

Franklin County Development Code
Ordinance # 2007-8-13
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*****With Proposed Changes*****

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**FRANKLIN COUNTY DEVELOPMENT CODE
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FRANKLIN COUNTY DEVELOPMENT CODE

CHAPTER 1

PURPOSE, AUTHORITY, AND GENERAL PROVISIONS

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.

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.

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. 67-6511 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.

Conflicting Ordinances Repealed. All prior ordinances are repealed to the full extent of their inconsistency with this ordinance, including, but not limited to Franklin County Ordinance 2006-3.

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 Development code shall be established only by:
 - 1. Having previously received approval for a minor Partition, preliminary plat, and/or a final plat under the previous subdivision ordinance, prior to the adoption of this Development Code; or

2. Having properly submitted a minor partition, preliminary plat, or combined preliminary/final plat under the previous subdivision ordinance, prior to the adoption of this Development Code; 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 Class I or Class II permit in full compliance with its provisions. Such vested rights expire with the permit.

Nonconforming Uses. A nonconforming use is a use that was in existence on the effective date of this Development Code, but would 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 be necessary to prevent community blight.

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

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.

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.

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

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 Local Planning Act of 1975 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.

Board and Commission. "Board" as referred to herein, shall mean the Board of County Commissioners. "Commission" as referred to herein, shall mean the Planning and Zoning Commission.

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

CHAPTER 2

PLANNING AND ZONING ADMINISTRATOR

What This Chapter Does. This chapter establishes the position of the Planning and Zoning Administrator and outlines the duties thereof.

Planning and Zoning Administrator (PZA). The Board 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 for Class I and Class II permits;
- 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 board.
- G. Perform all other duties assigned by this ordinance and assist the commission in the execution of its duties.

Liability. No individual, including board 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 3

ADMINISTRATIVE PROCEDURES

What This Chapter Does. This chapter requires a permit for all non-exempt land development in the county and establishes procedures for the administration of this ordinance.

PERMIT PROCEDURES

Permit Required. A permit shall be required for any division of land, except as specifically conveyed under exemptions.

I) A Class I permit shall be required for:

- A. The division of an original parcel into a maximum of four (4) parcels as long as the following requirements are met:
 - 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 a recorded access of not less than thirty (30) feet in width. Any development containing or requiring new road construction shall require a Class II permit.
 - 3. Lot Size: Lot size requirements will be the same as specified in Appendix A.
 - 4. Record of Survey: The record of survey plat prepared for this type of division is required to be ~~will be~~ reviewed and approved by the Commission and Board.
 - 5. Each parcel shall contain a satisfactory building site which meets the ~~State~~ **Countie** requirements ~~for suitability for water and sewage systems. and be suitable for Sewage disposal. (See Appendix P)~~
 - 6. 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.
- B. Bed and Breakfast Commercial Operations.
- C. Any plat amendment.
- D. Gravel Mining Operations

II) A Class II permit shall be required for:

- A. Any Subdivision as defined by ~~Idaho Code 50-1301-15~~ **this Development Code** (See definitions);
 - 1. The preliminary and final plat may be combined and submitted at the same

time if all of the following apply:

- a. The proposed subdivision does not exceed 10 lots.
 - b. No new road construction or widening, either in, or leading to the development, is required or requested.
 - c. No major special development considerations are involved, such as developments in flood plains, hillside development, or the like.
 - d. All required information for both the preliminary and final plat is complete and in an acceptable form.
2. If the combined application cannot be approved as a combined application, it may be considered a preliminary plat.
- B. Any higher density residential development, including multi-family dwellings, manufactured home parks, or conservation subdivisions.
 - C. Recreational Vehicle Parks, Commercial Campgrounds and/or Recreational Areas.
 - D. Seasonal Residential Subdivisions.

Exemptions for Land Divisions. Exemption of a land division does not exempt development of the parcel created from compliance with this ordinance. None of the listed exemptions shall be used to circumvent Class I or Class II permit requirements. No permit shall be required for:

- A. Any land allocation in the settlement of an estate of a decedent or a court decree for the distribution of specific parcels of property.
- B. Any land division that results from a condemnation proceeding or the voluntary sale or gift of land for a public purpose.
- C. Any land division in which a parcel of 40 acres or larger is taken out of an original parcel *and is treated as an original parcel*.
- D. The adjustment of property lines in which no new parcel is created and no nonconforming lot, parcel, or use results. Plat amendments require a Class I permit.
- E. The division of any original parcel into not more than two (2) parcels, 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.
- F. The conveyance of land which does not result in a change of the present land usage.
- G. Any parcel of land, six (6) acres or less in size that is isolated or separated within an original parcel by county or state roadways, drainage ditches, irrigation canals, railroad rights of way, or natural land formations. Further divisions of these exempt parcels will require either a Class I or Class II permit. 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.
- H. 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.”

Application Forms. Applications for permits shall be submitted on forms provided by the county. All applicable information, including a site plan, and other maps, plans, drawings, tabulations, and calculations, called for on those forms shall be required for a complete application. The commission may require submission of multiple copies of applications and supporting materials.

Application Fees. Application fees for each type of permit established by this ordinance shall be *as* follows:

- A. Class I permit: *\$400.00*
- B. Class II permit: *\$600.00 plus \$50.00 per lot*

Site Inspection. The filing of an application for a permit constitutes permission for the county to conduct inspections of the proposed development site during its consideration of the application.

Class I Permit Procedures. The permit procedures provides for the prompt review of minor developments, Bed and Breakfast operations, and plat amendments, while assuring they have no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The Class I permit procedure shall be as follows:

- A. The developer shall file a properly completed permit application form, including (8) 11” x 17” copies and (1) 18”x 24” copy of the plat/plan, the required supporting materials, and the required application fee with the PZA at least 14 days prior to the Commission meeting at which the application can be reviewed.
- B. The PZA shall review the application, performing a preliminary assessment as to whether or not the application is in compliance with the Franklin County Comprehensive Plan and this Development Code. The PZA shall communicate to the applicant the findings of the preliminary assessment.
- C. The PZA shall place the application on the agenda of the next regular commission meeting at which time it will be reviewed by the Commission.
- D. No application shall be reviewed if the applicant or a representative is not present.
- E. The commission shall determine whether or not the proposed development is in compliance with the comprehensive plan and all requirements of this ordinance. If the proposed development complies with all applicable absolute standards of this ordinance and has a cumulative score of zero (0) or greater, on the relative standards of this ordinance, the application for a permit shall be approved. If the

proposed development fails to comply with any applicable absolute standard of this ordinance or has a negative cumulative score on the relative standards of this ordinance, the application for a permit shall be disapproved. Conditions may be attached to approval of any permit.

- F. If the application is denied by the Commission, the reasons for such denial shall be in writing, stating the specific sections of this Development Code that were not met. A copy of the written denial shall be transmitted to the Board of County Commissioners together with any supporting documentation used by the P&Z Commission.
- G. Plat Amendments. The commission shall determine:
 - 1) whether the lots resulting from the proposed plat amendment are capable of accommodating a use permitted by this ordinance,
 - 2) whether the proposed amendment affects road or utilities access to any lot or adjoining parcel. If the lots resulting from the proposed plat amendment are capable of accommodating such a use and the amendment does not adversely affect access to any lot or adjoining parcel, the commission shall approve the application for a permit and place the proposed plat amendment on the agenda of the next regular board meeting at which time will permit its proper review. If the lots resulting from the proposed plat amendment are not capable of accommodating such a use, or the amendment adversely affects access to a lot or adjoining parcel, the commission shall disapprove the application for a permit.
- H. The commissions decision may be appealed to the board using the appeals procedure. A notice of any such appeal shall be filed with the PZA and the Board of County Commissioners within 45 days after notice of the final decision has been issued.

Class II Permit Procedure. The purpose of the Class II permit procedure is to assure effective regulation of developments that may have significant impacts on public facilities, environmental quality, or neighboring uses. The Class II permit procedure shall be as follows:

- A. The developer may file a request for sketch plan review with the Planning and Zoning Administrator.
 - 1. The PZA shall place the sketch plan on the agenda of the next regular Commission meeting.
 - 2. The Commission shall conduct a sketch plan review. A sketch plan review is not a regulatory proceeding, but an opportunity for the commission to be made aware of the proposal and for the developer to be made aware of possible questions and the applicable requirements of this ordinance.
- B. The developer shall file a properly completed permit application form, including (8) 11" x 17" copies *and (1) 18" x 24" copy* of the plat/plan, the required supporting materials, and the required application fee with the PZA at least 14

- days prior to the Commission meeting at which the application can be reviewed.
- C. The PZA shall review the application, performing a preliminary assessment as to whether or not the application is in compliance with the comprehensive plan and this Development Code. The PZA shall communicate to the applicant the findings of the preliminary assessment.
 - D. No application shall be reviewed if the applicant or a representative is not present.
 - E. The commission shall determine whether or not the proposed development is in compliance with the comprehensive plan and all requirements of this ordinance. If the proposed development complies with all applicable absolute standards of this ordinance and has a cumulative score of zero (0) or greater, on the relative standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute standard of this ordinance or has a negative cumulative score on the relative standards of this ordinance, the application for a permit shall be disapproved. Conditions may be attached to the approval of any permit.
 - F. If the application is denied by the Commission, the reasons for such denial shall be in writing, stating the specific sections of this Development Code that were not met. A copy of the written denial shall be transmitted to the Board of County Commissioners together with any supporting documentation used by the P&Z Commission.
 - G. The Commission's decision may be appealed to the board using the appeals procedure. A notice of any such appeal shall be filed with the commission and the Board of County Commissioners within 45 days after notice of the decision has been issued.

Conditions. Conditions may be imposed on the approval of any permit or variance, provided that those conditions are clearly designed to assure compliance with one or more specific requirements of this ordinance, and that a list of all conditions imposed is provided to the developer with notification of the commission's or board's decision. That list shall specifically identify the provision of this ordinance that the condition is designed to implement.

Notice requirements for Class II permits. Notification of application for Class II permits shall be made at least 21 days before the regular commission meeting at which the application will be first reviewed. Notification shall be as follows:

- A. By first class mail; to all owners of property within 1,000 feet of the proposed development. If the number of property owners required to be notified exceed 15, the following alternate procedure may be used:
 - 1. By Posting; At least 21 days before the regular commission meeting, a sign (or signs) conveying the required notice shall be placed on the site. Such signs shall be clearly visible from the nearest public road

and may be placed at a point of access to the site, acceptable to the PZA, where more effective notice will be made. All adjoining property owners shall be notified by first class mail in addition to the posting.

- B. By first class mail; to all potentially affected public agencies, including the appropriate school district, fire protection district, and other interested parties on a list maintained by the PZA
- C. The developer or his agent/representative shall prepare a list of all ad joiners, land owners and agencies that are to receive notices and shall prepare all notices, including addressed and stamped envelopes. The list, prepared notices, and envelopes shall be delivered to the PZA who shall verify all notice requirements are met, and shall seal and mail the notices.

Hearing Notices. All required notices shall provide the following information: 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 board) 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 “PUBLIC COMMENT IS ENCOURAGED”.

Final Plat: The developer may file a final plat, ~~and the required fee~~, at least 14 days in advance of the next regular commission meeting with the PZA at any time within 18 months after the Class II permit is approved.

