

# Bear Lake County Subdivision Ordinance

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**Note: Changes are highlighted in yellow. Deleted language is noted using strike through. Previous changes are underlined.**

# Bear Lake County Subdivision Ordinance

## Sections:

General Provisions

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Development and Design

Vacations and Dedications

Condominiums

Townhouses

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## General Provisions

This ordinance shall be known and may be cited as the Bear Lake County Subdivision Ordinance.

### A. Purposes.

The general purpose of this ordinance is to protect and promote the public health, safety, convenience and welfare by establishing regulations and a process of review for all proposed subdivisions of land. This ordinance establishes standards for land subdivision in order to accomplish the following:

1. To promote orderly, harmonious, and integrated development of land;
2. To link subdivisions to the underlying zone requirements;
3. To provide safe, adequate, and efficient pedestrian and vehicular traffic systems and circulations;
4. To provide adequate all-weather ingress and egress to subdivisions and lots therein;
5. To prevent overcrowding of land and congestion on streets and highways;
6. To provide for adequate air, light, solar access, privacy, and open space;
7. To provide for adequate fire protection;
8. To prevent inadequate or inappropriate provision of water, sewer, streets, pedestrian easements and public expenditures to provide such improvements;

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9. To protect and conserve wildlife, streams, natural topography, and other desirable natural features by providing for maximum retention of natural topographic features and qualities such as, but not limited to, skyline and ridge tops, knoll ridges, established trees and shrub masses, top soil, stream beds and banks, drainage swales, and preventing damage to the natural environment or scenic beauty;
10. To safeguard and enhance the character, appearance, and economic stability of the community;
11. To provide adequate and uniform monumenting of land subdivisions and promote accurate legal descriptions;
12. To protect the economic base of the community, including property values;
13. To provide access to public lands and waters;
14. To insure the provision and construction of adequate improvements including, but not limited to, water, sewer, and other utilities, streets, bridges, drainage, street lighting, and easements;
15. To encourage and promote energy conservation and alternative energy sources as well as other advanced building technology;

16. To encourage preservation of open spaces including but not limited to the following:

- a. The regulatory 100-year floodplain;
- b. Buffer zones of at least 75 ft width along all perennial and intermittent streams;
- c. Slopes above 25 percent of at least 5,000 square feet contiguous area;
- d. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
- e. Populations of endangered or threatened species, or habitat for such species; and,
- f. Archaeological sites, cemeteries and burial ground
- g. Important historic sites;
- h. Existing healthy, native forests of at least one acre contiguous area;
- i. Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line;
- j. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
- k. To preserve prime agricultural lands and land that has historically been used for agricultural purposes; and,
- l. Existing trails that connect the tract to neighboring areas.

17. To insure conformance of proposed subdivisions with the above stated purposes and to ensure design and construction of improvements in conformance with the

standards and purposes of this ordinance and all other municipal ordinances relating thereto, including subsequent amendments.

**B. Jurisdiction.**

The regulations and procedures as set forth in this ordinance shall apply to each and every subdivision of land within the jurisdictional limits of the County of Bear Lake, Idaho.

**C. Scope.**

The regulations and procedures contained in this ordinance shall be complied concurrent with any of the following:

1. Division of a parcel of land into two or more tracts, lots, or parcels for transfer of ownership, building development, leasing, or encumbering with mortgage or deed of trust;
2. The establishment of a condominium, planned unit development, or conservation subdivision as herein defined;
3. Addition to or creation of a cemetery;
4. The change or modification of boundary lines whether or not any additional lot(s) are created;
5. Any alteration, modification, change, addition to or deletion from any plat of record, and including boundary shifts and/or removal of lot lines between existing platted or unplatted lots or parcels of land.

**D. Exceptions.**

These regulations shall not apply to the following:

1. The subdivision of land into parcels of forty (40) acres or more.
2. The unwilling sale of land by legal condemnation;
3. The enlargement of municipal streets, facilities and easements;
4. The acquisition of collector or arterial street right of way by any public agency in conformance with the comprehensive plan.
5. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat.
- ~~6. An allocation of land in the settlement of an estate of a decedent or a divorce decree for the distribution of property.~~
7. Widening of existing streets to conform to the Comprehensive Plan.
8. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage.
9. The dividing of the original lot, tract, or parcel of land for the purpose of transfer of ownership as an addition to and contiguous with adjoining land for the purpose of

enlarging the adjoining parcel size and not for increasing the number of dwellings that can be built on the lot or parcel.

10. The land owned, purchased, or sold by a municipality, body politic, local improvement district, or organization owning a community water system, or other public agency, for the furtherance of any public purpose of such entity.

#### **E. Interpretation.**

All proposed subdivisions of land shall comply with the regulations of this ordinance. Density and availability of building permits is determined by the zoning of the property. The regulations contained in this ordinance shall be considered minimum standards. The regulations of this ordinance are in addition to all other regulations and where at variance with other laws, regulations, ordinances, or resolutions of the County of Bear Lake, or any other governmental body having jurisdiction thereover, the more restrictive requirements shall apply. Furthermore, where appropriate for the protection of the public health, safety, convenience or welfare, more stringent standards may be imposed by the Board.

*The creation of illegal lots through the process of de facto subdividing is expressly prohibited. Using the lot split or the minor subdivision provisions of this ordinance to create a de facto subdivision is expressly prohibited.*

#### **F. Administration.**

The Board shall appoint an administrator to receive and process all subdivision applications and make recommendations to the commission and the Board with regard thereto. The administrator shall serve at the will of the Board.

#### **Definitions:**

For interpretation of this ordinance, certain terms and words are hereby defined. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural shall include the singular; the word "shall" is always mandatory and the word "may" indicates the use of discretion in making the decision.

