with state and federal wetland protection requirements. As part of the required open space use of wetlands and/or their enhancement to a higher functional value, shall be encouraged.
- D. **Minimum stream setbacks.** Minimum setback for all structures and associated grading (cut or fill) from surface waters, excluding irrigation canals and ditches, is 50 feet from ordinary high-water mark or top of bank plus 35 feet, whichever is greater. Landscaping structures and walkways may be permitted within the 50-foot setback by review and approval of the Commission.
- E. **Stream Corridors/Floodplain.** The stream corridor includes the 100-year floodplain, as delineated by FEMA (or special flood hazard area), any associated wetlands, and any associated areas where riparian vegetation is dominant.
1. Minimum development setbacks shall be required along all bodies of water. The use of buffers created by this requirement shall be compatible with the protection of stream corridor values.
 - a. Roads and utility lines may cross stream corridors, but the number and width of such crossings shall be minimized and dictated by state and federal regulations.
 - b. Boat ramps, docks, and piers may be installed within stream corridor buffers, but shall occupy no more than 16 feet of the stream frontage on any lot or site (note that state or federal permits may be required for the disturbance of stream channels).
 - c. Stream corridor buffers may be left in or restored to effective and/or native riparian vegetation. They may not be developed, except as permitted in a and b above.
 - d. The development setbacks required herein shall be clearly shown and/or noted on final site plans and final subdivision plats.
 2. The use of stream corridors and retention or restoration of riparian vegetation shall be encouraged within open space in the following ways:
 - a. Retention of the stream corridor in common (for use by residents only) or public (dedicated to an agency that accepts responsibility for maintenance) open space; and/or
 - b. Retention of functional riparian vegetation, including its protection during construction, on at least 90% of the stream frontage. "Functional" riparian vegetation has the structure and species diversity needed to serve the water quality, flood control, wildlife habitat, and/or aesthetic

functions on which the stream corridor protection strategy of the comprehensive plan is based.

- c. The prohibition of all buildings, earthwork (cut/fill), and construction within the 100-year floodplain (excluding habitat restoration/enhancement activities).

F. Slopes.

1. No structure shall be permitted on slopes of 30% or more. No development shall be permitted on other slopes suspected to be unstable, unless a geotechnical qualified engineer certifies that such development creates no significant hazard of slope failure or accelerated soil erosion.
2. Open space should use slopes of 20% or more, or other slopes identified as unstable.

G. Wildfire Hazards. All developments that are in or adjacent to forested areas, or areas of flammable brushy vegetation shall be encouraged to complete a site-specific wildfire management plan or at a minimum:

1. For Individual Structures, Including All Single-Family Dwellings: Provide a fire defensible space of at least 30 feet around the home or structure. A defensible space is one in which trees are thinned so that crowns do not overlap or touch, woody brush is removed or substantially thinned, and dead fuel is removed. Maintenance of the defensible spaces is a requirement for continuing compliance with this ordinance and shall be required as part of the development CC&R's.
2. For Subdivisions: Thin or remove woody brush and remove dead fuel from high danger areas, and provide appropriate perimeter and, in larger developments, internal fuel breaks. A fuel break (strategically located strip of land in which trees and woody brush have been thinned and fuel removed) shall create an open "park-like" appearance. Fuel breaks either include roads or are accessible to firefighting apparatus. Fuel breaks are generally at least 50 feet in width and shall be identified as maintenance easements on the preliminary and final plat. Maintenance of the defensible spaces is a requirement for continuing compliance with this ordinance and shall be required as part of the development CC&R's.

H. Wildlife Habitat. The preservation of wildlife habitat areas and migration corridors should be encouraged as part of the development design and layout.

1. All developments shall complete an identification of the wildlife habitat areas on site as identified by the Idaho Department of Fish and Game (IDFG).
2. Developments that are in or adjoining a wildlife habitat area and/or migration corridors shall implement, in conjunction with IDFG, a prepared plan for the protection and/or mitigation of wildlife values. That plan shall:
 - a. Identify the wildlife habitat area, the principle species present during any or all seasons.

- b. Identify existing wildlife habitat elements, including sources of water, vegetative cover, and migration routes or other wildlife use areas.
 - c. Show how land disturbance will be minimized to maximize retention of large habitat patches;
 - d. Show how the plan provides for movement of wildlife through or around developed areas and the connection of habitat patches.
 - e. Show how disturbed areas will be re-vegetated, and how re-vegetation will result in volume, structure, and diversity of vegetation similar to that found in the native habitat appropriate for the site;
3. The use of wildlife friendly culverts and/or bridges are encouraged.

I. **Native Plants.** The use of native plants propagated from regional stock in the revegetation and buffering efforts required by this ordinance is encouraged.

J. **Air Quality.** All developments shall demonstrate continuing compliance with state and federal air quality regulations.

K. **Aquifer Recharge and Protection.** Where land within a development, as defined in Idaho Code Chapter 13, Title 50 has water rights and/or water shares of an irrigation company the applicant shall demonstrate how the existing irrigation water rights will be utilized to meet the demands of the development and be regulated and administered for the development to ensure recharge of the aquifer and to prevent depletion of the aquifer by culinary well consumption.

L. Shall demonstrate compliance with Idaho Code Chapter 31, section 3805.

9-3-2: Standards for Maintaining Agricultural Resources and Farm Economy: All development applications shall demonstrate how they do not adversely impact the agricultural resources of the county and comply with the specific standards of this chapter.

A. **Protecting Irrigation Systems.** All developments including or adjoining irrigated lands, or including or adjoining any irrigation works (diversions, head gates, canals, pumps, drains, etc.) shall be reviewed by the responsible irrigation entity. No development shall be permitted to adversely impact the operation of any irrigation system, and all developments shall comply with the specific standards established herein.

- 1. All Subdivisions shall demonstrate compliance with I.C. 31-3805, as amended. Compliance shall be obtained by the transfer of water rights, or the installation of a central irrigation system maintained by a community association.
- 2. No development shall channel storm water or snow melt runoff into any irrigation system without written consent of the responsible irrigation entity.

3. All developments and changes in land use shall demonstrate how existing irrigation shares are being utilized to serve the new use and/or development prior to the transfer/sell of irrigation shares from the property. If shares are transferred prior to the submittal of an application the County may require the acquisition or equivalent shares prior to approval of development/change of use.
- B. **Protecting Agricultural Operations.** All developments shall comply with Franklin County Ordinances 2002-3, 2002-4 and I.C. Title 22 Chapter 45.
 - C. **Agricultural Industries.** While the protection of existing agricultural operations is an important goal of this ordinance and the comprehensive plan, it is also recognized that new agribusiness developments in certain areas could have an adverse impact on existing nonagricultural uses. For that reason, all new Animal Confinement Operations (ACO's) shall comply with Franklin County Ordinance 2002-2.
 - D. **Protecting Agricultural Lands.** Conversion of productive agricultural land to other uses shall be discouraged. Exception Cluster Developments.
 - E. **Utilization of Cluster/Conservation Subdivision.** Landowners' may utilize a cluster/conservation subdivision, Chapter 10.6 of this code, in order to redevelop a portion of their property while also protecting agricultural resources and the farm economy of the county.

9-3-3: Standards Assuring Provision of Adequate Facilities & Services. All development applications shall demonstrate how they have adequate facilities and services to sustain the density and development intensity requested. The inability to demonstrate adequate facilities and service may result in a decrease in the development entitlements and zoning intensity.

- A. **Central Water Systems.** For subdivisions, provision of a central domestic water supply system or connection to a central domestic water supply that meets state design and construction requirements shall be encouraged.
 1. Rezones to Area of Impact Residential (AI) are required to have a connection to a central water system or a central sewer system
- B. **Fire Fighting Water Supply.** See [Appendix C](#).
- C. **Easements.** Easements for culinary water, sewer, power, irrigation water, storm water drainage, and other utilities shall be provided by the developer and designated on the plat.
- D. **Individual Water Supplies.** Where reliance on individual water supplies is proposed, evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form

of documented experience with existing wells at geologically similar, neighboring sites or records of on-site well tests. If there is a reasonable question as to the availability of a sufficient water supply, the Commission may require that the developer provide a producing well before approval of the Final plat. Recommendations and the findings of the Franklin County Groundwater Evaluation Study will be considered.

- E. **On-Site Sewage Disposal.** All on-site sewage disposal systems shall be sited, designed, and constructed in compliance with state standards.
 - 1. Development and Subdivision applications must include evidence acceptable to the County that each building lot is potentially suitable for sewage disposal. This may be achieved by proof of a hook up with a municipality connection or by doing one of the following:
 - a. Retain a Soils Engineer to dig a test hole, evaluate for suitability and submit a report.
 - b. Retain a Soil Technician from the Soil Conservation District to dig a test hole, evaluate for suitability and submit a report.
 - c. Retain the Southeastern District Health Department to dig a test hole, evaluate for suitability and submit a report. (This choice may still require the services of a Soil Engineer).
- F. **Private Utilities.** All developments shall provide all applicable utilities to each building lot. All utilities shall be underground.
 - 1. Property owners may choose an alternative power source (solar, wind, hydro, or generator). In such cases, the power source must be engineered to adequately supply the electrical load. Engineering documentation must be provided to Franklin County and comply with the site use standards of this code.
- G. **Construction in Easements.** No building shall be placed in any utility or irrigation easement, public or private.
- H. **Safe Access.** Points of access to county roads shall be sited and constructed with prior notice and approval of the Franklin County Road and Bridge Department. Developments with points of access to a state or federal highway shall obtain approval for those points of access from the Idaho Transportation Department.
 - 1. All subdivisions are encouraged to minimize the number of points of access to public roads and highways.
 - 2. The total length of dead-end roads in residential subdivisions shall be based upon the number of lots accessed by the dead-end road. All dead-end roads shall provide a turnaround with a minimum traveled surface of 90 feet in diameter at the end of the road. The maximum number of lots shall be 20, unless the following requirements are met:
 - a. There must be at least 1 turnout or turnaround for every 1000 linear feet of road.
 - b. The road may loop back upon itself as long as the return loop intersects the dead-end road within 500 linear feet of the intersection of the

existing public road. If a satisfactory loop system is used, the maximum number of lots is 30.

3. All roadway improvements must comply with the requirements of the Franklin County Road and Bridge Department. See Appendix B. Standards for the Design and Construction of Roads.
- I. **Public Access.** No development shall eliminate historically existing public access through private lands to trail heads on public lands.
 1. The provision of additional public access or the improvement of existing access to public lands or water resources shall be encouraged.
 - a. Any new access created may be limited to non-motorized travel only and shall be shown as a public ingress/egress easement on the plat.
- J. **Transportation Impact Study (TIS).** All changes in use from residential to non-residential and all Standard, Major, and Cluster/Conservation subdivision with more than 6 lots shall complete a TIS as required by the Franklin County Road and Bridge Department (or the Idaho Department of Transportation) as part of the application submittal process. The County reserves the right to limit the density and intensity of uses/developments based on the capacity of the public roadway system.

9-4: Specific Use Standards: The following standards shall be used to evaluate specific uses within county:

9-4-1: Airport Overlay: The purpose of the Airport Overlay Zoning District is to provide for the safety of aircraft pilots and passengers and protect a substantial investment of public funds by assuring that land development and construction activities within the Airport Overlay Zoning District are compatible with the safe and continued use of the airport serving Preston City Airport.

- A. **Height Limitation Zones.** The Airport Overlay Zoning District is composed of several height limitation zones, which include all land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces appurtenant to the Preston City Airport. These zones are shown on supplements to the Official Zoning Map of Franklin County. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation.
 1. **Utility Runway Visual Approach Zone.** The inner edge of the approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
 2. **Transitional Zones.** The transitional zones are the areas beneath the transitional surfaces.