- A. The PZA shall review the application, performing a preliminary assessment as to whether or not the final plat is in compliance with the comprehensive plan and this Development Code. The PZA shall communicate to the applicant the findings of the preliminary assessment.
- B. The PZA shall place the final plat on the agenda of the next regular commission meeting at which time it will be reviewed.
- C. No public notice is required for final plats, but no final plat shall be reviewed if the developer or a representative is not present.
- D. The commission shall review the final plat and determine whether it is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat and recommend that it be signed by the board. If it finds that the final plat fails to comply, it shall disapprove that plat and recommend that it not be signed by the board. Conditions may be attached to the approval of a final plat. If the P&Z Commission approves the final plat, the P&Z Chairman shall sign the plat prior to submission to the Board of County Commissioners. If the P&Z Commission disapproves the final plat, written reasons for the denial shall be transmitted to the Board of County Commissioners.

- E. If the commission approves the final plat, the PZA shall place it on the agenda of the next regular board meeting. Commission disapproval of a final plat may be appealed to the Board of County Commissioners using the appeals procedure. A notice of any such appeal shall be filed with the PZA and the Board of County Commissioners within 45 days after notice of the decision has been issued.
- F. The board shall determine whether the final plat is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat. If it finds that the final plat fails to comply, it shall disapprove that plat. Conditions may be attached to board approval of a final plat.
- G. The Board shall notify the developer and interested parties of the board's decision within 15 days.
- H. Prior to final approval of any subdivision, the developer shall enter into an agreement with Franklin County which shall be substantially in the following form (Appendix N).
- I. In lieu of the actual completion by the developer and acceptance by the board of the improvements required by this Development Code, and before the planning and zoning commission staff will approve the recordation of the final plat, the developer shall guarantee the installation and construction of the required improvements within 18 months from the date of final approval, and that the improvements shall be maintained in a state of good repair, free from defective material or workmanship, for a period of one year from the date of completion ~~by one or more of the following methods~~ (See Appendix L):.

Validity of Permits. Class I and Class II permits shall be valid for eighteen (18) months from the date of approval, unless extended by agreement with the commission.

APPEALS, VARIANCES, AND TAKINGS

Appeals. Any decision of the commission may be appealed using the procedure described herein. Appeals from decisions of the commission are heard by the Board of County Commissioners.

- A. The appellant shall notify the PZA of the intent to appeal and provide any required supporting materials.
- B. The PZA shall place the appeal on the agenda of the next regular board meeting and shall transmit the written findings supporting the denial as well as all supporting documentation to the Board of County Commissioners.

- C. The board shall hear the appeal. No appeal shall be heard if the appellant or a representative is not present.
- D. The board shall determine whether the decision being appealed is in compliance with the comprehensive plan and this ordinance, and affirm, modify, or overturn the decision accordingly.
- E. The board shall notify the appellant and interested parties of the board's decision within 15 days.

VariANCES. Variances are intended to provide relief for landowners where, as a result of unique circumstances, the strict compliance with specified provisions or requirements of this development code, or that application of such provision or requirement is impracticable. Applications for variances shall follow the procedure described herein. Applications for variances may be combined and processed simultaneously with applications for Class I or Class II permits.

- A. The applicant shall file a written request, including all supporting materials, for the variance with the PZA. The request shall specify the applicable section(s) of the comprehensive plan and/or the Development Code that is to be reviewed. The written request shall be filed at least 14 days prior to the Commission meeting at which the application can be reviewed.
- B. The PZA shall place the request for variance on the agenda of the next commission meeting at which time it will be reviewed.
- C. The commission shall review the proposed variance. No application for a variance will be considered unless the applicant or a representative is present.
- D. If the application is denied by the Commission, the reasons for such denial shall be in writing, stating the specific sections of this Development Code that were not met.
- E. Findings: No variance shall be approved by the Commission unless all of the following exist.
 - 1. 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.
 - 2. 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.
 - 3. 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 comprehensive plan.
 - 4. That such variance will not violate State or Federal law.
 - 5. The fact or assertion that an owner or developer could realize a greater

financial return by use of the property that is contrary to the provisions of this Development Code is not a sufficient reason to approve the variance. Hardship cannot be proved where it can be shown that the property was purchased with the knowledge of existing restrictions, nor can hardship be claimed in items of prospective sales or potential customers.

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. 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, 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 PZA.
- B. The PZA shall schedule a meeting with the citizen, the PZA, county attorney, and the chairman of the commission and/or board that has rendered the questioned decision within 15 days, to review the decision. A takings checklist prepared by the Idaho Attorney General is included in this Development Code as appendix N.
- C. The included parties shall review the claim and report its findings to the Commission and/or Board at the next regularly scheduled meeting.

HEARING PROCEDURE

Hearing Procedure. This procedure shall be followed in all public hearings before the commission or board.

- A. The presiding officer shall announce the purpose and subject of the hearing.
- B. The presiding officer shall determine whether proper notice of the hearing has been provided. If proper notice has not been provided, the hearing shall be re-scheduled.
- C. The presiding officer shall ask if any commission/board member wishes to declare a conflict of interest, as defined by I.C. 67-6506, in the matter to be heard and excuse any member who declares such a conflict from participation in the hearing.
- D. The presiding office shall ask the Planning and Zoning Administrator to present the proposal being considered.
- E. The presiding officer shall direct questions from commission/board members. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.

- F. The presiding officer shall remind those present that all statements given must address the merits of the proposal as measured by its compliance or lack of compliance with the comprehensive plan and this Development Code.
- G. The presiding officer shall ask for a statement from the applicant or his or her representative. Commission/board members may ask questions following this statement.
- H. Following the applicants statement, the presiding officer shall ask for statements from the public. Persons giving statements shall begin by stating their name and mailing address. Commission/Board members may ask questions following any statement.
- I. When all statements have been given, the presiding officer shall ask if any person who gave a statement wishes to speak in rebuttal to other statements or to clarify their statement. Neither new statements nor the introduction of new evidence shall be permitted at this time. Questions from commission/board members may follow each rebuttal or clarification.
- J. The presiding officer shall close the public hearing and call for discussion by the commission/board, resulting in action, as provided by this ordinance.
- K. Written statements, plans, drawings, photographs, or other materials offered in support of statements at a hearing are part of that hearing's record and shall be retained by the county.
- L. The commission/board may impose time limits on the statements given in order to assure completion of its agenda.
- M. The commission/board may require persons who wish to make a statement to register their intention to do so with the commission before the hearing. The presiding officer shall use the register to call on persons to present their statements.

Hearings To Be Recorded. As required by I.C. 67-6536, the commission shall keep a transcribable audio recording of all hearings on file for at least six months after the final hearing, including appeals hearings on the development.

Decision Record. All decisions of the commission and board shall be reported in the form of findings of fact and conclusions of law, as required by I.C. 67-6535. The completed decision record shall include the application materials, any report prepared by or on contract for the administrator, and a performance standards checklist. The commission report shall be presented in a form that can serve as a basis for the commission's findings of fact. The completed performance standards checklist shall be considered to constitute the conclusions of law.

Decision Deadline. This section establishes the "reasonable time" for deliberation on applications by the commission required by I.C. 67-6519. The commission shall make a decision on any application for a permit within 45 days of the hearing, if a hearing is required by this ordinance, or within 45 days of the meeting at which the complete

application first appeared on the commission's agenda. Note that submission of an incomplete application requires no action by the commission.

ENFORCEMENT

Failure to Obtain a Permit. Whenever the commission becomes aware of an activity for which a permit is required by this ordinance, but for which a permit has not been approved, they shall notify the occupant (and owner, if they are not the same) to immediately cease all unpermitted activity. Notice shall be given by posting on the site and/or first class mail. If the unpermitted activity does not cease, the commission shall ask the prosecuting attorney to take immediate action, as authorized by I.C. 67-6527, to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition. Required restoration shall include restoration of vegetative cover where sites have been graded in violation of this ordinance.

Enforcement Actions. The process for enforcement of these regulations shall be as described here.

- A. The PZA shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and/or posting on the site. The notice shall describe the violation, cite the section(s) of the ordinance being violated, and order the occupant to attain compliance within 30 days.
- B. Any person who receives a notice of violation may request inspection by the commission to show that compliance has been attained within the 30 days allowed, or:
 1. File a written request with the PZA or for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 days and culminated by an inspection to show that compliance has been attained;
 2. File an appeal of the PZA's notice, following the appeals procedure.
- C. The PZA shall ask the prosecuting attorney to commence legal action, as authorized by I.C. 67-6527 and the Development Code, against any occupant or owner who fails to attain compliance within the specific time, or to show, on appeal, that a violation has not occurred.

Public Endangerment. The enforcement procedure provided here may be accelerated when the commission finds that public health and safety could be endangered by a violation. In such cases, the commission shall ask the prosecuting attorney to take immediate action to end the danger to public health and safety.

Penalties. Violations of this ordinance shall be a misdemeanor, punishable only by a fine in an amount not exceeding \$1,000.00. Each day in which a violation continues shall be considered a separate offense.

AMENDMENTS

Amendments. Any person may petition for the amendment of the comprehensive plan or this ordinance. The amendment procedure shall be as described here and in I.C. 67-6509 or I.C. 67-6511, respectively.

- A. The requested amendment(s) shall be in writing, and filed with the PZA.
- B. The PZA shall place the proposed amendment(s) on the agenda of the next regular commission meeting, at which the proposed amendment can be reviewed. A public hearing shall be scheduled if necessary.
- C. The commission may contract for professional review of the application. The costs of such review may be paid for by the County, the applicant, or whomever the commission designates. Such reviews shall be prepared in the form of a written report submitted to the commission for use at the hearing. The commission shall, upon its receipt, provide a copy of this report to the applicant and place it on file for public review with the other application materials.
- D. The commission shall conduct a hearing on the proposed amendment. No application for an amendment shall be reviewed if the applicant or a representative is not present.
- E. In the case of proposed plan amendments, the commission shall determine whether the proposed amendment is consistent with the public interest, and recommend that the board approve or disapprove it accordingly. In the case of proposed ordinance amendments, the commission shall determine whether the proposed amendment is consistent with the comprehensive plan, and recommend that the board approve or disapprove it accordingly.
- F. The commission shall forward the recommendation to the board and, unless the application is withdrawn, place a hearing for the application on the agenda of the next regular board meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice shall be provided in the same manner as for the hearing before the commission.
- G. The board shall conduct a hearing on the proposed amendment. No application for an amendment shall be reviewed if the applicant or a representative is not present.
- H. The board shall determine whether the proposed amendment is consistent with the public interest and/or the comprehensive plan and approve or disapprove it accordingly.

- I. The board shall notify the applicant and interested parties within 15 days. No amendment to this ordinance shall become effective until that amendment has been adopted as an ordinance and published as required by law.

VACATION OF PLATS

Vacation of a Plat. Vacation of any plat, or any portion of a plat, may be proposed, following the procedure provided here and in I.C. 50-1306A. Note that the county may take no action on a proposed vacation within the impact zone of any incorporated city until the vacation has been approved by the city.

- A. The petition for vacation and any required fee shall be filed with the PZA 14 days in advance of the next regular commission meeting, who shall place consideration of that petition on the agenda of the next regular commission meeting at which time will permit its proper review.
- B. The commission shall review the proposed vacation and recommend that the vacation either be accepted or denied by the board.
- C. The commission shall notify the board and the petitioner of the commission's recommendation within 15 days, and unless the petitioner withdraws the petition, place a hearing on the proposed plat vacation on the agenda of the next regular board meeting for which the notice requirements can be met, and at which time will permit its proper review.
- D. Notice of the hearing shall be provided, as follows: a) by first class mail; to all owners of property within, and within 300 feet of, the boundaries of the plat proposed to vacated, at least 14 days before the hearing; and b) by newspaper publication; two successive legal notices in the official newspaper, with the final newspaper notice appearing at least seven days prior to the hearing.
- E. The board shall conduct a hearing on the proposed plat vacation. No petition shall be reviewed if the petitioner or a representative is not present.
- F. The board shall accept or reject the petition for vacation, with acceptance based on findings that:
 1. The vacation will not eliminate safe road access to any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat;
 2. The vacation will not eliminate easements or rights-of-way used for utilities serving any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat;
 3. All owners of property or property interests within the plat proposed to be vacated have consented, in writing, to the vacation.
- G. The commission shall notify the petitioner and interested parties of the board's decision within 15 days. Appeals may be taken to the Board of County Commissioners using the procedures set forth herein.