**"Access"** A legally and physically defined area available and practical for motor vehicle ingress and egress to parcels, lots, areas or tracts of land from an adjoining public road. In determining practicality, topography, drainage, potential for erosion, flooding and other factors shall be considered.

**"Active open space"** means open space that is used for sports, exercise, or active play. Active open space consists mainly of recreational facilities, including the following: playground equipment, playing fields (baseball, soccer, football, track), playing courts (basketball, handball, tennis), beach area (swimming, volleyball, Frisbee, running), pools, ice skating rinks, greenways and esplanades (running, biking, rollerblading, hopscotch, and other active play), multipurpose play area (open lawns and paved areas for active recreation, such as running games, informal ball-playing, skipping rope, etc.), skiing, equestrian activities, and golf courses, including pitch and putt .

**"Agriculture use"** means the growing of timber or crops, including grazing, horticulture, floriculture, nurseries, fruit trees, together with necessary accessory and secondary uses

for processing, packing, treating or storage, and shall not include feedlots, slaughterhouses, rendering plants or sawmills.

**"Alley"** means a minor public way providing secondary access to the back or the side of property otherwise abutting a street.

**"As-built drawings"** means plans and specifications, certified by the subdivider's engineer, depicting the location, type and details of improvements installed by the subdivider. "As constructed drawings" and "as-built drawings" are synonymous.

**"Block"** means a group of lots, tracts, or parcels within well defined boundaries, usually streets.

**"Board"** means the Bear Lake County Board of County Commissioners.

**"Buildable area"** is the minimum contiguous area remaining on a lot or parcel of land after all setback requirements, areas with slopes greater than twenty-five (25) percent, all easements and rights-of-way, historic sites, wetlands, and land below the ordinary high water level of public waters are subtracted for the purpose of placement of structures.

**"Building"** means any structure, either permanent or temporary, fixed or placed upon land for housing or supporting any use or occupancy.

**"Building envelope"** means the site for location of a structure delineated on a preliminary plat and final plat within which the entire building must be constructed. A building envelope shall conform to all minimum zoning ordinance requirements and requirements of this ordinance.

**"Clerk"** means the County Clerk of the County of Bear Lake, Idaho.

**"Clustering or clustered"** means a development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups, adjacent to permanently preserved common open space, so as to make efficient and visually aesthetic use of the natural features of the landscape and maximize visualization of permanently preserved open space.

**"Commission"** means the Bear Lake zoning commission.

**"Common open space"** means a portion of a development site that is permanently set aside for public or private use, is held in common ownership by all individual owners within a development, and will not be developed. Common open space shall include wetlands, upland recreational areas, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Common open space is not the space between buildings of a cluster in a conservation subdivision and planned unit development, and it does not include an area of twenty-five (25) feet around each structure or any impervious surface.

**"Comprehensive plan"** means the officially adopted comprehensive plan of the County of Bear Lake, Idaho.

**"Condominium"** means an estate consisting of an undivided interest in common in real property, in an interest or interest in real property, or any combination thereof, together with a separate estate in real property, in an interest or interests in real property, or any combination thereof.

**“Conservation subdivision”** is a method of subdivision characterized by common open space and clustered compact lots, with the purpose of creating greater community value through open space amenities for homeowners and protection of natural resources, while allowing for the residential densities consistent with prevailing densities. Site designs incorporate standards of low impact development, such as looped roadways versus cul-de-sacs, maximum road setbacks for structures, and preservation of trees, shoreline, unique resources, and scenic vistas, and these developments use storm water designs that emphasize onsite retention and infiltration through the preservation of native vegetation within the shore impact zone, use of pervious surfaces, rain gardens, and swales.

**“Conventional subdivision”** means a pattern of subdivision development that permits the division of land in the standard form where lots are spread evenly throughout a parcel with little regard for natural features or common open space as compared to a conservation subdivision where lots are clustered and common open space is provided.

**“County recorder”** means the office of the Bear Lake County recorder.

**“Covenants, private”** means a written promise, covenant, restriction, or rule imposed upon land by the property owners or land developers which are private in nature and enforced accordingly. Such covenants do not replace or impair the validity of the restrictions or regulations imposed by this ordinance or any other applicable ordinance of the County of Bear Lake or governmental entity having jurisdiction thereover.

**“Dedication”** means the setting apart of land, or interest in land for use by the public. Land becomes dedicated when accepted by the Board as a public dedication by ordinance, resolution, or by approval and acceptance thereof on a final plat.

**“Development plan”** means a master plan for development of a planned unit development (PUD) or a phased project establishing location of required improvements and all existing and proposed structures together with a schedule for development thereof.

**“De facto Subdividing”** means the creation of an illegal lot without having been formally reviewed by the Bear Lake County Planning and Zoning Commission, submitted to the Bear Lake County Board of County Commissioners and subsequently approved by County Commissioners.

**“De facto Subdivision”** means the creation of an illegal subdivision through means other than those approved by the ordinances.

**“Double Frontage Lots”** means a lot having a frontage on two or more nonintersecting streets, as distinguished from a corner lot.

**“Driveway”** means a nondedicated vehicular access constructed on private property which provides vehicular and/or pedestrian access to not more than four (4) dwelling units (excluding accessory dwelling units) and is constructed in conformance with the applicable adopted street standards and International Fire Code.

**“Dwelling site”** means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

**"Dwelling unit"** means one or more rooms including a bathroom and single kitchen designed for or occupied as a unit by a person or family for living purposes and located in a one-family, duplex, or multiple family dwelling.

**"Easement"** means a grant by a property owner to a specific person(s) or the public right to use land for specific purpose(s). Also, such a right acquired by prescription.