3. **Horizontal Zones.** The horizontal zone is established by swinging arcs of 5,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
 4. **Conical Zone.** The conical zone is the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.
- B. **Height Limitations.** No structure or tree will be allowed to exceed the height limitations established here.
1. **Utility Runway Visual Approach Zone.** Slopes twenty feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
 2. **Transitional Zones.** Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition, there are transitional sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
 3. **Horizontal Zone.** Is 150 feet above the airport elevation.
 4. **Conical Zone.** Slopes 20 feet outward for each foot upward beginning at the edge of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
 5. **Exception from Height Limitations.** Nothing in this ordinance shall prohibit the construction or maintenance of any structure of 30 feet or less in height, or the growth of any tree to a height up to 30 feet above the surface of the land within the horizontal and conical zones.
- C. **Permits: Additional Requirements.** Within the Airport Overlay Zoning District, permit requirements shall be expanded to include the planting of any tree with a growth habit of more than 30 feet and the construction of any building or structure that is more than 30 feet in height and is exempted from the requirement for a permit. This includes agricultural outbuildings and similar accessory structures, except as follows:
1. Within the horizontal and conical zones: No permits shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

2. Within the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway: No permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.
3. In the areas lying within the limits of the transition zones, but beyond the perimeter of the horizontal zone: No permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

D. Variances: Additional Requirements. Any application for a variance of the height limitations established in this chapter shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

E. Nonconforming Uses: Additional Requirements

1. Nonconforming uses within the Airport Overlay Zoning District may include trees and shall be required to permit the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft. Such markers and lights shall be installed, operated, and maintained at the expense of the county.
2. The repair and, under specified circumstances, replacement of nonconforming uses and buildings is permitted; but no nonconforming use, building, or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of this ordinance.

F. Obstruction Marking and Lighting. The approval of any application for a permit or variance may be conditioned on the installation, operation, and maintenance, at the owner's expense, of the markings and/or lights necessary to indicate the presence of an obstruction to aircraft pilots.

9-4-2: Floodplain Overlay. The following standard shall be used within the Floodplain Overlay designation:

A. Floodplain Overlay Zoning District (FOZD) Boundaries. The FOZD shall consist of all Special Flood Hazard Areas identified on the most current Flood Insurance Rate Maps (FIRM) of Franklin County, Idaho prepared by the Federal Emergency Management Agency (FEMA). The Flood Insurance Study for Franklin County, dated March 18, 1991, and the accompanying FIRM's are adopted by reference, as supplements to the Official Zoning Map of Franklin County.

B. Administration of Federal Flood Insurance Program Requirements

1. **Additional Permit Requirements.** Development in the Floodplain Overlay Zoning District shall be by approval of the Commission only. For purposes of

this chapter, development shall include any activity that may potentially affect flood flows.

2. **Stream Corridors.** If the stream corridor standards of this ordinance impose requirements that are more stringent than those of this chapter, the most stringent requirements apply.
3. **Warning/Disclaimer of Liability.** All applications for permits in the Floodplain Overlay Zoning District shall be accompanied by a signed and dated acknowledgment stating:
 - a. I understand that, while the degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, larger floods can and will occur.
 - b. I understand that the projected flood levels at my development site may be increased by man-made or natural causes.
 - c. I understand that this ordinance does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damage.
 - d. I understand that this ordinance does not create any liability on the part of Franklin County, of any officer or employee thereof, or on the part of the Federal Insurance Administration for flood damages.
4. **Additional Application Requirements.** All applications for permits in the Floodplain Overlay Zoning District shall be accompanied by the following information:
 - a. Elevation of the lowest floor, including basements, of all proposed buildings.
 - b. Elevation to which any existing or proposed building has been or will be flood proofed.
 - c. All buildings other than single family dwellings, certification by an engineer or architect that the flood proofing methods used comply with these performance standards.
 - d. Where alteration of a watercourse is proposed: a description of the extent to which the watercourse will be altered or relocated as a result of the proposed development, and proof that all state or federal permits required for that alteration have been approved. The developer shall provide the base flood elevation data for all subdivisions or other developments that include 50 or more lots or dwelling units, or five or more acres.
 - e. All subdivision proposals shall be consistent with the need to minimize flood damage. Where base flood elevations data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments within this code.

5. **Additional Duties.** The Administrator shall serve as local floodplain ordinance administrator and perform the following duties:
 - a. Determine that all required state and/or federal permit have been obtained before reviewing any application for a permit in the Floodplain Overlay Zoning District.
 - b. Where base flood elevation data are not provided by FEMA (Federal Emergency Management Agency): Obtain and reasonably utilize any base flood elevation and floodway data available from state, federal, or other sources as a basis for the administration of this chapter.
 - c. Maintain a record of the actual elevation of the lowest floor of all new or substantially improved buildings, and whether or not the building contains a basement.
 - d. Maintain a record of flood proofing certifications. Notify downstream communities and all applicable State and Federal agencies prior to the alteration or relocation of a watercourse, and submit evidence of that notification to FEMA.
 - e. Maintain records of appeal actions and report all variances allowed to FEMA.

C. Standards for Special Flood Hazard Areas.

1. **Site Planning.** Design and construction of all subdivisions and uses are required shall minimize flood damage. Utilities and structures shall be located and designed to minimize flood damage, and the site shall be graded and drained to guide floodwater around and away from existing and/or proposed buildings.
2. **Residential Development.** All residential buildings shall comply with the International Residential Building Code.
 - a. Where base flood elevation data are not available through the flood insurance study or from another source, applications shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. This determination of reasonableness shall be based on evidence submitted with the application by the developer, including historical flood records, photographs of past flood events, and similar documentation. The minimum elevation above grade in such cases shall be two feet.
 - b. Recreational vehicles placed on sites are required to either: (i) be on the site for fewer than 180 consecutive days. (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
3. **Nonresidential Development.** All non-residential buildings shall comply with the International Building Code
4. **Floodway.** The floodway is the channel of a watercourse and any adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodway is a hazardous area due to the velocity of flood waters which carry debris and potential

projectiles and the high erosion potential. Encroachments into the floodway, including fill, new construction, substantial improvements, and other development, shall be prohibited unless an engineer or architect certifies that the encroachment will not result in any increase in the flood level during the base flood discharge.

5. **Maintenance of Flood Capacity.** Continuing maintenance to prevent the reduction of flood carrying capacity in altered or relocated watercourses shall be required.
6. **Areas of Shallow Flooding.** In these areas, base flood depth ranges from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

D. Variances in the Floodplain Overlay Zoning District.

1. **Additional Finding for Variances.** The approval of any variance in the Floodplain Overlay Zoning District will not result in increased flood levels, a threat to public safety, or extraordinary public expense.
2. **Notice of Variance.** Where a variance of the requirements of this is approved, the commission's notice of the decision shall clearly state that the county is not liable for any flood damages that result from the variance. Where a variance of the elevation requirements is approved, the administrator shall also notify the developer that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

9-4-3: Wellhead Protection. Following standards shall be utilized in the Wellhead protection overlay zone:

- A. No building, structure, permanently installed apparatus, or anything requiring a building permit; concentration of livestock or chemical application not associated with the water source in question may be placed within three hundred feet (300') of any public underground culinary well nor within five hundred feet (500') of any public culinary spring.
- B. The building permit checklist shall require verification that any proposed structure is not within the prohibited area of an underground culinary water source. "Public" shall be defined as serving more than two (2) residences.

9-4-4: Gravel Mining and Extraction. This section provides for reasonable assurance that gravel mining operations will not adversely affect neighboring uses.

- A. Road Capacity. Applications shall provide a site specific transportation study consistent with the standards of the Franklin County Road and Bridge Department as part of the permitting process.
- B. No gravel mining shall be permitted where existing roads and/or bridges do not have adequate capacity to support the anticipated truck traffic.
- C. Buffer Required. A buffer area of at least 50 feet wide shall be provided between all operating areas of the mine, including parking, storage, etc., and the property line. No existing vegetation that has buffering capacity shall be removed from a required buffer.
- D. Dust Control. Must submit a fugitive Dust Control Plan consistent with Idaho Code 39-103

- E. Operating Hours. Mining operations shall be limited to the hours established in Table 8-5-1 of this code. The noise level at the property line shall be limited to 80dBA.
- F. Groundwater Protection. No gravel mine shall penetrate an aquifer. A variance of this standard may be considered, but only where a professionally prepared plan for the prevention of aquifer pollution is implemented. Any such plan shall, at a minimum, require the diversion of surface runoff from the excavation, the installation and maintenance of vegetative filter strips around the excavation, and the minimization of the area of aquifer surface exposed at any one time.
- G. Reclamation. The reclamation plan (reclamation plans are required by I.C. 47-1501., et.seq.) for the gravel mine shall show how the site will be reclaimed to a condition where it can be used for a compatible use. Reclamation that fulfills the requirements of state law shall generally be acceptable outside areas of city impact. In those areas of city impact where there is a comprehensive plan, the reclaimed site shall be suitable for a use permitted by that plan.

9-4-5: Multi-Family Development: This section provides for the regulation, establishment, and construction for Multi-family dwellings. To provide reasonable assurance that Multi-family Dwellings will not adversely affect neighboring uses.

- A. Definition. A Multi-family dwelling refers to any housing unit where two (2) or more dwellings are separated by a common wall, floor or ceiling.
- B. Minimum Lot size. The Minimum lot size for a multifamily development is two (2) acres.
- C. Maximum Density. The maximum density for a multifamily development is 1 unit per half acre (0.5).
- D. Design- Multi-dwelling site development shall comply with the requirements for zoning standard in Chapter 8 of this code and all other parts of the development code shall apply.
- E. Buffering. Buffering for multifamily and associated parking shall comply with Chapter 8-5-5 of this code.
- F. Access – Each access road to each Multi-family dwelling should be continuous and unobstructed and shall connect directly to a year-round maintained public road. Direct vehicular access to dwelling units shall be limited to the access road provided and shall be asphalt or chip-seal surface or any hard surface.
- G. Off Street Parking – Hard surface parking space shall be provided for the parking of motor vehicles in the ratio of at least 3 (three) parking spaces for each dwelling unit. The owner shall provide adequate snow removal from access roads and off-road parking areas.
- H. Storage – A parking area shall be provided for each Multi-family dwelling for the storage of accessory items such as boats, vacation trailers, campers and related equipment owned by the unit residents. Such items shall be stored in the storage area and not parked beside the dwelling units.
- I. Centralized Mailboxes – A centralized mailbox shall be provided for each development.
- J. Garbage Pick-up – A centralized location shall be provided for Garbage pick-up.

9-4-6: Commercial Development. This section provides for the regulation, establishment, and construction of Commercial development, subdivisions, and building lots. To provide reasonable assurance that Commercial development will not adversely impact neighboring uses.

- A. Definition. Commercial development refers to the process of planning, designing, constructing, and managing real estate for business purposes. This includes a wide range of properties like office buildings, retail centers, industrial facilities, and mixed-use developments.
- B. Access. Each access point to a Commercial Development should be continuous and unobstructed and shall connect directly to a year-round maintained public road.
 - 1. Direct vehicular access to each commercial lot shall be limited to the access road provided and shall be asphalt or chip-seal surface or any hard surface according to county road standards or Idaho Transportation Department Standards.
- C. Lot sizes. Commercial lot shall be a minimum of 1 acre.
- D. Buffers. Landscape buffers shall comply with Table 8-5-5 of this code.
- E. Traffic Study. Traffic studies will be required for all Commercial Developments; density and intensity of use may be limited by the capacity of the county roads as determined by Franklin County Road and Bridge Department or by the Idaho Transportation Department for the State Highway system.
- F. Fire Suppression. Fire Suppression is required in all commercial developments approved by the State Fire Marshal.

9-4-7: Agricultural/Grain Storage. Structures subordinate to the main agricultural use of the property.