CHAPTER 4

ESTABLISHMENT OF ZONING DISTRICTS

What This Chapter Does. This chapter creates zoning districts and overlay zoning districts for use in the county and adopts an official map of those districts. It also provides rules for the interpretation of zoning district boundaries.

Zoning Districts. The following zoning districts are established to implement the comprehensive plan: Airport Overlay, Floodplain Overlay, and Wellhead/Watershed Protection Overlay.

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 board, shall be maintained for public inspection at the office of the Recorder.

Zoning District Boundaries.

- A. Zoning district boundaries shall be as shown on the “Official Zoning Map of Franklin County”, except that the boundaries of the Floodplain Overlay Zoning District, which shall be as shown on the Federal Emergency Management Agency’s Flood Insurance Rate Maps of Franklin County, Idaho.
- B. Any person who disputes the location of a zoning district boundary, as interpreted by the commission, may appeal the decision using the appeals procedure.

CHAPTER 5 STANDARDS FOR DEVELOPMENT REVIEW

What This Chapter Does. This chapter explains the nature of the standards that are used as a basis for the review of Class I and Class II permit application.

Absolute Standards: Compliance Is Required. The absolute standards require or prohibit certain kinds of performance in developments. Failure to comply with any absolute standard shall result in rejection of the application for a permit.

Absolute Standards: Exceptions. The only exceptions to the requirement for compliance with all absolute standards shall be those specifically provided in this ordinance and those allowed by variance.

Relative Standards. Relative standards address complex issues for which absolute standards are inappropriate. They encourage or discourage certain kinds of performance in developments through the use of the point-scoring system described herein.

- A. Importance Factors. This ordinance assigns an importance factor to each relative standard. Importance factors range from “1” to “5” and reflect the importance of the standard to which they are assigned in implementing the comprehensive plan and in comparison with other relative standards. An importance factor of (1) is assigned to the least important relative standards and an importance factor of (5) to the most important. Importance factors may be changed by amendment of this ordinance only.
- B. Point Assignment. Point assignment provides a systematic technique for assessing the implementation of the relative standards. A positive point assignment reflects the successful implementation of a relative standard, while a negative point assignment reflects a failure to implement a relative standard. Points shall be assigned to each development on the basis of its performance on each relative standard using these guidelines:
 - 1. -2 points shall be assigned where there is essentially no effort to implement the standard;
 - 2. -1 points shall be assigned where there is an inadequate attempt to implement the standard;
 - 3. 0 points shall be assigned where the standard is not relevant OR there is only minimally adequate implementation of the standard;
 - 4. +1 points shall be assigned where there is a successful effort to implement the standard; and
 - 5. +2 points shall be assigned where there is an outstanding effort to implement the standard.

- C. Relative standards may be designed to use the full point range described here or strictly to discourage (using only negative point assignments) or encourage (using only positive point assignments) certain kinds of performance.
- D. Score. The importance factor of each relative standard is multiplied by the points assigned to obtain a score.
- E. Cumulative Score. Scores on individual relative standards are summed to calculate a cumulative score. If that cumulative score is not 0, or greater, the application for a permit shall be disapproved.

Small Development Consideration. Where a proposed development meets the following criteria, a **+10** points shall be added when scoring the development.

- A. The proposed development does not exceed 10 lots.
- B. No new road construction or widening, either in, or leading to the development, is required or requested.
- C. No major special development considerations are involved, such as developments in flood plains, hillside development, or the like.

STANDARDS FOR MAINTAINING NATURAL ASSETS

Water Quality. All developments shall demonstrate continuing compliance with state and federal water quality regulations.

Runoff and Erosion Control. For ~~subdivisions~~ *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 ~~with the Class II application~~ *before start of construction*. The plan shall:

- A. 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.
- B. Show the existing site topography, identifying run-off and erosion hazard areas.
- C. Demonstrate compliance with best management practices for surface water management and methods that will be used during construction to control erosion, siltation, and sedimentation.
- D. Include a plan for re-vegetation and/or stabilization of disturbed areas including side slopes, excavation, grading, and other site preparation and development.
- E. 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.
- F. Be subject to review by the Franklin County Soil & Water Conservation District and the County Engineer.
- G. Be subject to site inspections by the County during any construction/grading of the site to ensure proper implementation of the approved plan.

Wetlands.

- A. All developments shall demonstrate compliance with state and federal wetland protection requirements.
- B. The open space use of wetlands and/or their enhancement to a higher functional value, shall be encouraged. **-2/+2 (3).**

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.

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.

- A. 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.
 - 1. Roads and utility lines may cross stream corridors, but the number and width of such crossings shall be minimized.
 - 2. 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).
 - 3. 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 1 and 2 above.
 - 4. The development setbacks required herein shall be clearly shown and/or noted on final site plans and final subdivision plats.
- B. The open space use of stream corridors and retention or restoration of riparian vegetation shall be encouraged. **-2/+2 (3).** Compliance with the minimum development setback requirements shall receive an award of "0" points only. Positive points may be awarded for:
 - 1. 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
 - 2. 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.

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

Slopes.

- A. No development shall be permitted on slopes of 30% or more. No development shall be permitted on other slopes suspected to be unstable, unless a geotechnical engineer certifies that such development creates no significant hazard of slope failure or accelerated soil erosion.
- B. Open space use of slopes of 15% or more, or other slopes identified as unstable, shall be encouraged. **-2/+2 (4).**

Wildfire Hazards. All developments that are in or adjacent to forested areas, or areas of flammable brushy vegetation shall be encouraged to:

- A. For Individual Structures, Including All Single Family Dwellings: Provide a fire defensible space of at least 30 feet around the home or structure. **-2/+2 (3).** 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.
- B. 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. **-2/+2 (3).** A fuel break is a strategically located strip of land in which trees and woody brush have been thinned and fuel removed to create an open “park-like” appearance. Fuel breaks either include roads or are accessible to fire fighting apparatus. Fuel breaks are generally at least 200 feet in width, with the width increasing on slopes over 10%.

Wildlife Habitat. Wildlife habitat areas are as identified by the Idaho Department of Fish and Game (IDFG).

- A. Preservation use of wildlife habitat areas shall be encouraged. **-2/+2 (5).**
- B. Developments that are in or adjoining a wildlife habitat area shall be encouraged to implement, in conjunction with IDFG, a prepared plan for the protection and/or mitigation of wildlife values. **-2/+2 (3).** That plan shall:
 1. identify the wildlife habitat area, the principle species present during any or all seasons;
 2. identify existing wildlife habitat elements, including sources of water, vegetative cover, and migration routes or other wildlife use areas;

3. show how land disturbance will be minimized in order to maximize retention of large habitat patches;
 4. show how the plan provides for movement of wildlife through or around developed areas and the connection of habitat patches.
 5. Show how disturbed areas will be re-vegetated, and how re-vegetation will result in a volume, structure, and diversity of vegetation similar to that found in the native habitat appropriate for the site;
- C. The use of wildlife friendly culverts and/or bridges are encouraged. **0/+2(3).**

Native Plants. The use of native plants propagated from regional stock in the re-vegetation and buffering efforts required by this ordinance is encouraged. **0/+2 (3).**

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

Aquifer Recharge and Protection. Where agricultural land that has water rights and/or water shares of an irrigation company, is considered for development, Franklin County strongly encourages that the irrigation water rights and/or shares remain on the property to ensure recharge of the aquifer and to prevent depletion of the aquifer by culinary well consumption; as recommended by the Franklin County Groundwater Evaluation Study. - **2/+2 (5).**

Cluster Development Criteria. Cluster development (also know as Conservation Subdivisions) will be encouraged in areas where prime agricultural land is involved and in sensitive areas where wetlands, wildlife habitat, floodplains, slopes, and hazards exist, with open space designated for sensitive areas. See Appendix B. **-2/+2(5)**

STANDARDS FOR MAINTAINING AGRICULTURAL RESOURCES AND THE FARM ECONOMY

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.

- A. 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.

- B. No development shall channel storm water or snow melt runoff into any irrigation system without written consent of the responsible irrigation entity.

Protecting Agricultural Operations. All developments shall comply with Franklin County Ordinances 2002-3 and 2002-4.

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.

Protecting Agricultural Lands. Conversion of productive agricultural land to other uses shall be discouraged. -2/0 (3).

STANDARDS FOR ASSURING LAND USE COMPATIBILITY

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, exceeds the standards of Appendix G.
- B. 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).
- C. 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.
- D. 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.
- E. No development shall channel storm water or snow melt runoff in a way that adversely impacts neighboring properties or public ways.
- F. 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.

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.

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...”

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).

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 Appendix H.

- A. Installation of landscaped buffers between potentially incompatible land uses and/or along public roads shall be encouraged. **-0/+2 (5)**
- B. Retention of existing, mature vegetation that serves buffering functions shall be encouraged. **-0/+2 (3)**
- C. For Commercial/Industrial developments, effective and reasonable buffers shall be required when within 500 feet of an incompatible use.
- D. Installation of buffers and/or building placement requirements to minimize the obstruction of natural view. **0+2 (4)**

Connections. All developments are encouraged to be designed to optimize functional connections with adjoining developments, including shared access to arterial roads, shared parking and service access, shared buffers and open space, and shared pedestrian circulation. **-2/+2 (3)**

Signs. Signs shall comply with the Franklin County Sign Ordinance (2006-3).

Standards for Maintaining and Protecting Existing Commercial Operations/Developments.

Development of residences should not interfere with existing commercial operations/developments that may, at times, be perceived as a nuisance by the inhabitants of the new development. No building permit for a residence in a commercial operations/development area shall be issued until a Commercial Operations/Development Management Agreement has been recorded by the owner. A model agreement is shown in Appendix K.

STANDARDS ASSURING PROVISION OF ADEQUATE FACILITIES AND SERVICE

Central Water Supply. For subdivisions, provision of a central domestic water supply system that meets state design and construction requirements shall be encouraged. -2/+2 (5).

Fire Fighting Water Supply. See Appendix F.

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.

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.

On-Site Sewage Disposal. All on-site sewage disposal systems shall be sited, designed, and constructed in compliance with state standards. (See Appendix P)

Private Utilities.

- A. All developments shall provide ~~electrical power and telephone~~ **all applicable utilities** to each building lot. All utilities shall be underground.
- B. 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.

Construction in Easements. No building shall be placed in any utility or irrigation easement, public or private.

Safe Access.

- A. 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.

- B. All developments are encouraged to minimize the number of points of access to public roads and highways. ~~-2/+1~~**(5)**
- C. 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:
 - 1. There must be at least 1 turnout or turnaround for every 1000 linear feet of road.
 - 2. 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 40.
 - 3. ~~The portion of the road between the public road and the looped road intersection shall be a Class A road, or as negotiated with the Commission and the County Engineer.~~
- D. See Appendix E.

Public Access.

- A. No development shall eliminate historically existing public access through private lands to trail heads on public lands.
- B. The provision of additional public access or the improvement of existing access to public lands or water resources shall be encouraged. ~~0/+2~~**(3)**. Any new access created may be limited to non-motorized travel only.