**"Floodplain"** means the relatively flat area or low land adjoining the channel of a stream river, lake or other body of water which is subject to the hazards and inundation on a one hundred (100) year frequency, as identified and defined in the Flood Insurance Study and Flood Boundary and Floodway Map prepared by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development in conjunction with the U.S. Army Corps of Engineers.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, as identified and defined in the Flood Insurance Study and Flood Boundary and Floodway Map prepared by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development in conjunction with the U.S. Army Corps of Engineers.

**"Engineer"** means an officially licensed and registered engineer by the state of Idaho.

**"Engineer, County"** means a representative of the County authorized to check plats and provide on-site inspections to insure compliance with the provisions of this ordinance.

**"Governing body"** means the Council or Board composed of elected officials of the City or County having jurisdiction.

**"Gross Density"** means the number of dwelling units per acre within the boundaries of a parcel.

**"Highway"** means a street designed or designated as a highway by the State or Federal agency responsible therefore.

**"Height of building"** The vertical distance as measured from the highest point of the roof of the building, not including chimney or vane, down to the point representative of the average finished grade of the land around the perimeter of the building.

**"Impervious surface"** means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas, and concrete, asphalt, compacted road base gravel or gravel driveways.

1. **Large impervious area** An area of impervious surface including, but not limited to, a parking lot of any size, large building, street, cul-de-sac, large amenities complex and other similar impervious area.
2. **Small impervious area.** An area of impervious surface such as a small swimming pool, or one small basketball court, or one tennis court, or a small maintenance building, or an historic home site, or an existing or new trail system, or some other similar impervious area.

**"Improvements"** means any alteration to the land or construction associated with the construction or installation of streets, easements, drainage facilities, curbs, gutters, sidewalks, water system, sewage system, storm sewers, gas, electric or telephone lines, lot pin monuments and other such items associated with the subdivision and/or development of land, including grading or fill of land.

**"Improvements, required"** means those subdivision improvements required to be constructed after preliminary plat approval and prior to final plat approval by the Board.

**"Infiltration"** The process of percolating storm water runoff into the subsoil.

**"Life safety inspection"** means the Bear Lake Building Official has inspected and approved the following items within the building as completed, including, but not limited to; handrails, guardrails, tempered glass, address, smoke detectors and fire separation requirements.

**"Lot"** means the parcel, plot, tract, or other area of real property intended for sale, transfer, lease, or encumbrance.

**"Lot, area"** means the area within the boundaries of a lot, exclusive of any of the area contained within a public or private street, alley, fire lane, or private driveway easement. Also, exclusive of any narrow strip of land connecting a lot set back from any public street for the purpose of providing driveway access with that street.

**"Lot, buildable"** means a lot that contains land outside of the floodway which conforms to all ordinance requirements and where the slope is less than twenty-five (25) percent.

**"Lot, split"** means the creation of two lots from a single lot. A separate procedure is used for a lot split.

**"Lot width"** means the shortest distance between lot lines measured at the midpoint of the building line for riparian lots. For nonriparian lots, the lot width is the shortest distance between side lot lines as measured at the midpoint of the longest axis of the lot.

**"Manufactured Home"** means a single-family dwelling transportable in one or more sections which has been built in accordance with the federal Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act.

**"Minor Subdivision"** See procedure for combining preliminary and final plats

**"Mobile home or trailer"** means any vehicle or structure constructed in such a manner that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power, and which may be moved in substantially one section into the County.

**"Modular Home"** means any home factory-built to the International Building Code.

**"Net Density"** means the number of dwelling units per acre within the boundaries of a parcel or building site after utility rights-of-way, dedications, and easements that prohibit the surface use of the site are deducted.

**"Nonstructural Stormwater Management Practice"** Any natural or planted vegetation or other nonstructural component of the storm water management plan that provides for or enhances storm water quantity and/or quality control or other storm water management

benefits, and includes, but is not limited to, riparian buffers, open and green space areas, overland flow filtration areas, natural depression, and vegetated channels.

**“Open Space”** means an area substantially open to the sky which may be on the same lot with a building but is restricted from further structures. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the Board deems permissible. Streets, parking areas, structures for habitation, and the like shall not be included. Parking areas may be included if they are provided for specific dedicated open space access.

**“Ordinary high water level (OHW)”** means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**“Owner”** means the individual, firm, association, syndicate, partnership, or corporation, holding fee simple title evidenced by a deed recorded in the office of the Bear Lake County recorder.

**“Passive open space”** means open space that is used for relaxation, such as sitting or strolling. Facilities may include the following: plazas or medians with seating, a percentage of beach areas (sunbathing), picnicking areas, greenways and esplanades (sitting, strolling), paths, accessible restricted use lawns, gardens, church yards or cemeteries with seating, and publicly accessible natural areas used, for example, for strolling, dog walking, and bird watching.

**“Package plant for sewage treatment”** Any plant which: (a) consists of units or modules designed for construction, assembly, connection and installation at the site for treatment of sewage; and (b) is privately owned and will be operated to treat wastewater and sewage for a limited area. The term does not include septic systems comprised of single or multiple septic tanks and leach fields.

**“Performance bond”** means either the amount of money, or other negotiable security deposited by the subdivider with the County clerk, or a bond executed by a qualified surety company, registered to do business in the state of Idaho, which guarantees that the subdivider will perform all actions and install all required improvements or his surety will pay the costs thereof and damages up to a limit of the amount of bond or security deposited. No personal checks shall be allowed as performance bonds.

**“Phased development”** means development of a parcel of land in stages either as a series of subdivisions or as a single parcel with construction of buildings and/or improvements over a series of years.

**“Plat”** means a map or drawing which graphically delineates the boundaries and dimensions of land parcels for the purpose of identification and record or title.