- A. These structures are:
 - 1. Incidental to and support the primary agricultural use;
 - 2. Located on the same parcel as the main agricultural operation;
 - 3. Directly related to agricultural activities; and
 - 4. May require an agricultural exempt building permit.
- B. Structures may include:
 - 1. Barns;
 - 2. Silos;
 - 3. Equipment sheds;
 - 4. Greenhouses;
 - 5. Storage facilities for crops or livestock feed;
 - 6. Pump houses;

- 7. Cold storage facilities;
- C. Agricultural/Grain Storage (Commercial). Facilities used to store agricultural products for commercial purposes often serving multiple farms or producers.
 - 1. Required improvements:
 - a. Adequate off street parking
 - b. Loading and unloading facilities
 - c. Appropriate permits from Franklin County Road and Bridge and/or ITD

9-4-8: Accessory Structures. An accessory structure or building may be permitted to be placed on a lot not having principal structure or building with a bona fide principal, main or primary use, such as a dwelling, in the following instance:

- A. The accessory structure must be situated on a lot immediately adjacent or next to a lot having a principal structure (such as a dwelling) that serves as a bona fide principal use for the lot on which the principal structure is situated;
- B. The proposed accessory structure must have a use that is subordinate to the principal structure and use on the adjacent lot and a use whose purposes are customarily incidental to the purposes of the principal structure and its use on the adjacent lot;
- C. The lot where the principal structure is located and the adjacent lot with the accessory structure must be in identical ownership and owned by the same person or persons; and
- D. The accessory structure must otherwise comply with existing applicable zoning standards and regulations and must not have a use or construction not permitted for accessory structures in residential districts.

9-4-9 Seasonal Uses. Seasonal uses are uses that do not have year-round public road access and are allowed only from April 1 to October 31st annually.

- A. **Seasonal Residential Uses.** Seasonal Residential Uses are allowed in the RC zone when a year-round all access roads are not provided or access is otherwise restricted by the Franklin County Road and Bridge Department.
 - 1. Seasonal Area, height, and right-of-way or property line set back requirements shall comply with Chapter 9-2 of this code.
 - 2. Minimum Lot size shall be 1-acre,
 - 3. Seasonal residential shall be allowed on seasonally maintained roads only, residential use roads which are maintained year-round do not meet this definition.
 - 4. Minimum side and rear setback shall comply with Chapter 9-2 of this Code
 - 5. Maximum height of buildings or structures is 35 feet as measured from the lowest point on the downhill side to the middle of the main roof plane.

6. Maximum height of any flagpole, antenna, or similar element is 35 feet.
7. No overhead utility lines or utility poles are permitted.
8. Owners shall not plow snow or add gravel to any public roads without permission of the Franklin County Road and Bridge Department. Private maintenance does not constitute year-round maintenance.
9. Sufficient off-street parking will be required for type & volume of seasonal residential use, as determined by the County.
10. Public utilities are not required.
11. Accessory buildings shall not be over 120 square feet.
12. Ownership and maintenance of roads shall be defined by Lot Owner Covenants, Conditions and Restrictions. Private access road rights-of-way and/or easements shall be a minimum of 30 feet wide.
13. Appendix C shall not apply; however, all developments shall prepare a fire protection plan that delineates fire-wise construction design and materials, defensible space, fuel load assessment, fire breaks, etc.
14. Keeping of livestock or pets on recreational lots shall be restricted to the time that the owner is present and must be directly related to recreational activities.

B. Recreation Vehicle Park /Campground. To allow for recreational vehicle (RV) parks, commercial campgrounds and/or recreational areas. To establish reasonable regulation concerning the operation of these activities in order to protect the health, safety and welfare of the public, which includes protecting the natural resources found in Franklin County and the associated amenities provided by these natural resources, including but not limited to surface and ground water, air, soils, native vegetation, aquatic and terrestrial wildlife and habitat, unique geologic features, topography and scenic views. Private campgrounds and recreational uses by landowner in the RC zone shall adhere to applicable county, state and federal regulations. All applications shall comply with the following:

1. 1. Minimum size of recreation area – 10-acre
2. 2. Maximum intensity of use is 1 unit per half acre (1/0.5)
3. Use of Facilities are seasonal and are not intended for year-round occupation. Seasonal use is defined as April 1 to October 21.
4. Owners shall not plow snow or add gravel to any public roads without permission of the Franklin County Road and Bridge Department. Private maintenance does not constitute year-round maintenance.
5. RVs must be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
6. Must demonstrate sufficient sewer and water capacity for the use and intensity proposed including approvals from IDEQ and State Health department.
7. A site plan submitted for review containing a minimum of the following:
8. A legal description of the area to be zoned or occupied;
9. Season of use for each area or activity;

10. Location of each existing and proposed structure;
11. Location of any proposed grading (cut and fill);
12. Location and dimension of each recreational vehicle and/or campground space;
13. Location and dimension of the recreational area;
14. Location and dimension of all entrance, exits, roads, walkways, trails, drainage structures, driveways and pedestrian/roadway lighting;
15. Location and dimension of parking spaces; Minimum number of space shall be two per proposed space one of which shall be sized to accommodate a Class A RV.
16. Private access ways, individual space arrangements and walkways shall accommodate frequent and safe movement of vehicles and pedestrians. Interior lanes and roadways shall be a minimum of 10 feet wide for one-way or 20 feet wide for two-way traffic.
17. Interior lanes, roads, roadways, driveways or walkways (except when providing access from public roads onto the property) are included in the required perimeter setback.
18. Any access roads from any county road or highway shall comply with standards set forth by the Franklin County Road and Bridge Department or the Idaho Transportation Department.
19. Prepare and maintain an Maintenance and Operation Plan for approval by the Administrator including:
 - a. The owner shall not plow snow or add gravel to public roads.
 - b. The owner shall provide adequate snow removal from private roads and off-road parking areas so long as the business is open.
 - c. Any cleared or graded land shall be stabilized and/or replanted with native or non-invasive plants to prevent erosion and the spread of noxious weeds.
 - d. There shall be adequate public toilets for recreational vehicles, campground, and recreational area users. Portable toilet units within recreational vehicle parks and campgrounds may be provided during seasons of use under certain circumstances with the approval of the Southeastern District Health Department. Portable toilet units must be maintained and serviced in a timely and sanitary manner, and may be inspected by appropriate public officials.
 - e. Screening the perimeter of the recreational vehicle parks, campgrounds and/or recreational area by wall, berm, approved fencing or other approved landscaping Shall comply with the buffering standards in Chapter 8-5-5 of this code.
20. One home or RV may be placed on the property for use by a caretaker on a permanent basis. Current contact information for the caretaker and legal owner of the property must be registered with the county.

- a. A responsible party or caretaker shall be in charge of any recreational vehicle (RV) park, campground and/or recreational area at all times, and the duty of said responsible party or caretaker shall be to maintain the park, its facilities, and equipment in a clean, orderly, and sanitary condition. The caretaker or attendant shall be the owner or operator of the park, camping or recreational area, or the appointed representative of the owner.
- b. The following information shall be posted in a prominent location at any recreational vehicle (RV) park, campground and/or recreational area: the caretaker's name and how that person may be reached
- c. The telephone numbers and addresses of emergency services

21. No RV or utility trailer shall be parked or stored on any county road for more than 24 hours. No RV or utility trailer shall be occupied or connected to any utility while parked on county roads.

C. **Seasonal Commercial Structures/Uses.** Seasonal Commercial Structures/Use may be allowed when the use is determined by the Administrator to be complementary to the overall use of the area. These uses shall comply with the requirements of 9-4-9B (2-21) of this code.

9-4-10: Bed & Breakfast. Bed & Breakfasts are commercial operations and shall be regulated as a conditional use in all zones except commercial. All bed and Breakfast shall comply with the following:

- A. The establishment shall be owner occupied.
- B. One (1) off-road parking space shall be provided for each rental unit plus two (2) spaces for the on-site owner unit.
- C. An annual fire inspection is required for the premises.
- D. The following conditions must be met to approve bed and breakfast establishment in Franklin County, plus any other conditions that the planning commission feels are necessary to preserve the character of the neighborhood. The house has an architectural design that would accommodate the use without changing the character of the neighborhood.
 - 1. Adequate approved parking is provided.
 - 2. The building meets fire and safety code with annual inspection required.
 - 3. Adequate Sewer and water are provided as approved by IDEQ and/or the State Health Department.
 - 4. Adequate Road capacity and permits have been received from the Franklin County Road and Bridge Department and/or the Idaho Transportation Department.

CHAPTER 10: SUBDIVISION/LAND DIVISIONS

10-1: What This Chapter Does. This chapter regulates the subdivision/land division of all non-exempt land within the county and establishes procedures for the administration of this ordinance. Only lots and parcels created under this title or as exempted from this title shall be eligible for a building permit.

10-2: Exemptions for Land Divisions. Exemption of a subdivision does not exempt the parcels created from compliance with this ordinance. None of the listed exemptions shall be used to circumvent zoning, subdivision or building permit requirements of Franklin County. A subdivision shall not be required for the following:

10-2-1: Any land division that results from a condemnation proceeding or the voluntary sale or gift of land for a public purpose.

10-2-2: Any land division creating a parcel of 40 acres or larger.

10-2-3: The one-time split of an original parcel, provided that each parcel resulting from such division shall front upon a public or private road, or shall have a recorded access of not less than thirty (30) feet in width.

10-2-4: The adjustment of property lines in which no new parcel is created and no nonconforming lot, parcel, or use results.

10-2-5: Any further division of property after the initial one time split, condemnation, or division creating lots or parcels of 40-acres or less shall comply with subdivision requirements of this chapter.

10-2-6: The conveyance of land which does not result in a change of the present land usage.

10-2-7: Any parcel of land, six (6) acres or less in size which is isolated or separated from its original parcel by county or state roadways, drainage ditches, irrigation canals, railroad rights of way, or natural land formations. These parcels are not considered original parcels but are eligible for building permit if they comply with the standards of this code. Further divisions of these exempt parcels will require a subdivision application. The intent of this exemption is to allow development of small parcels of non-productive isolated land thereby encouraging development away from productive agricultural land.

10-2-8: A division of land for mortgage purposes only. Any additional parcel resulting from this type of division shall not be valid for issuance of a building permit for a dwelling. On the record of survey, these words shall appear: "This land division is for mortgage purposes only, a building permit shall only be issued upon compliance with the Franklin County Development Code."

10-2-9: Who May Apply. The property owner or his/her authorized agent may apply for a standard subdivision. If the applicant is not the owners of record the County may require an affidavit of legal interest from the landowner for all others to submit on their behalf

10-2-10: Minor Land Division. The purpose of the minor land division is to allow the creation of up to four (4) new parcels without being subject to the procedural subdivision standards of this code. A Record of Survey, application and the minor land division fee are required for a minor land division application.

A. **General Requirements:** Minor Land Divisions shall create buildable parcels that meet the following requirements:

- 1: No Minor Land Division shall create more than four 4 parcels.
- 2: No property involved in a minor land division shall be subject to a subsequent minor land division. Future division shall be subject to subdivision standards of this code.
- 3: No new street dedications are necessary or required to meet the standard of Franklin County Road and Bridge. Each lot created by this division shall front on an existing year-round maintained public road, or shall have recorded access of not less than thirty (30) feet in width. Any development containing or requiring new road construction shall require processing as a standard subdivision.
- 4: All parcels comply with the zoning and minimum dimensional standards of this code and are suitable for Sewage disposal.
- 5: All existing buildings to remain comply with the zoning and minimum dimensional standards of this code regarding use, parking, setbacks of the existing zoning for the lots being created by this process.
- 6: When utilities cross land being divided a utility easement shall be provided and shown on the Record of Survey. If an existing easement is in conflict with the buildable area of a parcel being created the easement shall be vacated pursuant Chapter 11 of this code prior to the Administrator's approval of the Minor Land Division.
- 7: Record of Survey: A survey of the property to be divided shall be performed by a Professional Land Surveyor, licensed in the State of Idaho.
- 8: No lot or parcel shall be sold, leased, exchanged, or ownership transferred in any way until the Record of Survey has been recorded in the office of the County Recorder.

B. **Review of a Minor Land Division:** Minor Land Division Application shall be reviewed by the Administrator, Franklin County Road and Bridge Department and(if access is from a State Highway) the Idaho Transportation Department.

After review and recommendation by appropriate review entities, the Administrator shall determine if the record of survey is drawn consistent with Idaho Code and that each buildable parcel created meets the requirements of this code and place the Record of Survey on the BOCC's consent agenda for approval.

10-3: Standard Subdivisions. A Standard subdivision permits a division of land into seven (7) to fourteen (14) (including the reconfigured original source parcel of land), and shall require a public hearing at the Planning and Zoning Commission prior to approval by the BOCC.