Development in Areas of Impact

~~Any subdivision within an established area of impact of any municipality in the County shall construct the following improvements:~~

~~—A. Culinary Water:~~

~~If the municipality for the area of impact in question has a functioning culinary water system, the subdivision shall have culinary water lines installed to each lot within the subdivision, with a main culinary water supply line installed to the edge of the subdivision nearest the culinary water delivery system of the municipality. Culinary water lines to the lots within the subdivision shall include adequate in-ground facilities to accommodate future placement of a water metering device. All culinary water infrastructure shall be compatible with the culinary water infrastructure of the municipality in question.~~

~~B. Wastewater Treatment:~~

~~If the municipality for the area of impact in question has a functioning wastewater treatment system, the subdivision shall have wastewater disposal lines installed to each lot within the subdivision, with a main wastewater disposal line installed to the edge of the subdivision nearest the wastewater disposal system of the municipality. All wastewater infrastructure shall be compatible with the wastewater infrastructure of the municipality in question.~~

~~Development in other service areas:~~

~~Any subdivision of five (5) lots or more in which any part of the subdivision is adjacent to, or within the service area of a culinary water system or a waste water treatment system shall have the necessary culinary water and/or waste water infrastructure installed to each lot in the subdivision, with main lines installed to the edge of the subdivision closest to the culinary and/or wastewater system in question, with all infrastructure compatible with the culinary and/or wastewater system(s) in the area in question.~~

CHAPTER 6 AIRPORT OVERLAY ZONING DISTRICT

What This Chapter Does. 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.

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.

- A. 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.
- B. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
- C. 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.
- D. Conical Zone. The conical zone is the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

Height Limitations. No structure or tree will be allowed to exceed the height limitations established here.

- A. 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.
- B. Transitional Zones. Slope seven feet outward for each foot upward beginning at the sided 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.
- C. Horizontal Zone. Is 150 feet above the airport elevation.
 - D. 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.
 - E. 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.

Use Restrictions. No use within any zone established by this chapter shall create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, resulting in a glare to the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or in any way endanger or interfere with the operation of aircraft.

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:

- A. 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.
- B. 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.
- C. 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.

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.

Nonconforming Uses: Additional Requirements

- A. 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.
- B. 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.

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.

CHAPTER 7

FLOODPLAIN OVERLAY ZONING DISTRICT

What This Chapter Does. This chapter establishes the Floodplain Overlay Zoning District and detailed standards for development in that district.

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.

Division I - Administration of Federal Flood Insurance Program Requirements

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.

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.

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.

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 which require a Class I or Class II permit.

Additional Duties. The Planning and Zoning 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.

Division 2 – Standards for Special Flood Hazard Areas

Site Planning. Design and construction of all subdivisions and uses for which a Class II permit is 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.

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.

Nonresidential Development. All non-residential buildings shall comply with the International Building Code

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.

Maintenance of Flood Capacity. Continuing maintenance to prevent the reduction of flood carrying capacity in altered or relocated watercourses shall be required.

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.

Division 3 - Variances in the Floodplain Overlay Zoning District

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.

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.

CHAPTER 8

REQUIRED IMPROVEMENTS: INSTALLATION AND MAINTENANCE

What This Chapter Does. This chapter requires the installation of improvements in subdivisions, manufactured home parks, and other developments at the developer's expense, sets improvement standards, permits the phased installation of improvements pursuant to formal development agreements, and requires the perpetual maintenance of required improvements.

Required Improvements Defined. A required improvement is any improvement required for compliance with any absolute standard of this ordinance or to be assigned a score of "0" or better on any relative standard of this ordinance.

Installation at Developer's Expense. The installation of all required improvements shall be at the developer's expense unless specifically agreed to by Franklin County.

Standards for Required Improvements. All required improvements shall be installed in compliance with this ordinance and any design and engineering standards separately adopted by the county or other agencies responsible for providing services to the development.

Time of Installation/Development Agreements.

- A. Developers may install all required improvements before a final plat is recorded or the development is offered for lease or sale, leased, sold, or occupied, or
- B. Developers may elect to record final plats of the development in phases and/or offer phases of the development for lease, sale, or occupancy before all required improvements are installed. Phasing shall be permitted pursuant to a development agreement that:
 1. Incorporates a conceptual site plan of the entire development (the site plan used as a basis for permit approval) and a detailed site plan and construction drawings of the initial phase/s.
 2. Identifies all required improvements in the initial phase/s and establishes their estimated cost.
 3. Sets a schedule for the completion of the required improvements in the initial phases and an anticipated schedule for future phases.
 4. Guarantees completion, repair, and ~~one year's~~ maintenance of all required improvements in the initial phase/s and provides a process for the submission of detailed plans, cost estimates, and the guarantee of improvements in future phases.

5. Provides a process by which the county may, if necessary, complete required improvements using the guarantee/s provided.
6. Provides a process by which either party may request re-negotiation of the development agreement.
7. Provides a process by which the development agreement may be transferred, with county approval, to the developer's successors.
8. Provides that the development agreement and any vested rights it confers shall be void if the county is required to "call" a guarantee to complete required improvements or if the anticipated schedule required by 3, above, is not met or re-negotiated. The developer shall have the right to re-negotiate the anticipated schedule without losing vested rights, provided that such negotiations are initiated, by the developer, within 90 days after failure to initiate or complete a phase as scheduled.
9. ~~An "initial" phase is any phase anticipated to begin within 18 months. The anticipated schedule may set times for the initiation or completion of a phase in terms of reasonable ranges of no more than 18 months.~~
9. *Provides a timetable for initiation and completion of proposed phases.*

Effect of Development Agreement. The effect of a development agreement shall be to create vested rights in the conceptual site plan, as it was approved. All such rights expire with the development agreement. Development agreements do not insulate developments from changes in state or federal regulations or changes in building code.

Guarantees. Completion of the improvements identified in a development agreement shall be guaranteed by one of the following methods:

- A. The developer may place an amount equal to 110% of the estimated cost in escrow, with that amount and accumulated interest being released only after the county has inspected and accepted the required improvements. A development agreement may provide for the phased release of a portion of the escrowed funds as work proceeds, but at least 25% of the amount in escrow shall be retained until all required improvements are installed, inspected, and accepted. If any required improvements are not completed as provided in the development agreement, the county shall use as much as necessary of the escrow account to complete those improvements, before returning any remaining balance to the developer.
- B. The developer may provide an irrevocable or standing letter of credit for an amount equal to 110% of the estimated cost. The letter of credit shall be released only after the county has inspected and accepted the required improvements. If any required improvements are not completed as provided in the development agreement, the county shall use as much as necessary of the credit available to complete those improvements.

Inspection and Acceptance of Improvements. Required improvements shall be inspected by Franklin County before acceptance. Acceptance of required improvements shall be by action of the county commissioners, following submission of the developer's written request for acceptance and receipt of the administrator's report that all improvements have been inspected, all applicable inspection fees have been paid, and all improvements are in compliance with these regulations.

As-Built Drawings. As-built drawings of all subdivision improvements, if not installed as shown on the construction drawings, shall be provided to the county at the developer's expense.

Warranty of Improvements. Required improvements shall be warranted by the developer for both materials and workmanship for one year after their acceptance. Such a warranty provision shall be included in all development agreements. Where all required improvements will be completed before a final plat is approved and the development is offered for lease, sale, or occupancy, a warranty agreement shall be submitted for approval. Enforcement of the warranty shall be assured by:

- A. Retention of 10% of an escrow account.
- B. A continuing letter of credit, but for 10% of the cost of the required improvements; or
- C. Establishment of a new escrow account, in which an amount equal to 10% of the cost of all required improvements is deposited, and which shall be released only upon expiration of the warranty.

Continuing Maintenance Required. The continuing maintenance of any applicable improvement required for compliance with these regulations shall be required. Failure to maintain any applicable improvement shall be a violation of these regulations.

Maintenance Mechanism. Any development subject to the continuing maintenance requirement that results, or may reasonably be expected to result, in the creation of multiple ownerships (subdivisions, condominiums) shall create a community association or similar mechanism to assure continuing maintenance. The developer shall submit the proposed declaration of covenants, articles of incorporation, and by-laws for the community association with the application for the final plat, and these documents shall be approved by the county's legal counsel and recorded before any certificate of compliance is issued.

Open Space Maintenance. The maintenance of any open space is required for compliance with these regulations and shall include fencing, where required; control of noxious weeds; litter removal; and wildfire suppression. Maintenance activities shall not diminish the open space values (wetlands, slopes, etc.) being protected.

Dated this 13th day of August, 2007

Board of Franklin County Commissioners
~~Richard D. Westerberg~~, Chairman
Dirk Bowles

Attest: _____
~~V. Elliott Larsen~~, County Clerk
Shauna Geddes

APPENDIX A - DETAILED STANDARDS FOR THE PLATTING OF LOT SPLITS AND SUBDIVISIONS

PRELIMINARY PLATS

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

Preliminary Plat Part of Application. A preliminary plat is one part of the application for a Class II permit to subdivide and shall accompany the official application form and all other materials required for a complete application.

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.

Contents of Preliminary Plats. Preliminary plats shall include:

- A. 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.
- B. The name, address, and registration number of the Professional Land Surveyor who prepared the preliminary plat.
- C. A north point and both graphic and written scales.
- D. 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.
- E. Preliminary plats shall be submitted as follows: 8 copies on sheets no smaller than tabloid size (11" x 17"), and at least 1 copy on 18" x 24" sheet(s). All construction and road plans shall be on 18" x 24" minimum sized sheets.
- F. 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.
- G. 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.
- H. A statement of the current land use of the proposed development and adjacent lands.

- I. The location and size of all existing utility lines in or adjacent to the proposed subdivision.
- J. The exterior boundaries of the proposed subdivision.
- K. Topography by contours, related to NGVD survey datum. The contour interval shall be such as to adequately reflect the character and drainage of the land.
- L. The location, exterior dimensions, and number of proposed lots and blocks or other parcels created by the subdivision.
- M. 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.
- N. The names of all proposed roads, including widths and boundaries of all proposed road rights-of-way and utility easements.
- ~~Ø.~~ 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. ~~Note: Written approval from the Southeastern District Southeastern District Health Department as to the proposed sewage and culinary systems are required before approval of the preliminary plat.~~
- P. Preliminary calculations and layout of the proposed system for storm water disposal or retention.
- Q. 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.
- R. 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.
- S. Any other information required by this ordinance.

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:

- A. 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.
- B. 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.
- C. A north point, both graphic and written scales, and the basis of bearing of the survey.
- D. 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 copy on 18" x 24" sheet(s).
- E. 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, including one blue-line copy and one copy produced by a photographic process using a silver image emulsion.
- F. 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.
- G. The location and a description of all existing monuments found and/or established during the course of the survey.
- H. 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 book and page number references of the instruments establishing those ways or easements.
- I. The exterior boundaries of the subdivision, with all bearings and distances, including curve data for curving boundaries;
- J. 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.
- K. 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;
- L. 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;
- M. Proof of current ownership of the real property included in the final plat.
- N. Conformance with the approved preliminary plat and meeting all requirements and/or conditions thereof.
- O. Conformance with all requirements and provisions of the Franklin County Development Code.
- P. 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.
- Q. A public notary's acknowledgment of the owner's certificate.

- R. A signed and dated certificate of consent in which all mortgagors, lienholders, and other parties with any real property interest.
- S. A public notary's acknowledgment of the certificate of consent.
- T. A certificate for signature by the county treasurer stating that all real property taxes due on the land being subdivided have been paid.
- U. Certificates for plat approval by the commission and board.
- V. A statement of "sanitary restriction", as required by I.C. 50-1326.
- W. Certificate by owner that water will, or will not be provided in accordance with I.C. 50-1334.
- X. A certificate for use by the county recorder in recording the plat after its approval.
- Y. Any other information required for compliance with this ordinance and Idaho Code.

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.