**“Large Scale Planned Unit Development”** means development of land not less than five hundred (500) acres in which the standard land use regulations may be modified or waived in order to promote beneficial development of an entire tract of land in

conformance with an approved planned unit development permit accentuating mixed use, useable open space, recreational uses, public amenities, community housing, and harmonious development with surrounding properties and the county at large. For purposes of this ordinance, a planned unit development may be and hereinafter is referred to as a "PUD" or planned unit development.

**"Minor Subdivision"** The division of a platted lot or a parcel of land into four (4) or fewer contiguous lots that comply with minimum standards of the Zoning Ordinance in all respects, that have access onto an existing public right-of-way through an approved street that serves no more than the four (4) proposed lots and complies with applicable fire codes.

**"Nonstructural Storm water Management Practice"** Any natural or planted vegetation or other nonstructural component of the storm water management plan that provides for or enhances storm water quantity and/or quality control or other storm water management benefits, and includes, but is not limited to, riparian buffers, open and green space areas, overland flow filtration areas, natural depression, and vegetated channels.

**"Planning commission"** means the planning commission of the County of Bear Lake, Idaho.

**"Planting strip"** means a strip of land within a subdivision not less than ten (10) feet in width across which there is no driveway, street, or other access, and which is devoted exclusively to landscaping, primarily trees of not less than five feet in height. The primary purpose of planting strips is screening of streets, highways, adjacent incompatible land uses, and off-street parking areas.

**"Plat, final"** means a map of a subdivision, planned unit development (PUD), or dedication, and in conformance with the approved preliminary plat, and prepared in accordance with this ordinance, and Title 50, Ordinance 13, Idaho Code, as amended or subsequently codified.

**"Plat, preliminary"** means a preliminary plan prepared in conformance with this ordinance submitted together with such other documentation as required by this ordinance.

**"Plat, recorded"** means a final plat which has been accepted by the Board and filed with the Bear Lake County recorder.

**"Public hearing notice"** means notice of a public hearing before the Board or planning commission published at least fifteen (15) days prior to said meeting in the official newspaper of the County of Bear Lake, Idaho. Furthermore, all property owners within three hundred (300) feet of the subject property shall be notified by first class mail. Such written notification shall be deemed sufficient if deposited in the mail to all property owners according to the records of the Bear Lake County clerk at least fifteen (15) days prior to said meeting and public hearing. The notice shall contain a description of the size and location of the subject property and shall inform the reader of the time and place of the meeting at which the public hearing will be held. Notice shall also be posted on the subject property at least seven days prior to the public hearing.

**"Readjustment of lot lines"** means a change or modification of the boundary lines between existing lots or parcels of land or between dwelling units which does not reduce

the area, frontage, width, depth, or building setback lines of such lot below the minimum zoning requirements and which does not create additional lots or dwelling units. Readjustment of lot lines is intended to include other minor changes to a subdivision, condominium or townhouse plat such as, but not limited to, notation changes, boundary shifts and removal of lot line(s), each of which do not reduce the area, frontage, width, depth, or building setback lines of each lot below the minimum zoning requirements nor create additional lots or dwelling units.

**“Reverse frontage lot”** means a lot bordering on streets along both its front and rear property lines.

**“Safe Legal Access”** means access through a roadway that meets all requirements set forth in Chapter 5 of the Bear Lake County Land Use Ordinances.

**“Setback”** means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, natural resource feature (e.g., wetlands or heritage elements), road, highway, property line, or other facility.

**“Sewer system”** means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**“Sewage treatment system”** means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as approved and permitted by the Southeastern Idaho Public Health District.

**“Significant historic site”** means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery.

**“Solar access”** means unobstructed access to direct sunlight upon land or a building.

**“Standard specifications”** means specifications for design and construction of improvements as specified in this ordinance or other ordinances or resolutions of the County of Bear Lake, or by any other governmental entity having jurisdiction thereover, including subsequent amendment or codification.

**“State”** means State of Idaho.

**“Stream”** Any stream, beginning at:

1. The location of a spring, seep, or groundwater outflow that sustains streamflow; or
2. A point in the stream channel with a drainage area of 25 acres or more; or
3. Where evidence indicates the presence of a stream in a drainage area of less than 25 acres, the Idaho Department of Water Resources or the US Army Corp of Engineers may require field studies to verify the existence of a stream.

**“Steep slope”** means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over twenty five percent (25%), as measured over horizontal distances of fifty (50) feet or more.

**“Street”** means a public right-of-way which provides vehicular and pedestrian access to adjacent properties and is constructed within a sixty foot right-of-way easement recorded with the County Clerk, the dedication of which has been officially accepted. The term street also includes the terms highway, thoroughfare, parkway, road, avenue, boulevard, lane, place, and all such terms, except driveway as herein defined.

**“Street, arterial”** means a street designated for the purpose of carrying fast and/or heavy traffic.

**“Street, collector”** means a street designated for the purpose of carrying traffic from residential streets to other collector streets and/or arterial streets.

**“Street, cul de sac”** means a dead-end street provided with turnaround space at its terminus.

**“Street, dead-end”** means a street connected to another street at one end only and not having provision for vehicular turnaround at its terminus.

**“Street, frontage”** means a minor street, parallel to and adjacent to an arterial street which has the primary purpose of providing access to abutting properties.

**“Street, loop”** means a residential street with both terminal points on the same street of origin.

**“Street, partial”** means a dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land where remaining right-of-way widths can be obtained from adjacent properties where said properties are subdivided.