10-3-1: Who May Apply. The property owner or his/her authorized agent may apply for a standard subdivision. If the applicant is not the owners of record the County may require an affidavit of legal interest from the land owner for all others to submit on their behalf

10-3-2: General Requirements. Any previously divided lot (one time division or minor land division) must use the standard or major subdivision procedures of this Ordinance, except as limitedly provided in other portions of this code.

- A. The Administrator shall specify the submittal requirements, including type, detail and number of copies for a final standard subdivision to be deemed complete and accepted for filing. See Appendix A.
- B. Every Standard subdivision shall comply with all applicable goals, regulations and standards of the Franklin County Comprehensive plan and this Ordinance.
- C. A proposed Standard subdivision shall be considered under all applicable land use regulations and codes as provided in this ordinance.
- D. A proposed Standard subdivision shall comply with all standards and the following requirements:
 - 1. Survey: A survey of the property to be divided shall be performed by a Professional Land Surveyor, licensed in the State of Idaho.
 - 2. Access: Each lot created by this division shall front on an existing year-round maintained public road, or shall have recorded access of not less than thirty (30) feet in width. Any development containing or requiring new road construction that services four 4 or more homes shall comply with all standards of the Franklin County Road and Bridge Department.
 - 3. Subdivision Plat: The subdivision plat prepared for this type of division is may be reviewed and approved by the County Engineer and/or Surveyor as deemed necessary by the Administrator.
 - 4. Each parcel shall contain a satisfactory building site which meets the Counties' requirements and is suitable for Sewage disposal.
 - 5. No lot or parcel shall be sold, leased, exchanged, or ownership transferred in any way until the plat has been recorded in the office of the County Recorder.

10-3-3: Review Stages of Standard Subdivisions. The review and decision of the County on an application for a Standard subdivision shall consist of the following stages:

- A. Review of sketch plat submittal;
- B. Review and decision upon the engineering plans, if required; and
- C. Review and decision upon the preliminary plat, and
- D. Review and decision upon the final Plat.

10-3-4: Review Merger. The applicant may request that review and decision on the preliminary standard subdivision with any other land use action (conditional use permit, rezone or zoning code amendment) be merged in one decision. The merged decision will be made following the procedures for the preliminary Standard subdivision.

- A. The applicant shall submit all plans and information in the details required for the standard subdivision and the other land use action.
- B. Unless the applicant requests otherwise, the Administrator shall process a preliminary standard subdivision simultaneously with an application for a zoning ordinance amendment (rezone), variance, mixed use development or other development approval to the extent that procedural requirements for those actions allow.
- C. The applicant may request the preliminary plat and final plat be reviewed simultaneously so long as the plat does not include new roadway dedications, new roadway improvements, or any off-site improvements.

10-3-5: Preliminary Standard Subdivision Procedure. The Administrator will process an application for a preliminary standard subdivision pursuant to the following:

- A. Sketch Plat Review: The developer shall submit a sketch for review by the administrator prior to the submittal of a formal application. The Administrator shall make the developer aware of possible questions and the applicable requirements of this ordinance.
- B. Notification. The applicant shall prepare and provide the County with a list of all adjoining landowners and agencies that are to receive notice. The applicant shall be responsible for providing all notices, including addressed and stamped envelopes. The list, prepared notices, and envelopes shall be delivered to the Administrator for verification of compliance and for final mailing.
 - 1. The Administrator shall notify by first class mail all owners of record within 1,000 feet of the outside perimeter of site of the proposed minor land division application and provide fifteen (15) days for written comment. The Administrator shall also post a notice of the application no less than fifteen (15) days prior to the hearing in the paper of general circulation, the agenda shall be published in the County's web site.
 - 2. All required notices shall provide the following information: a copy of the proposed subdivision showing lot configurations, the name of the proposed development; the address of the development site, or another general description by which the public can identify the site; the proposed use and, for subdivisions, the proposed number of lots and average proposed lot size; the body (commission and/or BOCC) that will conduct the hearing; the date, time, and place of the hearing; a statement of the availability of application materials for public review, and the statement; "The Public is encouraged to give notice of special conditions, easements or potential hazards."
- B. Public Comment before Planning and Zoning Commission's hearing.
 - 1. Who May Participate. Any person may participate in the hearing.

2. How to Participate. A person may participate in the hearing by submitting written comments on the application to the Administrator no later than the final date of the comment period.
 3. A person may participate by providing verbal testimony to the Franklin County Planning and Zoning Commission during the public hearing.
- C. Preliminary Standard Subdivision – Planning & Zoning Commission Recommendation is Required.
1. The Planning and Zoning Commission will hold a public hearing and make a recommendation to the BOCC to approve or approve with modifications if:
 - a. The preliminary standard subdivision makes appropriate provisions for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary waste; and
 - b. The public interest is served by the standard subdivision; and
 - c. The preliminary Standard appropriately considers the physical characteristics of the proposed Standard subdivision site; and
 - d. The proposal complies with all applicable provisions of the Franklin County Comprehensive plan and this code; and
 - e. Each lot in the proposed standard subdivision can reasonably be developed in conformance with current code requirements without requiring a variance; and
 - f. All necessary utilities, streets or access, drainage and improvements are planned to accommodate the potential use of the entire property.
 2. Written Decision of the Planning and Zoning Commission. The Planning & Zoning Commission shall issue a written decision which contains the following:
 - a. A statement indicating that the application is approved, approved with modifications or denied;
 - b. A statement of any conditions included as part of an approval;
 - c. If denied, a statement of what could be complete/modified to receive approval;
 - d. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts;
 - e. A statement of the right of any person who participated in the decision to appeal the decision of the Board as provided for in Chapter 2 of this code as an affected person.
 3. No decision shall be deemed final until acted on by BOCC through their consent agenda.
 4. Distribution. Upon approval by the BOCC the Administrator shall mail the written decision to the applicant.

10-3-6: Preliminary Standard Subdivision - Appeal. The decision of the BOCC may be appealed by any affected party of record in accordance with the appeal procedure Chapter 5-5 of this code.

10-3-7: Preliminary Standard Subdivision – Expiration. A preliminary Standard subdivision automatically expires and is void if the applicant fails to file for approval of the final Standard Subdivision within one year of approval date of the preliminary Standard Subdivision approval unless:

- A. The applicant has received an extension for the preliminary standard subdivision pursuant to 10-4-8 of this code; or
- B. The preliminary standard subdivision approval provides for a greater time period.

10-3-8: Preliminary Standard Subdivision – Extension. The Administrator may extend a preliminary Standard Subdivision by one years, if:

- A. A written request for extension is filed at least 30 days before the expiration of the one-year period; and
- B. Unforeseen circumstances or conditions necessitate the extension of the preliminary standard subdivision; and
- C. Termination of the preliminary standard subdivision would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
- D. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary standard subdivision was first granted; and
- E. An extension of the preliminary standard subdivision will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole.
- F. The Administrator may grant no more than two extensions.
- G. A second extension not to exceed six months may be granted if:
 - 1. A written request for extension is filed at least 30 days before the expiration of the first extension; and
 - 2. The criteria listed in 10-4-8 (A-F) of this code are met; and
 - 3. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed.

10-3-9: Preliminary Standard Subdivision– Construction and Assurance Device. All required improvements shall be constructed prior to the submittal of a standard final application. The Administrator may require a reasonable assurance device to ensure that the improvements comply with the required warranty period of one (1) year post construction.

10-3-10: Preliminary Standard Subdivision – Effect of Approval. The approval of a preliminary Standard Subdivision by the BOCC is approval of the general acceptability of the layout and its relation to adjoining properties. Engineering detail, if required, remains subject to the approval of the Planning and Building Department, County Road and Bridge Department, and any other applicable county, state or federal agencies.

- A. After final approval of engineering drawings for public or private facilities within an approved preliminary Standard, permits for the development of the Standard improvements

may be issued and work commenced. Such permits shall be contingent upon compliance with the conditions specified on the approval of the preliminary Standard subdivision, conformance with all applicable development standards, and the payment of all fees.

- B. The approved preliminary standard subdivision, including conditions, shall be the basis for approval of the final standard subdivision. However, if the preliminary standard subdivision's approval is based upon incorrect or misleading information supplied by the Applicant or if conditions were inadvertently omitted or mistakenly imposed which conflict with the provisions of any federal, state or local laws, ordinances, resolutions, rules or regulations in effect at the time of vesting, the preliminary standard subdivision approval and conditions may be re-considered without complying with all of the procedures for preliminary standard subdivision approval.

10-3-11: Final Standard Subdivision– General. The Applicant must submit the final Standard subdivision within one year of the effective date of the preliminary standard subdivision approval or the extension date, if granted.

- A. **Final Standard – Applicable Procedure.** The Administrator will process an application for a final standard subdivision as provided in the following requirements:
 - 1. The Administrator shall specify the submittal requirements, including type, detail and number of copies for a final standard subdivision to be deemed complete and accepted for filing. See Appendix A.
 - 2. The Administrator may waive specific submittal requirements determined to be unnecessary for review of an application.
 - 3. The final standard subdivision shall be placed on the BOCC's consent agenda for approval prior to county signature of the final plat,
 - 4. The final standard subdivision may be submitted for review simultaneously with the preliminary subdivision as long as all of the following apply:
 - a. No new roads or dedications are proposed/required, no off-site road or improvements are required;
 - b. There are no special development considerations such as floodplains, hillsides developments, or the like;
 - c. All required information for both the preliminary plat and final plat are submitted and in acceptable form.
- B. **Final – Decision Criteria.** The Administrator shall recommend to the BOCC for approval a final standard subdivision if all required improvements have been constructed and the application complete with fees paid and it conforms to all conditions and requirements of the preliminary standard subdivision approval.
- C. **Final Standard Subdivision – Recording Required.** Upon final standard Subdivision approval, the subdivision plat will be presented to the County Clerk for recording. Signatures of approval from the appropriate, authorized administrators; Chairman of the County Commissioners, County Road Department Supervisor or reviewing Engineer (if there are roadway dedications or improvements), Planning and Zoning Administrator, County

Treasurer and any signatures required by Idaho Code 50-1304 shall constitute approval by the County for recording of the standard subdivision. No approval of a final standard subdivision is deemed final until the plat is recorded and proof of recording is received by the Planning, Zoning and Building Department.

D. Final Standard Subdivision-Amended. Land within a Standard subdivision may not be further subdivided in any manner except by a submittal of a standard subdivision application; provided, however, when the original standard subdivision contains less than fourteen (14) total lots it may be amended to create additional lots if no more than fourteen (14) total lots are created within the boundary lines of the original Standard Subdivision.

1. Standard subdivisions may be amended in accordance with the following requirements: (1) All affected ownership interests within the originally recorded standard subdivision must be a party to the amendment application, or must express written agreement to the proposed amendment including written agreement to accept ownership of any property, or to transfer or convey ownership of any property, which may be necessary as a result of the amendment.
2. Any features contained in the original standard subdivision which have been relied upon in subsequent land development or land use planning decisions and which are still applicable at the time of application shall be incorporated in the subdivision amendment, unless such features are provided by other legal means at the time of the subdivision amendment.
3. Procedures and requirements established by this chapter for preliminary standard subdivision approval shall be applicable to amendment requests. Revisions shall comply with applicable conditions and provisions of the original plat or standard subdivision and shall not adversely affect access, easements, or any land use requirements as provided for in the laws of the County.
4. Approval of any amendments shall be filed and recorded as a supplemental declaration of standard subdivision which shall contain the adjusted legal description and shall be effective upon being recorded by the Administrator with the County Clerk and upon receipt of proof of recording.

E. Final Standard Subdivision – Assurance Device. The Administrator may require a reasonable assurance device for public or private improvements in conformance with code to assure compliance with all of the provisions of this Ordinance. All required improvements must be constructed prior to submittal of the final Standard Subdivision Application. The Administrator may require a reasonable assurance device to ensure that the improvements comply with the required warranty period of one (1) year post construction.

10-4 Major Subdivisions. A Major subdivision permits a division of land into fifteen (15) or more parcels (including the reconfigured original source parcel of land) and shall require a public hearing at the Planning and Zoning Commission prior to a hearing by the BOCC.