DESIGN STANDARDS

- A. Blocks.
 - 1. 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.
 - 2. Block designs shall provide for two tiers of lots except under special conditions where this is not feasible or practical
- B. Pedestrian walkways. Pedestrian walkways may be required where essential for circulation or access to schools, playgrounds, shopping centers, preservation parcels, open space, etc.
- C. Lots.
 - 1. No lot shall be divided by County, City, School, or any other taxing district boundary line.
 - 2. Residential lots which are to contain both a private culinary water system and a private sewage disposal system shall contain a minimum of one (1) acre per dwelling unit, exclusive of road rights of way, or as required by the ~~Southeastern District Health Department~~. *County.*
 - 3. Residential lots which are to contain either a private culinary water system or a private sewage disposal system shall contain a minimum of one-half (1/2) acre per dwelling unit, exclusive of road rights of way, or as required by the ~~Southeastern District Health Department~~. *County.*

4. Residential lots which are to receive both a centralized culinary water system and centralized sewage disposal system shall contain a minimum of one-quarter (1/4) acre per dwelling unit, exclusive of road rights of way, or as required by the ~~Southeastern District Health Department~~. **County**
5. 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 ~~Southeastern District Health Department~~. **County**
6. Lot sizes shall be adequate to provide for sufficient off road service and parking facilities required by the proposed use.
7. All subdivision lots shall have a minimum of forty (40) feet of road frontage.
8. 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.
9. Double frontage lots shall be avoided whenever possible.
10. 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).
11. Each lot shall be suitable for its designated use.
12. **Accommodations must be made to provide one or more acceptable centralized US Mail stations and be reflected on the Final Plat.**

APPENDIX B – CONSERVATION SUBDIVISIONS

(Also known as Cluster Subdivisions)

Introduction. Conservation Subdivisions are a specific type of subdivision in rural settings that is characterized by relatively compact lots and preservation parcel(s), and where the natural features of land are maintained to the greatest extent possible. There are also other ways to define and develop conservation subdivisions for other settings. Generally, the building lots in a subdivision are grouped, or clustered on only a portion of a parcel of land. The remainder of the site is called the preservation parcel.

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

Conservation subdivisions may not ensure protection of large blocks of agricultural land, nor are they the best measures to protect farming as a viable lifestyle. However, conservation subdivisions, when properly designed and implemented, can protect small blocks of agricultural land and promote areas where agricultural and residential activities can co-exist.

Purpose. This appendix outlines the standards and requirements for Conservation Subdivisions.

Applicability. The conservation subdivision standards apply to subdivisions of 20 acres or more, unless otherwise approved by the Commission.

Procedures. A conservation subdivision requires a Class II permit. All requirements of a Class II permit shall be met with the following additions and exceptions:

- A. **Sketch plan review.** A sketch plan (also known as concept plan or pre-application) review for all conservation subdivisions is strongly recommended to allow the Commission to become familiar with the development and to discuss the procedure for approval and design of a conservation subdivision. The sketch plan should contain adequate information of the site including, but not limited to, natural features, critical areas, productive farm land, proposed preservation parcels, and a general proposed lot and road layout.

- B. **Preliminary Plat.** The preliminary plat, shall in addition to the requirements in Appendix A, include:
 - 1. Natural resource features on the site, including but not limited to wetlands, floodplains, watercourses, irrigation structures, canals, ditches, existing

wooded areas, steep slopes, drainage ways, wildlife habitat and corridors, livestock corridors, any public access through or adjoining the property, and other prominent visual features.

2. The proposed lots, roads, easements, preservation parcel(s), trails, etc.
 3. Proposed methods for, and location of, water supply, storm water management and sewage treatment.
 4. Inventory of preserved and disturbed natural features and prominent views on or adjacent to the site.
 5. Preliminary building envelopes, if necessary for the protection of sensitive areas and/or views.
 6. Management plan for the long term management of the preservation parcel, including enhancement or restoration, if needed to achieve the purpose of the preservation parcel conservation theme(s).
- C. **Final Plat.** The requirements for the final plat shall be the same as outlined in Appendix A.

Standards for design and improvements

- 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.** The minimum lot size is as required in Appendix A.
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 buildings or incorporate them through adaptive reuse.

D. Preservation parcel Design.

1. Preservation parcel. The uses within the preservation parcel 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 40% of the gross acreage of the parent parcel.
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, a single family dwelling, private outdoor facilities for the subdivision, country clubs, golf courses, non-

ACO livestock uses including pastures, riding facilities and stables, etc. 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 homeowners association. A homeowners association shall be established that requires mandatory membership for all purchasers of lots in the development and their successors. A copy of the proposed homeowners 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.
4. Private Ownership. An individual, partnership, corporation, or any other legal entity may hold fee title to the land 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.

1. The plan shall do the following:
 - a. Designate the ownership of the preservation parcel and common facilities in accordance with F above described.
 - b. Establish necessary regular and periodic operation and maintenance responsibilities.

- c. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 - d. Include a land stewardship plan specifically focusing in the long term management of the preservation parcel and facilities.
 - 2. 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.
 - 3. 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 Commission.

APPENDIX C – RECREATIONAL USE AREAS

I. Purpose and Intent

To allow for conditional land use for recreational vehicle (RV) parks, commercial campgrounds and/or recreational areas, bed & breakfast commercial operations, and seasonal residential uses; and 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.

II. Recreational vehicle (RV) parks, Commercial Campgrounds and/or Recreational Areas

- A. Permissive Uses – Private campgrounds and recreational uses by landowner, not conducted for commercial use, with adherence to applicable county, state and federal regulations.
- B. Conditional Uses – 1) Recreational Vehicle Parks; 2) Campgrounds; 3) Recreational Areas; 4) Accessory buildings; 5) Facilities provided for the recreational vehicle park, campground, and recreational area occupants; 6) Commercial structures complimentary to the occupation of the area; 7) Any combination of the above.
- C. RV parks, campgrounds, and recreational areas shall be deemed a development area subject to minimum requirements as determined by the Planning and Zoning Commission, and as set forth below:
 - 1. Minimum size of recreation area – none;
 - 2. A site plan submitted for review to the Planning and Zoning Commission containing a minimum of the following:
 - a. A legal description of the area to be zoned or occupied;
 - b. Season of use for each area or activity;
 - c. Location of each existing and proposed structure;
 - d. Location of any proposed grading (cut and fill);
 - e. Location and dimension of each recreational vehicle and/or campground space;
 - f. Location and dimension of the recreational area;
 - g. Location and dimension of all entrance, exits, roads, walkways, trails, drainage structures, driveways and pedestrian/roadway lighting;
 - h. Location and dimension of parking spaces;

- i. Location of all surface waters and/or wetlands, geologic features including cliffs, slopes over 20%, rock formations or other unique or hazardous features;
 - j. Location of adjacent or on-site native vegetation, critical wildlife habitat, and migration or livestock corridors and the season(s) animals are likely to use identified critical habitat or corridors as identified by the Idaho Fish and Game, US Forest Service or applicable agency;
 - k. A noxious weed management plan.
- D. Area, height, and right-of-way or property line set back requirements – These requirements apply to every structure other than a wall, fence, detached deck, flagpole or sign, provided that those excepted structures comply with county road right-of-way set backs, visibility or sight distances, and natural resource set backs as provided herein.
1. No Minimum Area requirement;
 2. Minimum front, side and rear set back from property line is 10 feet;
 3. Minimum set back for all structures and associated grading (cut or fill) from surface waters 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 setback by review of the Planning and Zoning Commission;
 4. 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;
 5. Maximum height of any flagpole, antenna, or similar element is 35 feet;
 6. No overhead utility lines or utility poles are permitted.
- E. Minimum space requirements for delineated recreational vehicle or campground spaces are as follows:
1. RV spaces are a minimum of 625 square feet and 25 feet in width;
 2. Campground spaces are a minimum of 300 square feet and 15 feet in width;
 3. Campground spaces with adjacent parking shall be a minimum of 500 square feet (15 feet width), and shall provide access to a driveway;
 4. RV spaces and campsites shall not be located on slopes greater than 5%.
- F. Off-road parking for recreational vehicle parks, campgrounds, and recreational areas are as follows:
1. Recreational vehicle parks and campgrounds shall provide at least one space per recreational vehicle or campground site;
 2. All parking spaces shall abut upon a driveway, lane or road which shall have unobstructed access to a public road or highway;

3. Minimum spaces required for recreation area parking and other commercial parking shall be determined by the Planning and Zoning Commission.
- G. The owner shall provide adequate snow removal from roads and off-road parking areas so long as the business is open.
- H. Private access ways, individual space arrangements and walkways shall accommodate frequent and safe movement of vehicles and pedestrians.
1. Interior lanes and roadways shall be a minimum of 10 feet wide for one-way or 20 feet wide for two-way traffic.
 2. Interior lanes, roads, roadways, driveways or walkways (except when providing access from public roads onto the property) are included in the required perimeter setback.
 3. 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.
 4. Any access roads from any county road or highway shall comply with standards set forth in the Franklin County Development Code.
- I. 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.
- J. Screening the perimeter of the recreational vehicle parks, campgrounds and/or recreational area by wall, berm, approved fencing or other approved landscaping may be required by the Planning and Zoning Commission.
- K. 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.
- L. 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.
- M. The following information shall be posted in a prominent location at any recreational vehicle (RV) park, campground and/or recreational area:
1. the caretaker's name and how that person may be reached
 2. the telephone numbers and addresses of emergency services

- N. 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.

III. Bed and Breakfasts

- A. Permissive Uses – Bed & Breakfast building as defined by Idaho statutes, with adherence to applicable county, state and federal regulations.
- B. Conditional Uses – 1) Separate caretaker residence; 2) Associated recreational uses and areas; 3) Accessory buildings; 4) Facilities other than the Bed & Breakfast building provided for the Bed & Breakfast occupants; 5) Any combination of the above.
- C. The following conditions apply to any 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.
 - 1. The maximum number of rental units shall be two (2) with a total occupancy of no more than five (5) persons.
 - a) A variance for additional units may be considered if the following criteria are met:
 - i) House has architectural design that would accommodate the use without changing the character of the neighborhood.
 - ii) Adequate approved parking is provided.
 - iii) Building meets fire and safety code with annual inspection required.
 - 2. The establishment shall be owner occupied.
 - 3. One (1) off-road parking space shall be provided for each rental unit plus two (2) spaces for the residential unit.
 - 4. An annual fire inspection is required for the premises.

IV. Seasonal Residential Uses

- A. Seasonal use is defined as use for no more than 180 days out of one (1) calendar year, and no more than 30 continuous days of use in any calendar year.
- B. Permissive Uses – Accessory buildings 120 square feet or less
- C. Conditional Uses – 1) Subdivision of land for sale, lease or occupancy for seasonal recreational uses; 2) Single-family seasonal residence or cabin; 3) Accessory buildings over 120 square feet; 4) Commercial structures complimentary to the occupation of the area. Lots with the conditional uses listed above shall be deemed to be a development area subject to minimum requirements as determined by Franklin County Development Code and the Planning and Zoning Commission.