**“Street, private”** means a street constructed on private property, which provides vehicular and pedestrian access to multiple family dwelling units or more than four (4) dwelling units (excluding accessory dwelling units) with a sixty foot roadway right-of-way easement which is recorded with the County Clerk, and constructed to standard street specifications and International Fire Code; however, not accepted for dedication or maintenance by the County.

**“Street, residential”** means a minor street which has the primary purpose of providing access to abutting residential dwelling units or properties and carries no heavy, through, or collector traffic.

**“Structure”** means any building or appurtenance, including decks, platforms, carports, and roof overhangs, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**"Subdivider"** means the individual, firm, corporation, partnership, association, syndicate, trust, or any other legal entity that files application and initiates proceedings for subdivision of land in accordance with provisions of this ordinance. If the subdivider is not the owner of the property he shall be the agent of the owner as evidenced by a recorded power of attorney for said purpose.

**"Subdivision"** means land that is divided including a conservation subdivision and a planned unit development.

**"Suitable Area"** is the area remaining on a lot or parcel of land, where areas with slopes greater than twenty-five (25) percent, all easements and rights-of-way, historic sites, wetlands, land below the ordinary high water level of public waters, and all setback requirements, except the ordinary high water level structure setback, are subtracted.

**"Townhouse development"** means a planned project of two or more townhouse units that may be constructed as single building(s) containing two or more townhouse units erected generally in a row, each unit being separated from the adjoining unit or units by a one-hour fire resistant party wall or walls extending from the basement floor to the roof along the dividing townhouse subplot line, each unit having its own access to the outside, and no unit located over another unit in part or in whole; and/or may be constructed as single buildings containing single townhouse units provided the separation between units and/or buildings complies with applicable codes. All townhouse developments shall be platted under the procedures contained in the subdivision ordinance.

**"Townhouse sublots"** means the lots resulting from platting a townhouse development. Townhouse sublots shall have a minimum area equal to that of the perimeter of each individual townhouse unit measured at the foundation whether located independently or within a building containing two or more townhouse units in a townhouse development. Said sublots shall not be buildable for structures other than a townhouse unit as defined herein. Platting of sublots shall follow the procedures set forth in the subdivision ordinance and other applicable codes in effect. Detached garages may be allowed in a townhouse development and may be platted on separate sublots, provided that the ownership of said detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

**"Townhouse unit"** means one or more rooms, including a bathroom, and a single kitchen, designed for or occupied as a unit by one family for living and cooking purposes, located in a townhouse development on a platted townhouse subplot.

**"Twenty-five (25) percent grade"** means one foot change in elevation for every four feet of land measured horizontally.

**"Useable Open Space"** shall not include the area encompassed by streets, parking areas, slopes over fifty (50) percent unless the slope provides a specific beneficial use, or areas included within a required setback. Parking areas that support specific recreational uses such as trails may be counted as open space at the discretion of the Board.

**"Utilities"** means installations for providing services to and used by the public, e.g., water, sewer, electricity, gas, television, cable, and similar facilities.

"**Vicinity map**" means a small map showing the location of a tract of land in relation to the County, including existing major streets and highways and surrounding subdivision(s) or large parcels of land.

"**Waiver**" means modification of a relevant provision and regulation of this ordinance not contrary to public interest or public health, safety, or welfare, and due to physical characteristics of the particular parcel of land and not the result of actions of the subdivision where literal enforcement of this ordinance would result in undue hardship. The granting of waiver(s) shall be upon written application and the granting thereof rests with the sound discretion of the commission and Board, on a case by case basis.

"**Water course**" means a natural depression or channel which carries or gives direction to a current of water any time of the year.

"**Water Mitigation Plan**" means a description of the source of water that will be used to serve the development, a description of any potential impacts that may result from the use of such water supply, and a plan to mitigate any such potential impacts resulting from the use of such water supply. Water mitigation plans must comply with Idaho Department of Water Resource (IDWR) regulations and water rights and mitigation plans must be approved by IDWR.

"**Wetland**" means any lands as defined by the U. S. Corp of Engineers. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation.

## **Procedure for Subdivision Approval:**

### **A. Administration.**

The administrator shall have the duty of administering the regulations contained in this ordinance, and shall prepare and require the use of such forms as are necessary for the reasonable administration of these regulations.

### **B. Plat Approval Required.**

Any person desiring to subdivide land shall submit an application therefore to the administrator. No final plat shall be filed with the county recorder until the same has been acted upon by the commission and approved by the Board as a preliminary plat and as a final plat. No lots or parcels of land described by metes and bounds or otherwise shall be sold until a final plat thereof has been recorded in the office of the Bear Lake County recorder.

### **C. Lot Splits.**

1. The lot split procedure cannot evade the County's subdivision requirements for subdivisions using multiple lot splits. The lot-split procedure may be used to create only one additional lot. That lot must conform to the underlying zone. The lot created by the lot split and the parent parcel may not be further divided for five years.
2. Both lots must meet the requirements of the zone of the parcel being split, i.e. minimum lot size, setbacks, etc. Both lots must have safe legal access, including access for utilities.
3. If the parent parcel is later subdivided developed into a subdivision as defined herein, the lot created by the lot split will be required to be included in the subdivision plat and all improvements required for subdivision will be made to the lot(s) created from the original split.
4. In the Ag 40 zone, subdividing below the underlying zone requirement for legitimate agricultural purposes or to satisfy legitimate financial requirements is permissible and not subject to subdivision requirements. Building permits shall not be permitted on the parcels created by subdividing below underlying zone requirements but construction of non-residential, agriculture-related structures will be allowed.
5. In the Ag 40 zone, an existing home with surrounding property may be split once below the underlying density so long as the following is adhered to:
  - The existing home shall have been built prior to 2004, year of adoption of the land use ordinance.
  - The parcel on which the existing home is located and being split off shall be no less than five (5) acres.
  - If necessary, access shall be provided to surrounding property in order to prevent landlock.
  - Pertinent facilities shall be included within the parcel upon which the existing home is located
- ~~6.~~ In the Ag 40 zone, subdividing of nonconforming lots below the underlying zone requirement to facilitate the creation of a minor subdivision as defined herein is permissible if safe legal access can be provided.
- ~~7.6.~~ Procedure. The developer shall file a properly completed application form, the required supporting materials and the required application fee with the administrator.
- ~~8.7.~~ The administrator shall place the application on the agenda of the next regular commission meeting.
- ~~9.8.~~ All lot splits shall require a deed restriction on both the parent parcel and the lot created that requires a 5-year waiting period on the splitting of lots from the original split.
- ~~10.9.~~ The commission shall determine whether the proposed lot split is in compliance with the comprehensive plan and this ordinance. If it finds that the proposed lot split complies, it shall approve the application. If it finds that the proposed lot split is not in compliance, it shall disapprove the application. Conditions may be attached to an approval, as provided herein.