10-4-1: Who May Apply. The property owner or his/her authorized agent may apply for a Major subdivision. If the applicant is not the owners of record the County may require an affidavit of legal interest from the landowner for all others to submit on their behalf

10-4-2: General Requirements. The following are the general requirements for a Major Subdivision:

- A. The Administrator shall specify the submittal requirements, including type, detail and number of copies for a final standard subdivision to be deemed complete and accepted for filing. See Appendix A.
- B. Any parcel that has never been subdivided previously may qualify for a Major subdivision. Any previously subdivided lot within a previously approved subdivision of fourteen (14) or more lots must use the Major subdivision procedures of this Ordinance, except as limitedly provided in other portions of this code.
- C. Every Major subdivision shall comply with all applicable goals, regulations and Majors of the Franklin County Comprehensive plan and this Ordinance.
- D. A proposed Major subdivision shall be considered under all applicable land use regulations and codes as provided in this Ordinance.
- E. A proposed Major subdivision shall comply with the following requirements:
 - 1. Survey: A survey of the property to be divided shall be performed by a Professional Land Surveyor, licensed in the State of Idaho.
 - 6. Access: Each lot created by this division shall front on a year-round maintained public road, or shall have recorded access of not less than thirty (30) feet in width. All Major Subdivisions shall comply with all standards of the Franklin County Road and Bridge Department.
 - 2. Subdivision Plat: The subdivision plat prepared for this type of division is required to be reviewed and approved by the County Engineer and Surveyor.
 - 3. Each parcel shall contain a satisfactory building site which meets the Counties' requirements and is suitable for Sewage disposal.
 - 4. No lot or parcel shall be sold, leased, exchanged, or ownership transferred in any way until the major subdivision plat has been recorded in the office of the County Recorder.

10-4-3: Review Stages. The review and decision of the County on an application for a Major subdivision shall consist of the following stages:

- A. Review of sketch plat submittal;
- B. Review and decision upon the engineering plans, if required; and
- C. Review and decision upon the preliminary Major subdivision; and
- D. Review and decision upon the final Major subdivision.

10-4-4: Review Merger. The applicant may request that review and decision on the preliminary Major subdivision with any other land use action (conditional use permit, rezone or zoning code

amendment) be merged in one decision. The merged decision will be made following the procedures for the preliminary Major subdivision.

- A. The applicant shall submit all plans and information in the detail required for the Major subdivision and the other land use action.
- B. Unless the applicant requests otherwise, the Administrator shall process a preliminary Major subdivision simultaneously with an application for a zoning ordinance amendment (rezone), variance, mixed use development or other development approval to the extent that procedural requirements for those actions allow.

10-4-5: Preliminary Major Subdivision Procedure. The Administrator will process an application for a preliminary Major subdivision pursuant to the following:

- A. Sketch Plat Review: The developer shall submit for a sketch for review by the administrator prior to the submittal of a formal application. The Administrator shall make the developer aware of possible questions and the applicable requirements of this ordinance.
 - 1. Public Comment before Planning and Zoning Commission's Recommendation.
 - 1. Who May Participate. Any person may participate in the hearing.
 - 2. How to Participate. A person may participate in the hearing by submitting written comments on the application to the Administrator no later than the final date of the comment period.
 - 3. A person may participate by providing verbal testimony to the Franklin County Planning and Zoning Commission and/or the Franklin County BOCC during the public hearing.
 - C. Notification. The applicant shall prepare and provide the County with a list of all adjoining landowners and agencies that are to receive notice. The applicant shall be responsible for providing all notices, including addressed and stamped envelopes. The list, prepared notices, and envelopes shall be delivered to the Administrator for verification of compliance and for final mailing.
 - 1. The Administrator shall notify by first class mail all owners of record within 1,000 feet of the outside perimeter of site of the proposed minor subdivision application and provide fifteen (15) days for written comment. The Administrator shall also post a notice of the application no less than fifteen (15) days prior to the hearing in the paper of general circulation. The agenda shall be published in the County's web site.
 - 2. Notification shall be provided for both the Planning and Zoning Commission hearing and the BOCC hearing.
 - 3. All required notices shall provide the following information: a copy of the proposed subdivision showing lot configurations, the name of the proposed development; the address of the development site, or another general description by which the public can identify the site; the proposed use and, for subdivisions, the proposed number of lots and average proposed lot size; the body (commission and/or BOCC) that will conduct the hearing; the date, time, and place of the hearing; a statement of the

availability of application materials for public review, and the statement; “The Public is encouraged to give notice of special conditions, easements or potential hazards.”

2. Preliminary Major Subdivision – Planning & Zoning Commission Recommendation.
 1. Decision Criteria. The Planning and Zoning Commission will hold a public hearing and make a recommendation to the BOCC to approve or approve with modifications if:
 - a. The preliminary Major subdivision makes appropriate provisions for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste; and
 - b. The public interest is served by the Major subdivision; and
 - c. The preliminary Major appropriately considers the physical characteristics of the proposed Minor land division site; and
 - d. The proposal complies with all applicable provisions of the Franklin County Comprehensive plan and this Ordinance; and
 - e. Each lot in the proposal can reasonably be developed in conformance with current Ordinance requirements without requiring a variance; and
 - f. All necessary utilities, streets or access, drainage and improvements are planned to accommodate the potential use of the entire property.
 2. Written Decision of the Planning and Zoning Commission. The Planning & Zoning Commission shall issue a written decision which contains the following:
 - a. A statement indicating that the application is approved, approved with modifications or denied;
 - b. A statement of any conditions included as part of an approval;
 - c. If denied, a statement of what could be complete/modified to receive approval;
 - d. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts;
 - e. A statement of the right of any person who participated in the decision to appeal the decision of the BOCC as provided for in Chapter
3. Preliminary Major Subdivision – BOCC Decision. No decision shall be deemed final until acted on by BOCC. The BOCC shall hold a public hearing for all Major subdivisions following the same notice and hearing procedures as the Planning and Zoning Commission prior to rendering a decision.
 1. Written Decision of the BOCC. The Board of County Commission shall issue a written decision which contains the following:
 - a. A statement indicating that the application is approved, approved with modifications or denied;
 - b. A statement of any conditions included as part of an approval;
 - c. If denied, a statement of what could be complete/modified to receive approval;

- d. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts;
 - e. A statement of the right of any person who participated in the decision to appeal the decision of the BOCC as provided for in Chapter 5 of this Code.
2. Distribution. Upon approval by the BOCC the Administrator shall mail the written decision to the applicant.

10-4-6: Preliminary Major Subdivision– Appeal. The decision of the BOCC may be appealed by parties of record in accordance with the appeal procedure of Chapter 5 of this code.

10-4-7: Preliminary Major Subdivision – Expiration. A preliminary Major subdivision automatically expires and is void if the applicant fails to file for approval of the final Major Subdivision within one year of the effective date of the preliminary Major Subdivision approval unless:

- A. The applicant has received an extension for the preliminary Major subdivision pursuant to 10-5-8; or
- B. The preliminary Major subdivision approval provides for a greater time period.

10-4-8: Preliminary Major Subdivision – Extension. The Administrator may extend a preliminary Major Subdivision not to exceed two years, if:

- A. A written request for extension is filed at least 30 days before the expiration of the one-year period; and
- B. Unforeseen circumstances or conditions necessitate the extension of the preliminary Major subdivision; and
- C. The applicant provides a construction phasing plan and schedule; and
- D. Termination of the preliminary Major subdivision would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
- E. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary Major subdivision was first granted; and
- F. An extension of the preliminary Major subdivision will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole.
- G. The Administrator may grant no more than two extensions.
- H. A second extension not to exceed six months may be granted if:
 - 1. A written request for extension is filed at least 30 days before the expiration of the first extension; and
 - 2. The criteria listed in 10-5-8 (A-G) of this section are met; and
 - 3. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed.

10-4-9: Preliminary Major Subdivision– Assurance Device. All required improvements shall be constructed prior to the submittal of a standard final application. The Administrator may

require a reasonable assurance device to ensure that the improvements comply with the required warranty period of one (1) year post construction.

10-4-10: Preliminary Major Subdivision – Effect of Approval. The approval of a preliminary Major Subdivision by the Administrator is approval of the general acceptability of the layout and its relation to adjoining properties. Engineering detail, if required, remains subject to the approval of the Planning, Zoning and Building Department, County Road and Bridge Department, and any other applicable county, state or federal agencies.

1. After final approval of engineering drawings for public or private facilities within an approved preliminary Major, permits for the development of the standard improvements may be issued and work commenced. Such permits shall be contingent upon compliance with the conditions specified on the approval of the preliminary Major subdivision, conformance with all applicable development standards, the payment of all fees, and the submittal of assurance devices as may be required.
2. The approved preliminary standard subdivision, including conditions, shall be the basis for approval of the final standard subdivision. However, if the preliminary standard subdivision's approval is based upon incorrect or misleading information supplied by the Applicant or if conditions were inadvertently omitted or mistakenly imposed which conflict with the provisions of any federal, state or local laws, ordinances, resolutions, rules or regulations in effect at the time of vesting, the preliminary standard subdivision approval and conditions may be re-considered without complying with all of the procedures for preliminary standard subdivision approval.

10-5-11: Final Major Subdivision– General. The Applicant must submit the final Major subdivision within one year of the effective date of the preliminary Major subdivision approval or the extension date, if granted.

- A. **Final Major – Applicable Procedure.** The Administrator will process an application for a final Major subdivision as provided in the following requirements:
 1. The Administrator shall specify the submittal requirements, including type, detail and number of copies for a final Major subdivision to be deemed complete and accepted for filing. See Appendix A.
 2. The Administrator may waive specific submittal requirements determined to be unnecessary for review of an application.
 3. The final Major subdivision shall be placed on the BOCC's consent agenda for approval prior to county signature of the final plat,
- B. **Final Major – Decision Criteria.** The Administrator shall recommend to the BOCC for approval a final Major subdivision if it conforms to all conditions and requirements of the preliminary Major subdivision approval.

- C. **Final Major Subdivision – Recording Required.** Upon final Major Subdivision approval, the Administrator will forward an approved Major subdivision to the County Clerk for recording. Signatures of approval from the appropriate, authorized administrators, The Chairman of the County Commissioners, the County Road Department Supervisor or Engineer, and the Planning, Zoning Administrator and County Treasurer and other signatures required by the State ID Code 50-1304 shall constitute approval by the County for recording of the Major subdivision. No approval of a final Major subdivision is deemed final until the plat is recorded and proof of recording is received by the Planning, Zoning and Building Department.
- D. **Final Major Subdivision- Amendment.** Land within a Major subdivision may not be further subdivided in any manner except by a submittal of a Major subdivision application.
 - 1. Major subdivisions may be amended in accordance with the following requirements: (1) All affected ownership interests within the originally recorded Major subdivision must be a party to the amendment application, or must express written agreement to the proposed amendment including written agreement to accept ownership of any property, or to transfer or convey ownership of any property, which may be necessary as a result of the Amendment.
 - 2. Any features contained in the original Major subdivision which have been relied upon in subsequent land development or land use planning decisions and which are still applicable at the time of application shall be incorporated in the subdivision amendment, unless such features are provided by other legal means at the time of the subdivision amendment.
 - 3. Procedures and requirements established by this chapter for preliminary Major subdivision approval shall be applicable to amendment requests. Amendments shall comply with applicable conditions and provisions of the original plat or Major subdivision and shall not adversely affect access, easements, or any land use requirements as provided for in the laws of the County.
 - 4. Approval of any amendment shall be filed and recorded as a supplemental declaration of major subdivision which shall contain the adjusted legal description and shall be effective upon being recorded by the Administrator with the County Clerk and upon receipt of proof of recording.

10-6: Conservation/Cluster Development. Conservation Development (also known as Cluster Developments) will be encouraged in order to provide the permanent preservation of open space within the County through the use of a conservation easement this tool can be used to increase overall open space within a development as well as to preserve areas where active agricultural land and sensitive areas such as wetlands, wildlife habitat, floodplains, slopes, and hazards exist.

Generally, the building lots in a conservation development are grouped, or clustered to reduce the need for public improvements and roadway extensions. A common lot within the development shall be used for community water and septic systems to serve the residential uses. The remainder of the site is called the preservation parcel.