- D. Area, height, and right-of-way or property line set back requirements – These requirements apply to every structure other than a wall, fence, detached deck, flagpole or sign, provided that those excepted structures comply with county road right-of-way set backs, visibility or sight distances, and natural resource set backs as provided herein.
1. Ten (10) acre minimum area, or as required by ~~Southeastern District Health Department~~ *the county* when applying the cluster density bonus;
 2. Minimum side and rear set back from property line is 10 feet;
 3. Minimum set back for all structures and associated grading (cut or fill) from surface waters 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 feet setback by review of the Planning and Zoning commission;
 4. 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;
 5. Maximum height of any flagpole, antenna, or similar element is 35 feet.
 6. No overhead utility lines or utility poles are permitted.
 7. Sufficient off street parking will be required ~~at the end of county road~~ for type & volume of seasonal residential use, as determined by the ~~P&Z-County~~ *County*
- E. All parts of the Development Code apply with the following additions and/or exceptions:
1. The expected type and season of use for subdivisions and each lot shall be indicated on the preliminary plat application.
 2. A density bonus shall be awarded of one (1) additional unit per 20 acres of open space, preserved through clustering, for the purpose of protecting the natural features, wildlife habitat, visual quality and other amenities of that acreage.
 - a) Those developments awarded a density bonus shall prepare a management plan that will enhance the quality of and minimize potential adverse impacts to the preserved parcel(s).
 - b) The preserved parcels cannot be further subdivided or developed.
 3. Public utilities are not required.
 4. Lots may not be required to have a buildable site if designated as such on the final plat.
 5. Appendix E (Standards for the Design and Construction of Roads) shall not apply. 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.

6. Appendix F 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.
7. 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 the recreational activities.

V. General Requirements

- A. All uses shall be located on a well-drained area to prevent erosion or the accumulation of water and to ensure proper storm water or snowmelt drainage. All graded and disturbed areas shall be stabilized with structures and/or native or non-invasive vegetation.
- B. No development shall occur on slopes greater than 30%. Recreational vehicle parks, commercial campgrounds, and recreational area development shall occur on slopes less than 20%.
- C. Lighting practices and systems shall minimize glare and light trespass in order to conserve energy and to limit degradation of the night time visual environment while maintaining night-time utility, safety and security. All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries, upward into the sky or into wildlife habitat.
- D. All structures and utilities that may be supplied to any facility or for any use shall comply with all applicable codes and regulations.
- E. Fire pits, barbeques or other open fire sites shall comply with fire safety recommendations of the fire marshal and may be inspected for safety by public officials.
- F. All service and storage buildings shall be maintained in a clean, sightly condition and kept free of any condition that may menace the health of any occupant or the public or constitute a nuisance.
- G. All developments shall prepare a garbage management plan that includes:
 1. The control, collection and disposal of solid waste, including storage and collection practices that minimize wildlife nuisances.
 2. And prohibits dumping and/or incineration.
- H. All sanitary facilities, which may include public toilets, shower, sink, kitchen and/or laundry facilities, must be maintained in adequate condition and operated in compliance with the Southeastern District Health Department regulations. These facilities may be inspected by appropriate public officials.

APPENDIX D- WELLHEAD PROTECTION

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.

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.

APPENDIX E - STANDARDS FOR THE DESIGN AND CONSTRUCTION OF ROADS

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.

A. DEFINITIONS

A.1 Classifications of Roads

- A- Paved surface -14' travel lanes (Arterial Road)
- B- Paved surface -12' travel lanes- (Local or Collector Road)
- C- Asphalt surface -various widths (asphalt & BST) Year around maintained
- D- Gravel Roads - Gravel surface -Winter Maintained
- E- Gravel Roads -Gravel surface - Seasonal/Minimal maintained
- F- Unimproved/ Primitive - two track, public right-of-way, not maintained

A.2 Definitions of Roads

1. **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.*
2. **Collector Road** – *A street ~~or highway~~ that provides for traffic movement ~~within~~ **between** neighborhoods of the Local Highway Jurisdiction (LHJ) and ~~between major streets and Local Street~~ and for direct access to abutting property.*
3. **Arterial** – *A general term including expressways, ~~major and minor arterial streets~~ and interstates, state or county highways having regional continuity.*

B. CONSTRUCTION STANDARDS (Figure 1 page 58)

1. All new roads within subdivisions in the County must be designed and built to Class ~~A or B~~ standards prior to Franklin County Road and Bridge Department accepting said roads for subsequent maintenance and upkeep. However, an alternate road cross-section may be considered if a 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.
2. 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.

3. All roads must be completely built or bonded for prior to approval of final plat.
4. Required right-of-way: Local Roads - 60 feet minimum. Collector Roads – 60-80 feet Arterial Roads – 80-100 feet
5. Slope easement must be sufficient to contain the extent of fill and cut slopes plus an additional five feet on each side.
6. Three (3) feet shoulder on each side.
7. Compact subgrade.
8. Twelve (12) inch sub-base (pit run), compacted to meet specifications as stated in Idaho Standards for Public Works Construction.
9. Five (5) inch base meeting Idaho Standards for Public Works Construction Type 1 crushed aggregate specifications, with 95% compaction.
10. Three (3) inches of compacted asphalt mix on Arterial road and two and one-half (2 ½) inches of compacted asphalt mix on *Collector or* Local roads.
11. Paved roads must be chip sealed consisting of ½" chips.
12. ~~Builders of roads must notify~~ The County Road and Bridge Department *shall be notified* a minimum of one (1) week prior to commencement of construction so that verification inspections may be scheduled. ~~Costs of verification~~ Inspection *costs will shall* be paid by ~~person or~~ 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.

C. DESIGN STANDARDS

The arrangements, character, extent, width, grade and location of all roads shall conform to this Development Code, and any standard specifications and drawings adopted by the Franklin County Commissioners, and shall be constructed in relation to existing and 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, or D serve the property.

2. When a new development changes the definition of a county road by increasing the Average Daily Traffic, the developer may be required to participate in the *cost of* upgrading of said county road ~~surface~~ and *the cost of* obtaining easements.
3. New Developments accessed by existing private roads ~~will~~ *shall* be required to participate in the *cost of* upgrading of said private road surface and *the cost of* obtaining easements.
4. No new Developments may be sited on roads designated E or F as stated in Franklin County Ordinance 1999-1. The individual or developer may petition the Franklin County Board of Commissioners for upgrade of any E or F classified road and may be required to participate in the *cost of* upgrading of said road.
5. A traffic study may be required 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 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.
6. 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 Planning & Zoning commission and based on the level of benefit to the new development.
7. The Design Engineer shall specify the ADT and the traffic speed that is to be expected when the subdivision is fully developed.
8. Local or minor residential roads within subdivisions shall be designed to discourage their use by through traffic.
9. 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.
10. Road intersection grades shall comply with FIGURE 2 (page 65). Roads shall be planned to intersect at ninety degrees (90°) + or - 10°
11. Stopping and sight distance will be maintained at all intersections and on all curves (horizontal and vertical) as specified in TABLE 1 (page 64).
12. Local/*Collector* Roads shall be built with two twelve-foot (12) travel lanes as shown in FIGURE 1 (page 63).
13. Arterial Road shall be built with two fourteen-foot (14) travel lanes as shown in FIGURE 1 (Page 63).

14. Intersections of Local/*Collector* roads with Arterial or highways *roads* shall be kept at a minimum of 600 feet between center lines.
15. Maximum grades for all roads shall be eight percent (8%).
16. Changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight and stopping distance. Small grade changes may be accepted without vertical curves if submitted and approved by the County Engineer and Road and Bridge Department.
17. Culverts and bridges shall be sized to provide hydraulic capacity necessary for storm water runoff. The volume of storm water runoff shall be figured on the basis of a 25 year, 24 hour storm. Minimum culvert sizes shall be 18" underneath any county road, and 12" under any driveway approach. Culverts may be either corrugated metal pipe, reinforced concrete pipe, or other acceptable material. Bridge and Culvert design shall eliminate excessive water buildup.
18. Bridges shall be built to AASHTO standards.
19. Placement of all utilities and culverts underneath the roadway shall be completed prior to the placement of any subbase gravel.
20. All signs shall conform to the standards specified within the current edition of the Uniform Traffic Control Device Manual. All road or address signs shall match existing signs.
22. The standards set out herein shall be considered minimum standards. Additional standards may be required where special conditions warrant.
23. The specifications contained within the American Association of State Highway and Transportation Officials' (AASHTO) Policy on Geometric Design of Highways and Streets shall be utilized where this ordinance does not otherwise specify.
24. It is acknowledged that most existing roads within Franklin County do not meet the standards of A & B and that the County Road and Bridge Department's budget precludes widespread upgrading. However, the standards are prudent and necessary in order to ensure the traveling public's safety and welfare.

APPENDIX F– FIRE PROTECTION FOR SUBDIVISIONS

CHAPTER ONE - GENERAL PROVISIONS

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.

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.

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

I. Fire District Access Design. **The provisions of this section shall constitute design requirements for roads within 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.

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

- A. **Subdivisions with five lots or more.** All subdivisions with five 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 hydrant.
 4. Dry hydrant with cistern type storage, provided the water table is capable of year around flow.
 5. Other approved type 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 system 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 five 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. **Alternative to water supply requirements.** The requirements in II (A) and II (B) shall be waived if all residential structures within the subdivision are required to install an approved inside sprinkler system for fighting fire.
- D. **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.

- E. **Responsibility to maintain access roads.** It shall be the responsibility of the subdivision to maintain private access roads to include snow removal.
- F. **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.
- G. **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 homeowners association and/or parties responsible for the water source and related fixtures.

APPENDIX G- DETAILED STANDARDS FOR NOISE

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 as established within the following table.

RECEIVING USE	MAXIMUM SOUND LEVEL
Residential	60 dBA, 7:00 A.M. to 10:00 P.M. 50 dBA, 10:00 P.M.>to 7:00 A.M.
Commercial, Industrial	70 dBA, Any time

Note: "dBA" is the measure of sound levels in A-weight decibels.

Applicability. 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.

Temporary Exception. The maximum sound levels of the above Table may be exceeded by temporary construction and maintenance activities, but any excessive noise generated by such activities shall be restricted to the hours between 7:00 A.M. and 10:00 P.M.

APPENDIX H - DETAILED STANDARDS FOR BUFFERING

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

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 H-1. The basic buffer width given in that table is the width required where the buffer consists of the following:

- A. A level or gently sloping area of sod or ground cover.
 - B. At least five major trees per hundred lineal feet of buffer, where the dripline of mature trees will touch or just overlap.
 - C. 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 security fence and/or a solid fence, wall, or berm, is required as part of a buffer.

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.

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.

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.

- A. **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.
- B. **Shrubs.** The required buffer width shall be reduced by 10% where 20 or more shrubs per hundred lineal feet are planted or retained.

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.

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.

Plant Materials Specifications. Plant materials installed in required buffers shall be warranted for one year and meet the following specifications:

- A. 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.
- B. All shrubs shall be minimum one gallon containerized stock in good condition with a mature height of 36 inches or more.
- C. Ground covers shall have a mature height of 35 inches or less.

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 H.1 - BUFFERING REQUIREMENTS

Type of Development	Development Type of Area	Basic Buffer Width	Height Adjustment	Headlight Buffer	Security Fence Required	Berm, Wall or Fence Required (Noise, Dust & Debris Mitigation)
Industrial	Residential, platted residential lots	50	1:1	For Parking	Yes	Yes
Industrial	Any Public Way	12	None	No	Yes	Yes
Industrial or Commercial	Adjoining Visually Sensitive Area	50	1:1	No	No	Yes
Commercial	Residential, Platted Residential Lots	20	.75:1	For Parking	Yes	Yes

Commercial Outdoor Material Storage, Handling, or Sales Areas over 10,000 SF	Residential, Platted Residential Lots	50	None	Yes	Yes	Yes
Commercial Outdoor Materials Storage, Handling, or Sales Areas, any size	Any Public Way	12	None	No	Yes	Yes
Higher Density Residential	Lower Density Residential, Platted Residential Lots	20	..80:1	For Parking	No	Yes
Residential	Visually Sensitive Area	20	None	None	No	No
Recreational	Any	30	.75:1	For parking	No	Yes

APPENDIX I- DETAILED STANDARDS FOR GRAVEL MINING

1. **Purpose.** The purpose of this appendix is to provide reasonable assurance that gravel mining operations will not adversely affect neighboring uses.
2. **Road Capacity.** No gravel mining shall be permitted where existing roads and/or bridges do not have adequate capacity to support the anticipated truck traffic.
3. **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.
4. **Operating Hours.** Wherever a proposed gravel mine is within 660 feet of an existing residence or a platted residential subdivision, mining operations shall be limited to the daylight hours. The noise level at the property line shall be limited to 70dBA.
5. **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.
6. **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.