- | ~~11~~.10. The administrator shall notify the developer and interested parties of the commission decision within 10 days. A record of survey of the lot split shall be filed.
- | ~~12~~.11. The commission decision may be appealed to the Board using the appeals procedure herein.
- | ~~13~~.12. Approval of a lot split does not constitute or imply approval of a permit for any prospective use of the lot created.

**C. Combining Preliminary and Final Plats.**

1. The applicant may request that the subdivision application be processed as both a preliminary and final plat (minor subdivision) if all the following exist:
  - a. The proposed subdivision does not exceed four (4) lots.
  - b. The proposed subdivision meets all applicable requirements of this ordinance.
  - c. No new street dedication or street widening is involved.
  - d. Access to the minor subdivision via a private or public street with egress and ingress off of an existing county owned and maintained roadway meeting the requirement of Bear Lake County Land Use Ordinances Chapter 5 Section 6 B.
  - e. All required improvements must be constructed and verified prior to final plat approval.
  - f. No special development considerations are involved, such as development in a flood plain, slopes greater than 15%, etc.
  - g. The entire property must be surveyed and monumented by a registered land surveyor and a plat recorded with the Bear Lake County Recorder.
  - h. All required information for both preliminary and final is complete and in an acceptable form.
2. When the Planning and Zoning Administrator deems the minor subdivision preliminary plat application complete and valid, and all relevant agencies have been notified, the Administrator may then take the preliminary and final plat to the Board for a public hearing and their review and decision. The commission is not engaged in the review of a minor subdivision preliminary/final plat application, unless the Administrator or the Board requests their review.

**D. Preliminary Plat Procedure.** Prior to the submission of an application, the applicant shall attend a conference with the Administrator to discuss the application and procedures. The applicant may also request to be placed on the Commission's agenda to discuss general concepts but no approvals shall be given prior to the submission of an application.

1. Application. The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this ordinance.
2. Acceptance by Administrator. Upon receipt of the completed preliminary plat application and data, the administrator shall declare the application as complete and

affix the date of acceptance thereon. Thereafter, the administrator shall place said preliminary plat on the commission agenda for consideration at a regular meeting of the commission.

3. Review by Departments and Agencies. After receipt of a completed preliminary plat application, the administrator shall transmit one copy of the application and preliminary plat to other County departments and to such other government agencies as have jurisdiction over, or interest in, the proposed subdivision for their recommendation and review. If no written recommendation or request for extension of time is received from any such department or agency within thirty (30) days from date of transmittal, the approval of the preliminary plat by such department or agency will be considered granted. The departments and agencies to which preliminary plats may be referred include all pertinent County departments, district health department, Idaho Public Utilities Commission, commissions of other governing bodies having joint jurisdiction, appropriate utility companies, soil conservation district, and such other departments or agencies as the administrator deems necessary in order to carry out the full intent of this Ordinance.
4. Review by Administrator. The administrator shall review the preliminary plat application and data as well as the recommendations received from the various departments and agencies to insure that said application and plat are in conformance with all applicable rules and regulations. The administrator shall report and make recommendations to the commission.

**E. Commission Action on Preliminary Plat.**

Consideration by the commission of a subdivision application and data shall take place at a regularly scheduled commission meeting, unless a special meeting of the commission is requested by the subdivider and granted by the commission. At that meeting, the commission shall do the following:

1. Public Hearing. The commission shall hold a public hearing on all subdivision applications with public hearing notice, except applications to convert existing structure(s) containing eight dwelling units or less into condominiums shall not require a public hearing be held; and except applications to subdivide property and structure(s) thereon into a maximum of two townhouse sublots shall not require a public hearing be held.
2. After the public hearing, the commission shall review the preliminary plat and supporting data, recommendations of administrator, testimony of the subdivider, and the public. The commission shall recommend, recommend with specific conditions, or not recommend the preliminary plat. If the preliminary plat is not recommended, the reasons for such action shall be stated in writing, and a copy signed by the administrator attached to one copy of the preliminary plat shall be returned to the applicant.
3. Upon review by the commission of a preliminary plat, the administrator shall transmit to the Board the subdivision application, preliminary plat and other data and a copy of the commission findings and report.

**F. Board Action on Preliminary Plat.**

Submission of a preliminary plat upon review by the commission to the Board shall be mandatory. The Board shall consider the subdivision application at its next available regular meeting. The subdivider, at his request, shall be entitled to at least one continuance. The Board shall consider the preliminary plat, subdivision application and data, the report and recommendations of the commission along with the commission's report of testimony from the subdivider, witnesses, interested citizens and representatives of the commission. At its discretion, the Board may hold an additional public hearing. If an additional hearing is held, procedure outlined in the land use ordinance shall be adhered to. Upon conclusion of its consideration of the preliminary plat, the Board shall approve, conditionally approve, or disapprove the plat and make findings consistent with law and this Ordinance. Upon approval of the preliminary plat by the Board, the subdivider shall prepare required improvement design plans in accordance with this ordinance and additional condition(s) imposed by the Board. Upon approval of the improvement designs by the County engineer, the subdivider shall commence construction on the required improvements.