Conservation developments are an alternative approach to the conventional lot-by-lot division of land in rural areas identifying the zones we want them in which spreads development evenly throughout a parcel with little regard to impacts on the natural and cultural features of the area. Conservation developments enable developers to concentrate units on the most buildable portion of a site while preserving agricultural uses, natural drainage systems, preservation parcel, and environmentally and/or culturally sensitive areas.

Conservation developments, when properly designed and implemented, can protect increased overall open space within the county, protect sensitive areas, protect blocks of agricultural land, and promote areas where agricultural and residential activities can co-exist.

10-6-1: Who May Apply. The property owner or his/her authorized agent may apply for a conservation subdivision.

10-6-2: General Requirements. Conservation development standards apply to:

- A. Areas in which the preservation of agricultural lands/production creates a hardship for conventional development;
- B. Areas with natural features that create a hardship for conventional development and are to be preserved; and/or
- C. Areas of critical concern including wetlands, floodplains, and habitat areas.

10-6-3: Conservation Subdivision Process. Conservation Subdivisions shall be processed in the same manner as a standard or major subdivision, Chapter 10-4 or 10-5 of this code.

10-6-4: Minimum Lot Size. Cluster lots may be smaller than the minimum lot size for the applicable zoning district, provided that the individual residential lots are not reduced below 1 acre in size and the following requirements are met:

- A. Community water and sewage disposal provisions can be provided within a common lot area.
 - 1. Wells, Sewage Disposal Facilities Within Common Lot Areas: Individual and/or common wells and sewage disposal facilities may be provided within designated common lot areas to allow for maximum efficiency of cluster lot design and minimize potential negative impacts to the environment. Applicable easements for the facilities shall be shown on the final plat.
- B. Preservation Of Common Areas/ Agricultural Areas. Common areas open space and/or agricultural areas shall be preserved as permanent open space, until such time that municipal/central service area available to the site. Open Space/Agricultural areas is subject to the following standards:
 - 1. A management plan is required for the designated common open space/agricultural land. The plan shall be submitted and approved with the preliminary plat application. The plan shall include all of the following items:
 - a. Details concerning ownership, tax liability and responsible parties for maintenance of open space.

- b. Use of the designated common open space shall be detailed for the development.
- c. Details concerning permanent protection of open space./agricultural use.
- d. Details on maintenance of the open space, including control of noxious weeds.
- e. Agricultural preservation does not require common area access to active agricultural operations and land.
- f. Detail of any construction activities (trails, fencing, agricultural buildings) and vegetative clearing that may occur on site.
- g. Developments with active agricultural shall include a plat note about the use of the open space for agricultural use and the Idaho Right to Farm Act I.C. Title 22, Chapter. 45.
- h. CC&Rs and/or a shared maintenance agreement will be required for all shared roads, septic and wells.

10-6-5: Conservation/Cluster Design Standards:

- A. General considerations. Conservation subdivisions shall identify a theme or themes for the subdivision. The theme(s) shall be identified at the time of initial application. Conservation themes may include, but are not limited to, forest stewardship, water quality protection, farmland preservation, natural habitat restoration/preservation, view-shed preservation, or archaeological and historic properties preservation. The Commission shall have the ability to provide suggestions as to which areas shall be preserved.
- B. Residential lot requirements
 - 1. Most lots shall take access from interior local roads.
 - 2. Lots shall be configured to minimize the amount of road length required for the subdivision.
 - 3. Lots should be configured in a manner that maximizes the usable area dedicated for the preservation parcel(s) with appropriate buffers between the preservation parcel(s) and residential uses if feasible.
 - 4. Storm water management should maximize the use of open swales, infiltration areas, etc.
- C. Residential Cluster Siting Standards.
 - 1. Residential clusters shall be located to minimize negative impacts on the natural, scenic, and cultural resources of the site and conflicts between incompatible uses.
 - 2. Residential clusters shall avoid encroaching on critical areas.
 - 3. Whenever possible, residential lots should abut upon, or have direct access to the preservation parcel.
 - 4. Whenever possible, the preservation parcel shall connect with existing or potential open space lands on adjoining parcels and local or regional recreational trails.
 - 5. Residential clusters should be sited to achieve the following goals, to the extent practicable:

- a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - b. Minimize disturbance to existing features, such as woodlands, wetlands, grasslands, and mature trees, etc.
 - c. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
 - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of building placement, landscaping or other strategies.
 - e. Protect archaeological sites and existing historic
- D. Preservation/Open Space Parcel Design.
- 1. Preservation parcel. The uses within the preservation parcel with the exception of active agriculture shall be accessible to the residents of the development. These uses may also be available to the general public, if so designated and adequate public access is provided. The required preservation parcel may be divided into more than one parcel due to natural features and constraints of the parent parcel being subdivided. A single dwelling unit may be allowed on one preservation parcel if it does not impede the purpose of the preservation parcel.
 - 2. The preservation parcel shall be designated as part of the development. The preservation parcel shall make up a minimum of 50% of the gross acreage of the subdivision area.
 - 3. That portion of the preservation parcel designated to provide plant and animal habitat should be kept as intact as possible. Roads, trails and other access should be designed in a manner that avoids fragmenting these areas.
 - 4. Any pathway or trail system should be designed to connect residential cluster areas to the preservation parcels.
 - 5. Preservation parcels and their theme(s) shall be compatible with neighboring uses.
- E. Permitted uses for preservation parcels. The uses allowed on preservation parcels include such uses as farming, conservation areas, non-ACO livestock uses including pastures, public or home owner parks, etc. No commercial uses beyond agriculture shall be allowed in an open space parcel. Other conditional uses may be permitted upon consent of the Commission.
- F. Ownership of Preservation parcels and Common Facilities. The ownership of the preservation parcel must be by a method which will ensure the perpetual protection and maintenance of the preservation parcel and prohibit further development. The designated preservation parcel and common facilities may be owned and managed by one or a combination of the following, providing approval from the Commission is obtained:
- 1. A homeowner's association. A homeowner's association shall be established that requires mandatory membership for all purchasers of lots in the development and their successors. A copy of the proposed homeowner's association bylaws, CCR's etc. shall be approved by the Commission before final plat approval is granted.

2. A non-profit conservation organization. If the preservation parcel is to be held by a non-profit organization, the organization must be acceptable to Franklin County. The conveyance to the non-profit organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
 3. Public dedication of the preservation parcel. Franklin County may accept the dedication of fee title or dedication of a conservation easement to the common preservation parcel. Franklin County may accept all or part of the preservation parcel provided:
 - a. The preservation parcel is accessible to the general public.
 - b. Franklin County agrees to and has access to maintain the preservation parcel.
 - c. Private Ownership. An individual, partnership, corporation, or any other legal entity may hold fee title to the land for agricultural use or while a non-profit conservation organization or other qualified organization holds a conservation easement prescribing the acceptable uses for the preservation parcel.
- G. Maintenance plan for preservation parcels and common facilities. Every conservation subdivision must include a plan that provides evidence of a means to properly manage the preservation parcel so it will support the conservation theme(s) for which it was established in perpetuity and evidence of the long term means to properly manage and maintain all common facilities. The plan shall be approved by the Commission prior to final plat approval. The plan shall do the following:
1. Designate the ownership of the preservation parcel and common facilities in accordance with F above described.
 2. Establish necessary regular and periodic operation and maintenance responsibilities.
 3. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 4. Include a land stewardship plan specifically focusing in the long-term management of the preservation parcel and facilities.
 5. In the event that the organization established to own and maintain the preservation parcel and facilities, or any successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition in accordance with the maintenance plan and all applicable laws, rules, ordinances, and regulations, Franklin County may serve written notice upon such organization and upon the residents and owners of the preservation parcel and common facilities, setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, in which case Franklin County may enter the premises and take corrective action.

6. The costs of corrective action by Franklin County shall be assessed ratably in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. Franklin County, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the Office of the Recorder upon the properties affected by such lien.
- H. Management plans can be amended by the owner(s) of the preservation parcel with the approval of the BOCC.

Chapter 11: Vacations

11-1: What this Chapter does. This chapter established the process for vacation of plat within Franklin County.

11-2: General. Vacation of any plat, or any portion of a plat, may be proposed, following the procedure provided here and in I.C. 50-1306A.

11-3: Process. Following is the process for a vacation of a plat:

11-3-1: The Administrator shall review the petition for completeness and forward the request to the Commission for action.

11-3-2: The Commission shall hold a hearing consistent with IC 50-1306A and provide a recommendation to the BOCC.

11-3-3: The shall hold a duly noticed hearing consistent with IC 50-1306A and take action to approve or deny the vacation. The Council may approve, deny or modify the application. Whenever public rights of way or lands are vacated, the Council shall provide adjacent property Owners with a quitclaim deed for the vacated rights of way in such proportions as are prescribed by law.

11-4: Notice. Notice of petition of vacation shall be provided as follows for both the Commission and BOCC Hearings:

- A. Written notice to the Commission and/or BOCC hearing shall be provided by first class mail to land owners and affected agencies within 300-feet of the site at least ten (10) days prior to the hearing. The County shall retain proof of mailing.
- B. Notice shall be published in the official newspaper once a week for two (2) successive weeks in the official newspaper, the last of which shall be not less than seven (7) days prior to the date of said hearing; provided.
- C. If the petition to vacate is located within one (1) mile of the boundaries of any city, written notice of the public hearing on the petition to be given to the mayor or chief administrative officer of the city by regular mail at least thirty (30) days prior to the date of public hearing.

11-3-2: The commission shall review the proposed vacation and recommend that the vacation either be accepted or denied by the BOCC.

11-3-3: Upon receipt of the Commission's decision the Administrator shall:

- A. Notify the BOCC and the petitioner of the commission's recommendation within 15 days, and unless the petitioner withdraws the petition.
- B. Place a hearing on the proposed plat vacation on BOCC's agenda.

**APPENDIX A - DETAILED STANDARDS FOR
THE PLATTING MINOR LAND DIVISIONS AND SUBDIVISIONS
PRELIMINARY PLATS**

Purpose. This appendix establishes standards for the form and content of record of surveys and subdivision plats. The requirements imposed are in addition to the requirements of state law.

Record of Survey. A record of survey shall include:

1. Minor Land Divisions or records of survey shall meet all requirements for a record of survey, see I.C. 55-19,
2. A title block showing the name of the proposed project and its location by quarter-quarter section, section, township, range, principal meridian, county, and state.
3. The name, address, and registration number and seal of the Professional Land Surveyor who prepared the plat and that person's certification that the plat is accurate and that the monuments described in it have been located and/or established as described.
4. A vicinity map that locates the proposed project that shows major road ways and watercourses adjacent to or near the project.
5. Minor Land Division surveys shall be submitted for review by the Planning & Zoning Administrator as follows: Five (5) copies on sheets no smaller than tabloid size (11" x 17"), and at least 1 digital copy.
6. Surveys shall be submitted for recording shall be 18" x 27" and shall comply with all requirements of I.C. 55-19
7. The location and a description of all existing monuments found and/or established during the course of the survey.
8. The location, nature, and boundaries, with bearings and distances, of all existing public ways and public or private easements in or adjacent to the project, including the recorded information establishing those ways or easements.
9. The exterior boundaries of the proposed project, with all bearings and distances, including curve data for curving boundaries;
10. The location, exterior dimensions, and number of all proposed parcels, or other parcels created by the survey, including bearings and distances and curve data for curving boundaries.
11. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance;
12. The names of all roads, including the widths and boundaries of all road rights-of-way and utility easements, including bearings and distances and curve data for curving boundaries;
13. Signature block for the Planning & Zoning Administrator and county commissioner.
14. A statement designating the method of sewage disposal and the method by which culinary water will be provided to each parcel.
15. The appropriate sanitary restriction certificate.
16. A certificate for use by the county recorder in recording the plat after its approval.
17. Any other information required for compliance with this ordinance and Idaho Code.
18. A certificate by owner that irrigation water will, or will not remain on the parcel and the number of shares for each parcel, said certificate must comply with I.C. 31-3805.

Preliminary Plats for Standard, and Major Subdivisions.