APPENDIX J - RESOURCE MANAGEMENT AGREEMENT

Purpose. The appendix provides a model for the resource management agreements required upon all agricultural lands within the County.

Resource Management Agreement.

("Grantors") are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Franklin county, dated (date), approving a Class I/Class II Permit for residential development on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive agreement as follows:

1. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this agreement that the above described property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising and the application of chemicals, operation of machinery, application of irrigation water, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantor's use of Grantors property for residential purposes. Grantors recognize that all roadways in Franklin County may serve as trails for the movement of cattle and that the only protection from intrusion is a well maintained fence including gates and/or cattle guards. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors' use of Grantors' property for residential purposes and grantors hereby grant an agreement to adjacent property owners for such activities.
2. Nothing in this agreement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this agreement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.

This agreement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this agreement.

IN WITNESS WHEREOF, the Grantors have executed this agreement on _____(date).

(Signature), Grantor

State of Idaho
County of Franklin

This instrument was acknowledged before me on _____ (date)
by _____ (grantors)

(Signature), Notary Public,
My Commission Expires:

APPENDIX K - COMMERCIAL OPERATIONS/DEVELOPMENT MANAGEMENT AGREEMENT

Purpose. The appendix provides a model for the commercial operations/development management agreements required upon all residential lands within the County.

Commercial Operations/Development Management Agreement.

The word “adjacent” hereinafter refers to all property within 1,000 feet of the attached described property.

“Grantors” are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Franklin County, dated for approval of a Class I/Class II Permit for residential development on the attached described property, and in consideration of such approval, Grantors grant to the owners of the all property adjacent to or within 1,000 feet of the attached described property, a perpetual nonexclusive agreements as follows:

- (1) The Grantors, their heirs, successors, and assigns acknowledge by the granting of this agreement that the attached described property is situated in a commercial operations/development area and may be subjected to conditions resulting from commercial operations/development on adjacent lands. Such operations/activities ordinarily and necessarily produce noise, dust, smoke and other conditions that may conflict with Grantor’s use of Grantor’s property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary commercial operations/activities legally conducted on adjacent lands which may conflict with Grantor’s use of Grantor’s property for residential purposes and grantors hereby grant an agreement to adjacent owners of such activities.
- (2) Nothing in this agreement shall grant a right to adjacent property owners to ingress or egress upon or across the described property. Nothing in this agreement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statues or regulations of governmental agencies for activities conducted on adjacent properties.

This agreement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the commercial operations development’s adjacent landowners, their heirs, successors and assigns. These landowners, their heirs, successors and assigns are hereby expressly granted the right of third party enforcement of this agreement.

IN WITNESS WHEREOF, the Grantors have executed this agreement on
_____ (date).

(Signature) Grantor

State of Idaho
County of Franklin

This instrument was acknowledged by me on _____ (date) by

Notary Public,
My Commission Expires:

APPENDIX L - SUBDIVISION AGREEMENT

This Subdivision Agreement made and entered into this ____ day of _____, 20____, by and between Franklin County, a body politic of the State of Idaho hereinafter referred to as “Subdivider”.

WITNESSETH

WHEREAS Subdivider has applies to County for final plat approval on a subdivision entitled _____, which is more particularly described and identified on Exhibit A, attached hereto, incorporated herein and made a part hereof, and

WHEREAS, as a condition to approval of the subdivision, Subdivider must enter into an agreement with County; and

WHEREAS County is willing to approve the subdivision so that the same may be recorded, but desires to ensure that the improvements required by the ordinances of Franklin County are fully met;

NOW THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

1. County does hereby approve the subdivision identified on Exhibit A attached hereto, and does authorize the appropriate officers of Franklin County to sign the subdivision plat, showing their approval of the said subdivision plat.

2. Subdivider represents to County that the improvements contemplated in the subdivision, as evidenced in the plans and specifications submitted with this contract and made a part of this contract by reference, are in full compliance with the County subdivision ordinances. Subdivider agrees to install at his/her own cost as of the improvements identified in the plans and specifications, which are incorporated herein as a part of this agreement, and to have the said improvements installed within 18 months from the date of this agreement. All work shall be completed in a workmanlike manner and shall conform to the Franklin County Development Code, Appendix F. In addition, the sanitary sewer and water systems shall be in accordance with the specifications and requirements of the Southeastern District Health Department. It is expressly understood and agreed that nothing in this agreement shall limit the responsibility of the Subdivider to comply with all laws, ordinances, and rules of regulations of Franklin County.

3. All work, as it is completed within the subdivision, shall be inspected by the Franklin County Building Inspector. As the entire subdivision is completed, the County Building Inspector will inspect the entire subdivision and certify to the Board that the subdivision is complete.

4. In accordance with the requirements of _____ of the Franklin County Development Code relating to platting and recording of subdivisions in the unincorporated area of the county, Subdivider shall furnish to Franklin County, upon execution of this agreement, a bond, cash deposit, irrevocable letter of credit or escrow arrangement in the amount of _____ dollars. The said sum represents at least 125% of the engineer's estimate of the cost of the improvement contemplated within the subdivision. The bond, irrevocable letter of credit, cash or other surety shall remain in effect until one year after the County Building Inspector certifies to the Board that the subdivision has been completed. Notwithstanding the foregoing, the bond, cash, irrevocable letter of credit or other surety may be reduced by the cost of any improvements as they are completed upon review and approval by the County Building Inspector. In no event, however, shall the bond, cash, irrevocable letter of credit or other surety be reduced below 25% of the amount of the bond.

5. Subdivider hereby warrants and guarantees that the improvements contemplated herein and any part thereof will remain in good condition for a period of one year after the date the County Building Inspector certifies to the Board that the subdivision is complete, and Subdivider agrees to make all repairs to and maintain the improvements and every part thereof in good condition during the one year period with no costs to the County.

6. In the event the subdivision is not completed within two years from the date of this agreement, County shall be entitled to as much of the bond, cash, irrevocable letter of credit or other surety needed to complete the improvements set forth in the plans and specifications included as a part of this agreement, which have not been completed. It is understood and agreed that this paragraph does not obligate County to complete the subdivision, but does authorize County to use the money held as security for performance of this contract to complete the improvements.

7. At any time during this agreement or the one year guarantee period, should any of the improvements contemplated by the plans and specifications, which are a part of this agreement, be in need of repair or be in any way defective, County shall notify Subdivider of the needed repairs or the defects, and Subdivider shall correct the defects or make the repairs within sixty (60) days from the date of the notice. In the event Subdivider fails to make the needed repairs or correct the defects, County shall be able to

look to the bond, cash, irrevocable letter of credit or other security for the money needed to make the repairs or correct the defects.

8. Time is of the essence in this agreement.

9. This agreement is binding upon the heirs, administrators and assign of the parties.

10. In the event Subdivider defaults in any of the terms or conditions of this agreement, Subdivider agrees to pay all costs of enforcing this agreement, including, but not limited to, a reasonable attorney fees, whether or not the matter is finally resolved by litigation.

WHEREFORE, the parties hereto have signed this agreement the day and year first written.

BOARD OF COMMISSIONERS, FRANKLIN COUNTY, IDAHO

Chairman

ATTEST: _____
Franklin County Clerk

Subdivider

Subdivider

APPENDIX M – SURETY AGREEMENTS

- A. Escrow: The Subdivider shall deposit with any insurance company, bank, or savings and loan institution in an escrow account an amount of money equal to at least one hundred twenty five percent (110%) of the costs of the improvements required by this title not previously accepted by the County. The costs of the improvements not accepted and not installed or constructed shall be determined by the zoning administrator. The escrow agreement shall be subject to approval by the county attorney and shall be signed by the Subdivider, the county, and the escrow holder, and shall contain substantially the following language:

ESCROW AGREEMENT

This Escrow Agreement made and entered into this ____ day of _____, 20____, by and among Franklin County, body politic of the State of Idaho, hereinafter referred to as “County”, and _____, hereinafter referred to as “Subdivider”, and _____, hereinafter referred to as “Escrow Agent”.

WITNESSETH:

WHEREAS, Subdivider and County have entered into an agreement whereby Subdivider has agreed to install certain improvements within a subdivision before being accepted by County; and

WHEREAS, Subdivider is willing to deposit with Escrow Agent funds sufficient to complete the improvements contemplated by the Subdivision Agreement; and

WHEREAS, Escrow Agent is willing to hold the funds deposited with it and to release them upon the following terms and conditions

NOW THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

1. Subdivider does hereby deposit with Escrow Agent for the benefit of County the sum of _____, which represents at least 125% of the estimated costs of the improvements to be installed in the proposed subdivision of Subdivider, his agents or employees.

2. Subdivider and County hereby agree that the foregoing sums of money shall be used exclusively for the purpose of paying for the costs of materials, and construction and installation of the improvements required by the Franklin County Development Code and that said improvements shall be installed in accordance with the approved plans and specifications and in accordance with the provisions of the Franklin County Development Code. In addition, County and Subdivider further agree that the money held by Escrow Agent shall be paid out to the contractor installing and constructing the required improvements only upon an Order executed by the Subdivider and by an authorized officer of County.

3. Except as provided in paragraph 7 of this Agreement, Escrow Agent does hereby agree to pay sums from the escrowed funds only after having received an order signed by the Subdivider and by an authorized office of the County specifying the amount to be paid out of the Escrow Account.

4. County and Subdivider agree that Subdivider shall not withdraw from the Escrow Account any amount in excess of 100% of the estimated costs of the improvements, but Subdivider agrees to pay from other sources any costs for such improvements which exceed 100% of the estimated costs.

5. The sum of 25% of the estimated costs of improvements shall remain with the Escrow Agent for a period of one year after improvements are made and completed. If, during that one year period, the territory containing the subdivision is annexed by a municipality, Franklin County reserves the right to assign its interest in this agreement to the municipality.

6. If after 18 months from the date of final subdivision approval, all or any part of the required improvements have not been installed, constructed, and maintained according to the standards required by the Franklin County Development Code, County shall notify in writing the Subdivider and the Escrow Agent of the improvements that have not been installed, constructed, or maintained, and shall make demand on Subdivider that the improvements be installed constructed, or maintained. If the improvements are not installed, constructed, and maintained within thirty (30) days after notice by County, County may install, construct, or maintain the improvements and receive payment from the Escrow Agent up to the limit of the escrowed funds for the costs of installing, constructing, or maintaining the required improvements.

7. The Escrow Agent shall, on receiving written proof from the County of notice of Subdivider as required by paragraph 6 above and reasonable proof of the installation, construction, or maintenance of the required improvements, pay to County from the Escrow Account the cost of constructing, installing, or maintaining the improvements;

and upon payment Escrow Agent shall be relieved from any responsibility or liability for the payment of his escrowed funds.

8. If, after one year after the improvements have been installed by Subdivider, the required improvements have been maintained and remain substantially free from latent defects, County shall certify such fact to the Escrow Agent, and the Escrow Agent shall release to Subdivider any funds still held in the Escrow Account, and the Escrow Agent shall be discharged from its obligation to County and to Subdivider.

WHEREFORE the parties hereto have signed this Escrow Agreement the day and year first above written.