#### **G. Final Plat Procedures.**

After approval of the preliminary plat, the subdivider shall cause the subdivision to be surveyed and a final plat to be prepared in conformance with the preliminary plat as approved, and Title 50, Ordinance 13, Idaho Code. Upon completion of said final plat, the subdivider shall file same and all other documents required, with the administrator. Then the administrator shall place said final plat upon the Commissioner's next available regular meeting agenda. In the event that the Board finds that final plat does not substantially conform to the approved preliminary plat, the Board shall consider said plat a revised preliminary plat and remand the revised preliminary plat to the commission for an additional public hearing and review. The subdivider shall submit the final plat and plan specifications of all required improvements together with a current title report showing proof of ownership in the land to be subdivided. When submitted to the administrator, the final plat shall bear all required certificates, acknowledgments and signatures. Upon receipt of a final plat in compliance with all requirements and all conditions placed upon the preliminary plat, the Board shall approve the final plat and the Chairman of the Board shall affix the date of acceptance and his signature thereon.

#### **H. Acceptance of Dedications.**

Approval of the final plat by the Board shall constitute acceptance of all dedications for public streets, rights-of-way, easements, and other lands dedicated for public purpose or use as shown thereon. As a condition precedent to the acceptance of any streets or required improvements, the Board shall require that the subdivider install said improvements in accordance with the construction standards, and that condition shall be noted on the final plat.

#### **I. Time Limitations.**

The failure to obtain final plat approval by the Board of an approved preliminary plat within eighteen months after approval by the Board shall cause all approvals of said preliminary plat to be null and void unless the subdivider applies for, and is granted, a written extension by the Board. The final plat shall be filed with the Bear Lake County recorder within one year after final plat approval by the Board. Failure to file said final

plat within that time shall cause all approvals of said final plat to be null and void. No lots shall be sold and no building permit shall be issued with regard to any parcel of land within a proposed subdivision until the final plat has been recorded.

**J. Contents of Preliminary Plat.**

The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application. The preliminary plat shall show the following (unless otherwise indicated):

1. The plat shall have dimensions of not less than twenty four inches by thirty six inches (24" x 36"), shall be drawn to a scale of not less than one inch to one hundred feet (1" = 100'), and shall show the drafting date and north arrow.
2. Four (4) sets of preliminary engineering plans (not meant to be cross sections or detailed designs) for streets, water, sewers, sidewalks and other required public improvements.
3. Two (2) electronic copies of the preliminary plat and preliminary engineering plans.
4. The name of the proposed subdivision, which shall not be the same or confusing with the name of any other subdivision in Bear Lake County, Idaho,
5. The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat,
6. Legal description of the area platted,
7. The names and the intersection boundary lines of adjoining subdivisions and parcels of property,
8. A contour map of the subdivision with contour lines and a maximum interval of five feet to show the configuration of the land based upon the United States Geodetic Survey data, or other data approved by the County engineer,
9. The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways, and easements, public and private,
10. Boundary description and the area of the tract,
11. Existing zoning of the tract,
12. A statement of the intended use of the proposed subdivision;
13. The proposed location of street right-of-ways, lots, and lot lines, easements, including all approximate dimensions and including all proposed lot and block numbering and proposed street names,
14. The boundaries of record of the tract, area of the tract, the proposed location, approximate grade, right-of-way width and pavement width of streets and alleys, locations of sidewalks; the proposed location and width of easements and setback lines, proposed lot lines, the radii of all curves, lot size and approximate lot dimensions.

15. The location, approximate size, and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision,
16. The approximate location of existing buildings with approximate distances shown to proposed property lines, water bodies or courses,
17. The location, size, and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers (a minimum distance of 100 feet), water mains, and storage facilities, street improvements, street lighting, curbs, and gutters, and all proposed utilities (may be shown only on the engineering plans),
18. The direction of drainage, flow, and approximate grade of all streets (may be shown only on the engineering plans),
19. The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements relating thereto, whether they are located within or outside of the proposed plat, The approximate location, size and type of all irrigation ditches, channels, pipes, structures within and immediately adjacent, a minimum distance of 100 feet, to the proposed subdivision (may be shown only on the engineering plans);
20. All percolation tests and/or exploratory pit excavations required by state health authorities,
21. A copy of the provisions of the articles of incorporation and by-laws of homeowner's association and/or condominium declarations to be filed with the final plat of the subdivision,
22. Verification that all outstanding taxes and assessments levied by political subdivisions have been paid on the property included in the application,
23. Vicinity Map. An 8-1/2" x 11" vicinity map, suitable for public presentation drawn to a scale of 1" = 300' or larger (i.e., 1" = 200', etc.) which includes the proposed development and sufficient area around it to provide adequate orientation and landmark identification for someone unfamiliar with the vicinity. All the following elements are to be included:
  - a. A minimum distance of 600' beyond all boundaries of the proposed development.
  - b. A north point.
  - c. Location and names of all streets and roadways, including the nearest collector or arterial in both north/south and east/west directions.
  - d. Clear identification of the boundary of the proposed development and its proposed roadway alignments labeled with proposed street names.
24. The boundaries of the floodplain, and floodway shall also be clearly delineated and marked on the preliminary plat,
25. Building envelopes shall be shown on each lot, all or part of which is within a floodway and floodplain; or any lot that is adjacent to a waterway; or any lot a

portion of which has a slope of twenty-five (25) percent or greater; or upon any lot which will be created adjacent to the intersection of two or more streets,