1. Preliminary Plat Part of Application. A preliminary plat is one part of the application for Standard, Major and Conservation/Cluster Subdivisions and shall accompany the official application form, fees and all other materials required for a complete application.
2. Preliminary Plats to Be Comprehensive. Preliminary plats shall cover the entire area to be developed by one owner or a group of related or associated owners, even when it is anticipated that development will be phased or occur in the form of multiple subdivisions over several years. An application for a subdivision permit may be rejected as incomplete solely because it covers insufficient area.

Preliminary Plat. Preliminary plats shall include:

1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county, and state.
2. The name, address, and registration number of the Professional Land Surveyor who prepared the preliminary plat.
3. A north point and both graphic and written scales.
4. A vicinity map that locates the proposed subdivision within the section and shows major roads and watercourses adjacent to or near the subdivision; and the boundaries of and recorded names of all adjacent or nearby subdivisions.
5. Preliminary plats shall be submitted as follows: 8 copies on sheets no smaller than tabloid size (11" x 17"), and at least 1 digital copy. All construction and road plans shall be on 18" x 24" minimum sized sheets.
6. The location, nature, and boundaries of all existing public ways and public or private easements in or adjacent to the proposed subdivision, including the county book and page number references to the instruments establishing those ways or easements or instrument number.
7. A statement of intended use of the proposed development, such as single family residential, multiple family residential, agricultural, commercial, industrial, or recreational, and showing of any sites proposed for parks, playgrounds, schools, churches, or any other public use.
8. A statement of the current land use of the proposed development and adjacent lands.
9. The location of all existing utility lines in or adjacent to the proposed subdivision.
10. The exterior boundaries of the proposed subdivision.
11. Topography by contours, related to an identified survey datum. The contour interval shall be such as to adequately reflect the character and drainage of the land.
12. The location, exterior dimensions, and number of proposed lots and blocks or other parcels created by the subdivision.
13. The acreage of each proposed lot and a table showing the total acreage of the area proposed for subdivision, the total acreage in lots, the total acreage in roads, and the total acreage of parcels proposed for dedication to public use or to be held in common by the lot owners.
14. The names of all proposed roads, including widths and boundaries of all proposed road rights-of-way and utility easements.
15. A statement designating the method of sewage disposal with the subdivision, and a statement indicating the method by which culinary water will be provided to all lots within the subdivision
16. Preliminary calculations and layout of the proposed system for storm water disposal or retention.
17. Location of wetlands, rivers, ponds, watercourses, water wells, streams, canals, irrigation structures, irrigation laterals, buried main lines, private ditches, washes, lakes or other water

features, including direction of flow, location and extent of areas subject to inundation, whether such inundation be frequent, periodic, or occasional.

18. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance.
19. Any other information required by this ordinance.
20. A certificate by owner that irrigation water will, or will not remain on the parcel and the number of shares for each parcel, said certificate must comply with I.C.31-3805.
21. Scale and Dimensions. Preliminary plats shall be prepared at an appropriate scale which reflects the character and details of the subdivision in a legible manner. All dimensions shown shall be in feet and decimals thereof. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map which may be combined with the vicinity map.

Final Plats. Contents of Final Plats. All final plats submitted shall be prepared in compliance with Chapter 13, Title 50 of the Idaho Code, as amended, and shall include all information listed below:

1. A title block showing the name of the subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county, and state.
2. The name, address, and registration number and seal of the Professional Land Surveyor who prepared the plat.
3. A north point, both graphic and written scales, and the basis of bearing of the survey.
4. Final plats submitted for review shall be submitted as follows: 8 copies on sheets no smaller than tabloid size (11" x 17"), and at least 1 digital copy.
5. Final plats submitted for recording shall be 18" x 27" and shall comply with all requirements of I.C. 50-1304, & I.C. 50-1310,
6. The Point of Beginning for the subdivision, with ties to at least two public land survey corners, or as allowed by I.C. 50-1304.
7. The location and a description of all existing monuments found and/or established during the course of the survey.
8. The location, nature, and boundaries, with bearings and distances, of all existing public ways and public or private easements in or adjacent to the subdivision, including the county instrument number (or book and page) references of the instruments establishing those ways or easements.
9. The exterior boundaries of the subdivision, with all bearings and distances, including curve data for curving boundaries;
10. The location, exterior dimensions, and number of all lots and blocks, or other parcels created by the subdivision, including bearings and distances and curve data for curving boundaries.
11. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance;
12. The names of all roads, including the widths and boundaries of all road rights-of-way and utility easements, including bearings and distances and curve data for curving boundaries;
13. Conformance with the approved preliminary plat and meeting all requirements and/or conditions thereof.
14. Conformance with all requirements and provisions of the Franklin County Development Code.

15. A signed and dated owner's certificate which includes a complete legal description of the parcel being subdivided, and in which the owners of record dedicate all public ways and other public spaces to public use.
16. A public notary's acknowledgment of the owner's certificate.
17. A signed and dated certificate of consent in which all mortgagors, lienholders, and other parties with any real property interest.
18. A public notary's acknowledgment of the certificate of consent.
19. A certificate for signature by the county treasurer stating that all real property taxes due on the land being subdivided have been paid.
20. Certificates for plat approval by the commission, BOCC, Road Department, and County Engineer (when improvements are required by engineering).
21. A statement of "sanitary restriction", as required by I.C. 50-1326.
22. Certificate by owner that water will, or will not be provided in accordance with I.C. 50-1334.
23. A certificate for use by the county recorder in recording the plat after its approval.
24. Any other information required for compliance with this ordinance and Idaho Code.
25. A certificate by owner that irrigation water will, or will not remain on the parcel and the number of shares for each parcel, said certificate must comply with I.C.31-3805.
26. Scale and Dimensions. Preliminary plats shall be prepared at an appropriate scale which reflects the character and details of the subdivision in a legible manner. All dimensions shown shall be in feet and decimals thereof. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map which may be combined with the vicinity map.

Subdivision Design Standards.

1. Blocks.

- A. Block lengths shall not exceed fifteen hundred (1500) feet, nor shall they be less than four hundred (400) feet; except where the average lot size is one-half (1/2) acre or more, in which case the maximum block length may be exceeded.
- B. Block designs shall provide for two tiers of lots except under special conditions where this is not feasible or practical

2. Pedestrian walkways. Pedestrian walkways may be required where essential for circulation or access to schools, playgrounds, shopping centers, preservation parcels, open space, etc.

3. Lots.

- A. No lot shall be divided by County, City, School, or any other taxing district boundary line.
- B. All lots shall comply with lots sizes and dimensions based on Chapter 8 of the Franklin County Development Code.
- C. Multi-family lots served by a centralized culinary water system and sewage disposal system shall contain a minimum of 7,260 square feet per dwelling unit, exclusive of road rights of way, or as required by the Southeastern District Health Department. If the lot is not served by community water and sewage disposal systems, the minimum lot size shall be determined by the County. Multi-family uses shall comply with the standards of Chapter 9 of this code.
- D. Lot sizes shall be adequate to provide for sufficient off-road service and parking facilities required by the proposed use.
- E. Where subdivision lots contain less than 200 feet of frontage, the depth of the lot shall not be greater than three times the average width of the lot.

- F. All property within a subdivision shall be included in one or more of the following: building lots, roads, open space, common space, or a preservation parcel(s).
- G. Each lot shall be suitable for its designated use.
- H. Accommodations must be made to provide one or more acceptable centralized US Mail stations and be reflected on the Final Plat.

APPENDIX B - STANDARDS FOR THE DESIGN AND CONSTRUCTION OF ROADS

Purpose. The purpose of this appendix is to provide classifications and definitions of roads; to provide standards for the construction and design of new roads in subdivisions; to provide for the improvement and/or reconstruction of existing private roads in existing subdivisions; to provide for the improvement and or reconstruction of county roads used to access new subdivisions. All review costs associated with the (including but not limited to) review, approval, inspection, and certification shall be borne by the developer through reimbursement to the county.

A. DEFINITIONS

1. Classifications of Roads
 - a. Paved surface –a minimum of 12’ travel lanes (Arterial Road)
 - b. Paved surface –a minimum of 12' travel lanes- (Collector Road)
 - c. Paved surface –a minimum of 10’travel lanes (Local Road)
 - d. Asphalt surface -various widths (asphalt & BST) Year around maintained
 - e. Gravel Roads - Gravel surface -Winter Maintained
 - f. Gravel Roads -Gravel surface - Seasonal/Minimal maintained
 - g. Unimproved/ Primitive - two track, public right-of-way, not maintained
1. Definitions of Roads
 - a. Local Road – A street that provides for direct access to residential, commercial, industrial, or other abutting land for local traffic movements and connects to collector and/or arterial streets.
 - b. Collector Road – A street that provides for traffic movement between neighborhoods of the Local Highway Jurisdiction (LHJ) and for direct access to abutting property.
 - c. Arterial – A general term including expressways, interstates, state or county highways having regional continuity.

B. CONSTRUCTION STANDARDS (See Figure 1 & 2 below)

1. The County shall adopt by resolution, county road standards and regulations (titled: “Highway Standards and Roadway Development Procedures”, incorporated herein by reference and available at the Franklin County Courthouse) pertaining to the design, construction, and maintenance of the county Roadway system. Plans and documents reflecting the required standards and regulations shall be submitted with the application of a preliminary plat.
2. The highway standards and development procedures provided within the “Highway Standards and Roadway Development Procedures” shall apply to all the Franklin County road systems. These standards shall supplement all other regulations, and where at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply. The BOCC may determine that revisions to the “Highway Standards and Roadway Development Procedures” are warranted and make such revisions by act of resolution.
3. All new roads within subdivisions serving 4 or more lots in the County must be designed and built to a minimum of a Class-C standards prior to Franklin County Road and Bridge Department accepting said roads for subsequent maintenance geotechnical investigation is

performed and/or ADT shows that the cross section within these standards could be altered. The alternate cross-section must be approved by the County Engineer prior to construction.

4. All plans for new road construction must be presented to and approved by the County Engineer and County Road Department prior to preliminary plat approval.
5. All roads must be completely built.
6. Required right-of-way: Local Roads 50 (fifty) feet minimum; Collector Roads 50 (fifty) feet minimum; Arterial Roads 80 (eighty) feet minimum.
7. The County Road and Bridge Department shall be notified a minimum of one (1) week prior to commencement of construction so that verification testing and inspections may be scheduled. Inspections and testing costs incurred by the County shall be paid by the entity desiring the County to accept said road. Any portion of the road found not to meet minimum standards shall be improved and/or corrected until minimum standards are achieved before road construction can continue. Once the road construction has been completed and all standards have been verified by the County Engineer and Road and Bridge Department, the developer will be notified by a formal letter of acceptance one year after construction is completed.

C. DESIGN STANDARDS. The arrangements, character, extent, width, grade and location of all roads shall conform the Highway Standard and Roadway Development Procedures for Franklin County, and any standard specifications and drawings adopted by the Franklin County Commissioners, and shall be constructed in relation to other planned roads, to topographical conditions, to public convenience and safety, and in their relation to the proposed uses of the land to be served by such roads.

1. New developments shall be sited where roads and other public facilities are adequate. Roadway adequacy means roads that are classified as A, B, C, D or E serve the property.
2. When a new development changes the definition or the demand on a county road by increasing the Average Daily Traffic, the developer may be required to participate in the cost of upgrading said county road and the cost of obtaining easements. All construction on any county road must be done under the direction of the Franklin County Road Department.
3. New Developments accessed by existing private roads shall be required to participate in the cost of upgrading of said private road surface and the cost of obtaining easements.
4. A traffic study may be required for all standard, Major and Conservation/Cluster subdivision to show the level at which the developer must participate in improving and/or reconstructing the said road to the standard that will comply with the increase of traffic from the new development. The level of participation will be determined by the County Commissioners before the approval of the preliminary plat. The road upgrade design must be submitted to the County and approved by the County Engineer prior to construction. The developer must cover the expense of any traffic studies or consultation by the County Engineer. A single or minor land division applications are not required to do a traffic study.
5. Any new development or new building sited on a road that has been upgraded by participation of a developer or individual within the past ten (10) years, may be required to reimburse said developer or individual a percentage of the cost of upgrading. The percentage would be determined by the County Commissioners and based on the level of benefit to the new development.
6. The Design Engineer shall specify the ADT and the traffic speed that is to be expected when the subdivision is fully developed.