FRANKLIN COUNTY BY:

Chairman

Commissioner

Commissioner

ATTEST:

Franklin County Clerk

Franklin County Attorney

Subdivider BY:

ESCROW AGENT BY:

Approved as to Form:

B. Irrevocable Letter of Credit: The Subdivider shall file with Franklin County an irrevocable letter of credit from a duly chartered state or national bank, which letter shall contain provisions substantially similar to that required in the escrow agreement. The form of the irrevocable letter of credit shall be substantially as follows:

Name of Bank
Address

IRREVOCABLE LETTER OF CREDIT

To: Franklin County Board of Commissioners
Credit No.:

Date:
Letter of:

Gentlemen:

We hereby establish our irrevocable letter of credit in your favor for the account of _____ (insert name of Subdivider, Subdivider's address) up to the aggregate amount of \$_____ (insert amount) available by your draft(s) drawn at sight on _____ (insert name of bank, address of bank), accompanied by _____ (here insert terms which give Franklin County control over payment, substantially the same terms as in the escrow agreement).

It is fully understood that said funds are solely for the purpose of guaranteeing improvements, whether off-site or on-site for the _____ Subdivision according to plans and specifications as approved by Franklin County. No offsets, charges, or reductions in these funds will be made without written approval from Franklin County.

Authorized Bank Officer

C. Bond:

1. The Subdivider shall furnish and file with the planning and zoning department a bond with corporate surety in an amount equal to one hundred twenty-five (125%) of the cost of the improvements not previously installed, as estimated by the engineer, to assure installation and construction of such improvements within eighteen (18) months, immediately following the approval of the subdivision plat

by the board, which bond shall be approved by the board and attorney and which bond shall guarantee that the improvements shall be maintained in a state of good repair, free from material or workmanship defects, for a period of twelve (12) months from the date of completion. After twelve (12) months following the completion of the improvements for which a surety or cash bond has been filed, the Subdivider shall call for inspection by the administrator. If inspection shows that the standards and specifications have been met in completion of such Improvements, the bonds therefore shall be released within fourteen (14) days from the time of inspection.

2. Such surety or bond shall remain in force for a period of twelve (12) months after the construction completion inspection for the purpose of guaranteeing all improvements, at which time they shall be inspected again by the administrator. If the improvements are found to be in satisfactory, the administrator will release the bond. If the improvements are not found to be satisfactory condition, the administrator shall in writing make demand on Subdivider to make repairs. If repairs are not made within thirty (30) days of date of letter, bond shall be forfeited to County.

**APPENDIX N -
IDAHO'S ATTORNEY GENERAL'S TAKING CHECKLIST CRITERIA**

Agency or local government staff must use the following questions in reviewing the potential impact of a regulatory or administrative action on specific property. While these questions also provide a framework for evaluating the impact proposed regulations may have generally, takings questions normally arise in the context of specific affected property. The public review process used for evaluating proposed regulations is another tool that the agency or local government should use aggressively to safeguard rights of private property owners. If property is subject to regulatory jurisdiction of multiple government agencies, each agency or local government should be sensitive to cumulative impacts of the various regulatory restrictions.

Although a question may be answered affirmatively, it does not mean that there has been a "taking". Rather it means there could be a constitutional issue and that the proposed action should be carefully reviewed with legal council.

1. Does the Regulation or Action Result in a Permanent or Temporary Physical Occupation of Private Property?

Regulation or action resulting in a permanent or temporary physical occupation of all or a portion of private property will generally constitute a "taking". For example, a regulation that required landlords to allow the installation of cable television boxes in their apartments was found to constitute a "taking". See Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 S. Ct. 3164 (1982).

2. Does the Regulation or Action Require a Property Owner to Dedicate a Portion of Property or to Grant an Easement?

Carefully review all regulations requiring the dedication of property or grant of an easement. The dedication of property must be reasonably and specifically designed to prevent or compensate for adverse impacts of the proposed development. Likewise, the magnitude of the burden placed on the proposed development should be reasonably related to the adverse impacts created by the development. A court also will consider whether the action in question substantially advances a legitimate state interest.

For example, the United States Supreme Court determined in Nollan v. California Coastal Comm'n, 483 U.S. 825, 107 S. Ct. 3141 (1987), that compelling an owner of waterfront property to grant a public easement across his property that does not substantially advance the public's interest in beach access, constitutes a "taking".

Likewise, the United States Supreme Court held that compelling a property owner to leave a public green way, as opposed to a private one, did not substantially advance protection of a floodplain, and was a “taking”. **Dolan v. City of Tigard**, 512 U.S. 374, 114 S. Ct. 2309 (1994).

3. Does the Regulation Deprive the Owner of All Economically Viable Uses of the Property?

If a regulation prohibits all economically viable or beneficial uses of the land, it will likely constitute a “taking”. In this situation, the agency can avoid liability for just compensation only if it can demonstrate that the proposed uses are prohibited by the laws of nuisance or other pre-existing limitations on the use of the property. See **Lucas v. South Carolina Coastal Coun.**, 505 U.S. 1003, 112 S. Ct. 2886 (1992).

Unlike 1. and 2. above, it is important to analyze the regulations impact on the property as a whole, and not just the impact on a portion of the property. It is also important to assess whether there is any profitable use of the remaining property available. See **Florida Rock Industries, Inc. v. United States**, 18 F.3d 1560 (Fed. Cir. 1994). The remaining use does not necessarily have to be the owner’s planned use, a prior use or the highest and best use of the property. One factor in this assessment is the degree to which the regulatory action interferes with a property owner’s reasonable investment-backed development expectations.

Carefully review regulations requiring that all of a particular parcel of land be left substantially in its natural state. A prohibition of all economically viable uses of the property is vulnerable to a takings challenge. In some situations, however, there may be pre-existing limitations on the use of property that could insulate the government from takings liability.

4. Does the Regulation Have a Significant Impact on the Landowner’s Economic Interest?

Carefully review regulations that have a significant impact on the owner’s economic interest. Courts will often compare the value of property before and after the impact of the challenged regulation. Although a reduction in property value alone may not be a “taking”, a severe reduction in property value often indicates a reduction or elimination of reasonably profitable uses. Another economic factor courts will consider is the degree to which the challenged regulation impacts any development rights of the owner. As with 3, above, these economic factors are normally applied to the property as a whole.

A moratorium as a planning tool may be used pursuant to Idaho Code § 67-6523 – Emergency Ordinances and Moratoriums (written findings of imminent peril to public health, safety, or welfare; may not be longer than 120 days); and Idaho Code § 67-6524 – Interim Ordinances and Moratoriums; (written findings of imminent peril to public health, safety, or welfare; the ordinance must state a definite period of time for the moratorium). Absence of the written findings may prove fatal to a determination of the reasonableness of the government action.

The Idaho moratorium provisions appear to be consistent with the United States Supreme Court’s interpretation of the moratorium as a planning tool as well. In **Tahoe-Sierra Preservation Council, Inc. et al v. Tahoe Regional Planning Agency et al.** (Slip Opinion No. 00-1167, April 23, 2002); the Court held that planning moratoriums may be effective land use planning tools. Generally, moratoriums in excess of one year should be viewed with skepticism, but should be considered as one factor in the determination of whether a taking has occurred. An essential element pursuant to Idaho law is the issuance of written findings in conjunction with the issuance of moratoriums. See Idaho Code §§ 67-6523 – 6524.

5. Does the Regulation Deny a Fundamental Attribute of Ownership?

Regulations that deny the landowner a fundamental attribute of ownership – including the right to possess, exclude others and dispose of all or a portion of the property – are potential takings.

The United States Supreme Court recently held that requiring a public easement for recreational purposes where the harm to be prevented was to the flood plain was a “taking”. In finding this to be a “taking”, the Court stated:

The city never demonstrated why a public greenway, as opposed to a private one, was required in the interest of flood control. The difference to the petitioner, of course, is the loss of her ability to exclude others.... [T]his right to exclude others is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.” **Dolan v. City of Tigard**, 512 U.S. 374, 114 S. Ct. 2309 (1994).

The United States Supreme Court has also held that barring the inheritance (an essential attribute of ownership) of certain interests in land held by individual members of an Indian tribe constituted a “taking”. **Hodel v. Irving**, 481 U.S. 704 S. Ct. 2076 (1987).

6. Does the Regulation Serve the Same Purpose that would be served by Directly Prohibiting the Use or Action; and (b) Does the Condition Imposed Substantially Advance that Purpose?

A regulation may go too far and may result in a takings claim where it does not substantially advance a legitimate governmental purpose. **Nollan v. California Coastal Comm'n**, 483 U.S. 825, 107 S. Ct. 3141 (1987), **Dolan v. City of Tigard**, 512 U.S. 374, 114 S. Ct. 2309 (1994).

In *Nollan*, the United States Supreme Court held that it was an unconstitutional “taking” to condition the issuance of a permit to land owners on the grant of an easement to the public to use their beach. The Court found that since there was no indication that the *Nollan*’s house plans interfered in any way with the public’s ability to walk up and down the beach, there was no “nexus” between any public interest that might be harmed by the construction of the house and the permit condition. Lacking this connection, the required easement was just as unconstitutional as it would be if imposed outside the permit context.

Similarly, regulatory actions which closely resemble, or have the effects of a physical invasion or occupation of property, are more likely to be found to be takings. The greater the deprivation of use, the greater the likelihood that a “taking” will be found.

APPENDIX O - DEFINITIONS

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.

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 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 (PZA). See Chapter 2.

ACO: Animal Confinement Operation. See Franklin County ordinances 2002-2 and 2002-3.

Agricultural. 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.

Arterial. Includes all state and federal highways and other major roads as shown in the comprehensive plan.

Board. The Franklin County Board of Commissioners. 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.

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 production agriculture.

Commission. The Franklin County Planning and Zoning Commission.

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.

County. Refers to Franklin County, Idaho.

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 is used as 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. An exempted parcel is a parcel of 40 acres or more taken out of a larger parcel and is treated as an original parcel.

FEMA. Federal Emergency Management Agency.

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 **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.

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.

Home Occupation. A commercial or industrial activity conducted in a dwelling or a building accessory to a dwelling.

I.F.C. Acronym for the *International Fire Code*.

I.C. Refers to the Idaho Code, the state statutes.

Industrial. Areas available for light to heavy industrial business.

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 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.

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 one (1) acre.

Nonconforming. Describes 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. (See Superceded Subdivision Ordinance).

Open Space. Land with current primary uses such as agricultural, range, or wildlands, and where minimal buildings, roads, or other types of construction or excavation exist.

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. A **plat amendment** is a minor change in the lot arrangement or routing of rights-of-way or easements in a previously recorded subdivision plat. Plat amendments are instituted by the recording of an amended plat.

Preservation Parcel. A land holding permanently dedicated to 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.

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.

Relative Standard. A relative standard encourages or discourages a certain kind or level of performance in development activity.

Residential Lot. Any tract of land of 1 acre or more and less than five (5) acres which is used by the owner thereof solely for residential purposes.

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 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.

Setback. All setbacks are measured at right angles 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 (contour intervals of two feet) topographic base.

Sketch Plan. A sketch plan is a general or conceptual site plan of a development. It should include enough specific information to allow the PZA 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.

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.

Stream Corridor. The stream corridor is a complex and valuable ecosystem which includes the 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. ~~Idaho Code Definition: 50-1301-15: A tract of land divided~~ *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. ~~whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bonafide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition.~~

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

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.

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.

Appendix P- Septic Approval

All Class I and Class II Permits 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:

- 1) Retain a Soils Engineer to dig a test hole, evaluate for suitability and submit a report.**
- 2) Retain a Soil Technician from the Soil Conservation District to dig a test hole, evaluate for suitability and submit a report.**
- 3) 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.**