7. Local or minor residential roads within subdivisions shall be designed to discourage their use by through traffic.
8. Where a subdivision abuts or contains an existing or proposed arterial road, or limited access highway, the County may require frontage roads, reverse frontage roads, or such other treatment for the appropriate use of the tract.
9. For road designs and Standards refer to the Highway Standards and Roadway Development Procedures for Franklin County.

FRANKLIN COUNTY, IDAHO

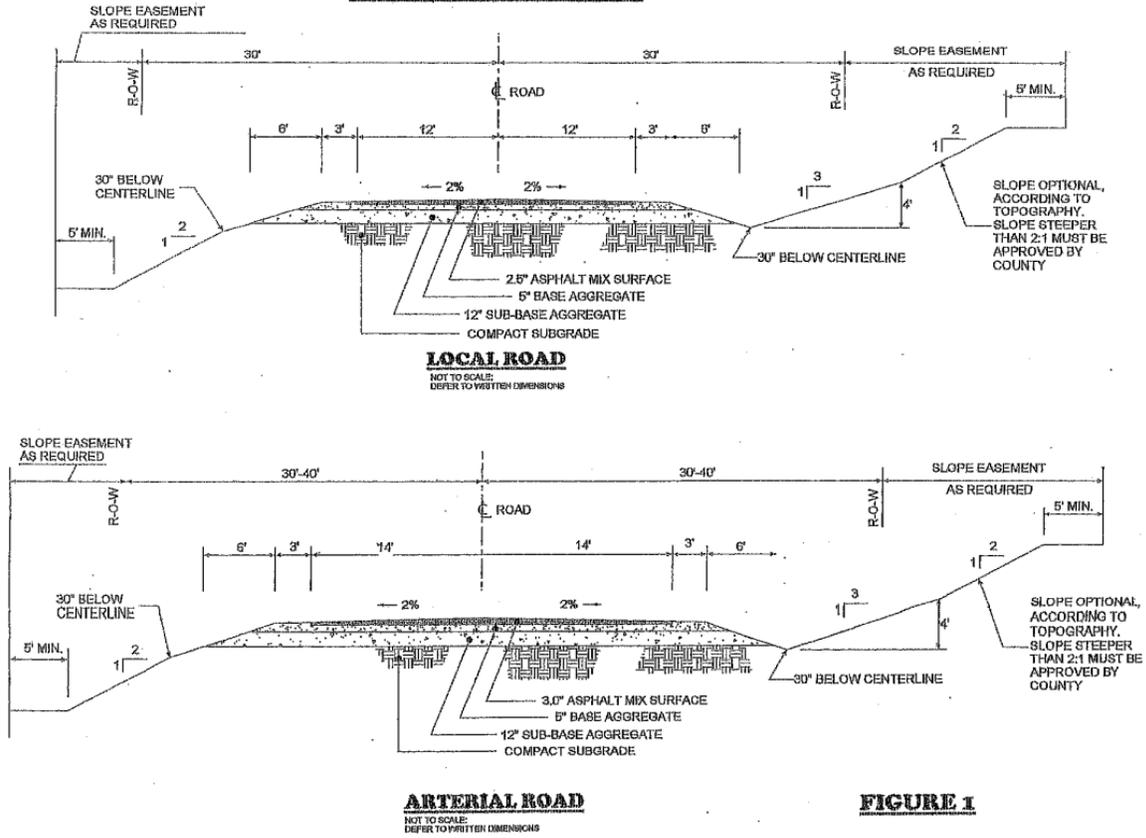


Table 1. Minimum Stopping Site Distance

| Traffic ¹ Speed (mph) | Stopping Sight Distance (feet) | | | | |
|--|--------------------------------|--------------------------------------|---------------------------------------|-------------------------|----------------------|
| | 0-100 vehicles/day | 100-250 Vehicles/day | | 250-400 vehicles/day | >400 vehicles/day |
| | | Lower Risk Locations ² | Higher Risk Locations ² | | |
| 25 | 115 | 115 | 125 | 125 | 155 |
| 30 | 135 | 135 | 165 | 165 | 200 |
| 35 | 170 | 170 | 205 | 205 | 250 |
| 40 | 215 | 215 | 250 | 250 | 305 |
| 45 | 260 | 260 | 300 | 300 | 360 |
| 50 | 310 | 310 | 350 | 350 | 425 |
| 55 | 365 | 365 | 405 | 405 | 495 |
| 60 | 435 | 435 | 470 | 470 | 570 |

¹Choose a speed that includes most traffic on the road. If known, use the 85th percentile speed. This is the speed that 85% of traffic is not exceeding and 15% is exceeding.

²Higher risk locations include intersections, narrow bridges, railroad grade crossings, sharp curves or steep downgrades. Lower risk locations are areas without such features.

SOURCE: AASHTO Geometric Design of Very Low-volume Local Roads and AASHTO's "Green Book"

ROAD INTERSECTION & ACCESS MAXIMUM GRADIENTS

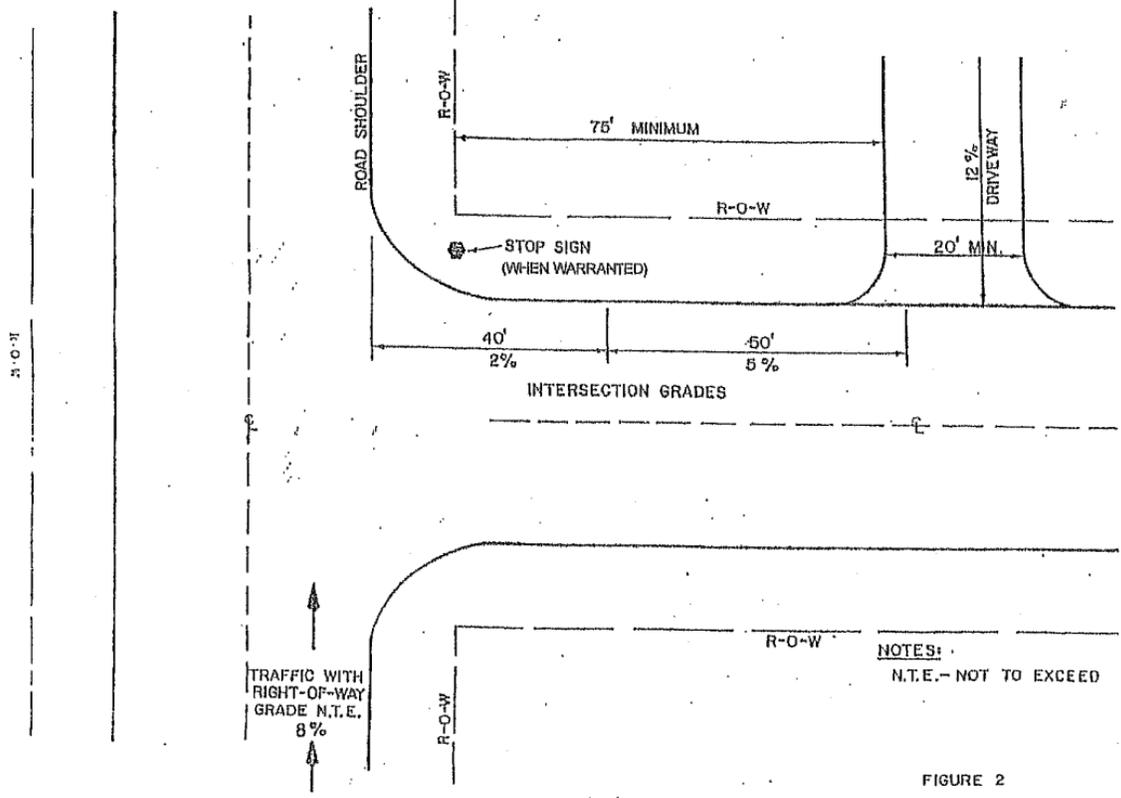


FIGURE 2

APPENDIX C– FIRE PROTECTION FOR SUBDIVISIONS

CHAPTER ONE - GENERAL PROVISIONS

1.1: Purpose. It is the purpose of this ordinance that, through the application of the County’s authority to review and approve residential subdivisions and planned unit developments, adequate fire protection measures will be required in all such developments in order to protect the public health, safety, and welfare. Fire District access design and adequate year around water supply shall be achieved for all residential subdivisions and all planned unit developments through the implementation of the provisions of this fire protection ordinance.

1.2: Jurisdiction. The territorial jurisdiction of this Fire Protection Resolution for New Subdivisions shall include all of the non-incorporated, non-federal lands within Franklin County. In cases of conflict with the State Fire Code the more restrictive standards shall prevail.

1.3: Applicability. For the purpose of this resolution, the term “subdivision” shall be defined in the Franklin County Development Code. For the purpose of administering the provisions of this Resolution, if the subdivision is to be developed in two or more phases, the number of lots shall be the total number of lots in all phases.

CHAPTER TWO - FIRE PROTECTION FEATURES

2.1: Fire District Access Design. The provisions of this section shall constitute design requirements for roads within any land developments and subdivisions.

- A. Road design to be consistent with ordinances. Road width, road surface, road grade, and turn radius shall be consistent with the Franklin County Development Code.
- B. Vertical Clearance. The unobstructed height shall not be less than 13 feet 6 inches.
- C. Bridge Design. Bridges shall be engineered to support the imposed loads of the largest fire apparatus which may use it and shall meet the design requirements of the American Association of State Highways and Transportation Officials Standard Specifications for Highway Bridges, Standard H-15.
- D. Bridge width. The minimum drive surface of a bridge or culvert shall not be less than 20 feet.
- E. Security gates. The installation of security gates across a subdivision road shall be approved by the Fire District. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times.
- F. Additional Access. On the advice of the Fire District, The Planning and Zoning Commission may require more than one fire apparatus access road where the potential for impairment of a single road by vehicle congestion, condition of terrain, climate conditions or other factors could limit access.

2.2: Fire protection water supplies. A year around water source for firefighting purposes shall be provided for subdivisions. All systems shall be subject to Fire District review and approval prior to installation.

- A. **Subdivisions with seven lots or more.** All Standard and Major subdivisions with seven lots or more shall provide a water source in one or more of the following forms:
 - 1. A central main system with hydrants.
 - 2. A fire well with pump, hydrant, and reliable power source.
 - 3. Storage tanks with hydrants.
 - 4. Dry hydrant with cistern type storage, provided the water table is capable of year around flow.
 - 5. Other approved types suitable for year around use.
 - 6. Where more than one water source is required, they shall be spaced throughout the subdivision.
- B. **Water source requirements.** Water sources will meet the following requirements:
 - 1. Storage and/or delivery systems must be capable of delivering a minimum of 500 gallons per minute for twenty minutes.
 - 2. There will be one water source for subdivisions of seven to fifteen lots.
 - 3. An additional 500 gallons need to be added for each additional lot.
 - 4. Hydrants shall be dry barrel type with two 2 ½ inch outlets and one 6-inch male outlet, all with national standard thread.
 - 5. Hydrants shall be located adjacent to roadways with the six-inch outlet facing the road. They shall not be placed more than ten feet from the side of the roadway.
 - 6. Hydrants shall be installed so the center of the six-inch outlet is 36 inches above the finished grade.
 - 7. Hydrants shall be free of obstructions, including piles of snow.
 - 8. Access must be provided to all hydrants by way of an all-season driveway including hydrants on ponds etc.
 - 9. Consideration should be given in the design process to make sure the water source can deliver the required flows in all seasons, including winter, when a part of the capacity may be frozen.
- C. **Responsibility** to provide binding documentation. It shall be the responsibility of the developer to provide adequate water supply and system design information to allow fire district review and approval.
- D. **Responsibility to maintain access roads.** It shall be the responsibility of the subdivision to maintain private access roads to include snow removal.
- E. **Responsibility to maintain water sources.** It shall be the responsibility of the Development to maintain the water sources once they are installed. Note: The Fire District may not have access to the water system or water storage for fighting fire outside of the development.
- F. **Inspections.** It will be the responsibility of the Fire District to annually inspect the water source(s) and any associated fixtures and provide a written evaluation to the homeowner's association and/or parties responsible for the water source and related fixtures.