26. Lot area of each lot,
27. Existing mature trees and established shrub masses,
28. A current title report shall be provided at the time that the preliminary plat is filed with the administrator together with a copy of the owner's recorded deed to said property,
29. For multi-phase developments, the proposed boundaries of each phase and the sequence of phases to be developed. The phasing sequence used should utilize consistent lot and block numbering patterns.
30. Approximate location and identification of known (to either the applicant or his representatives or the reviewing agency) potentially dangerous areas, including geologically hazardous areas, areas subject to inundations, or flood hazard, and areas of high groundwater.
31. A plan that ensures that open space areas are adequately maintained.
32. Any other information determined by the County to be necessary for review of the preliminary plat application.
33. A list of the owners of the properties within three hundred (300) feet of the exterior boundaries of the proposed project. The owners list shall include the name of all owners, their addresses, and a general description of the property owned by each.
34. Thirty copies of the preliminary plat and all required information shall be filed with the administrator. Five copies shall be 24" x 36". The remaining copies may be 11" x 17".
35. The location and turnout area for solid waste pickup meeting the approval of the county road and bridge superintendent.
36. The location and turnout area for mail cluster boxes meeting the approval of the county road and bridge superintendent and postal service.

**K. Contents of Final Plat.**

The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen (18) inch by twenty-four (24) inch Mylar paper with no part of the drawing nearer to the edge than one-half inch, and shall be in conformance with the provisions of Title 50, Ordinance 13, Idaho Code.

The reverse side of said sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information.

The contents of the final plat shall include all items required under Title 50, Ordinance 13, Idaho Code and also shall include the following:

1. Point of beginning of subdivision description tied to at least two governmental survey corners,

2. Location and description of monuments set,
3. Tract boundary lines, property lines, lot lines, street right-of-way and center lines, other rights-of-way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway, all with bearings, accurate dimensions in feet and decimals thereof, in degrees and minutes and radii, arcs, central angles, tangents, and chord lengths of all curves to the above accuracy,
4. Names and locations of all adjoining subdivisions,
5. Name and right-of-way width of each street and other public rights-of-way,
6. Location, dimension, and purpose of all easements, public or private,
7. The lots numbered consecutively throughout each block,
8. The outline of any property other than a street, alley, or easement which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the County of Bear Lake for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated,
9. The title which shall include the name of the subdivision, the name of the county and state, and the location and description of the subdivision referenced to section, township, range,
10. Scale, north arrow and date,
11. Location, width, names of all existing or dedicated streets, and other public ways within or adjacent to the proposed subdivision,
12. A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowner's association governing the subdivision are recorded,
13. Certificate by registered surveyor preparing the map certifying to the accuracy of surveying plat,
14. A current title report of all property contained within the plat,
15. Certification of owner(s) of record, and all holders of security interest(s) of record with regard to said property,
16. Certification and signature of reviewing surveyor verifying that the subdivision meets all County requirements,
17. Certification and signature of the County engineer verifying that the subdivision and design standards meet all County requirements,
18. Certification and signature of the County clerk of the County of Bear Lake verifying that the subdivision has been approved by the Board,
19. Certification and signature of the County treasurer of the County of Bear Lake verifying that all County taxes are paid on the property.

20. Notation of any additional restrictions imposed by the Board on the development of said subdivision to provide for the public health, safety, and welfare.
21. Addresses shall be provided for each lot on the final plat, calculated per the Bear Lake County Addressing System.

**L. Final Plat Copies.**

Ten copies of the final plat shall be filed with the administrator prior to being placed upon the Board's agenda. Three copies shall be 24" x 36". The remaining copies may be 11" x 17". One copy of the final plat as approved by the Board and signed by the County clerk shall be filed with the administrator and retained by the County.

**M. Readjustment of Lot Lines.**

An owner or subdivider wishing to readjust lot lines, as hereinabove defined, shall be required to file two copies of a plat and application with the administrator for administrative review. Additional information reasonably required for thorough review of the application and plat may be required by the administrator to be provided by the applicant. The administrator shall provide written notice of said application to owners of property immediately adjacent to the subject property. Said notice shall inform adjacent property owners they may comment on the application during a period of not less than ten (10) days after mailing of the notice and prior to final action on said application. Following expiration of the said comment period, and upon a finding by the administrator that the plat conforms to the readjustment of lot line definition and is in compliance with the provisions of this ordinance, the administrator shall approve same or approve with conditions necessary to find same in compliance with the provisions of this ordinance. Upon a finding by the administrator that the application does not conform to said definition or is not in compliance with this ordinance, the administrator shall deny said application and shall state the reasons therefore in writing and a copy signed by the administrator attached to one copy of the plat shall be returned to the applicant. Upon approval of an application and upon satisfaction by the applicant of any conditions attached thereto, the administrator shall inform the County clerk and the County clerk shall sign the plat. Any questions with regard to the interpretation and/or applicability of this section or other sections shall be referred to the Board by the administrator for determination.

**Development and Design:**

**A. Required Improvements.**

The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat unless the conditions of Section C. Guarantee of Completion of Improvements are met. Construction design plans thereof shall be submitted and approved by the County engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the County. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, water courses, rock outcroppings, established shrub masses, and historic areas shall be preserved through design of the subdivision.

## B. Improvement Plans.

Prior to approval of final plat by the commission, the subdivider shall complete the installation of all infrastructure improvements and file two copies of the engineered drawings with and the County engineer who shall inspect and approve the construction for all improvements required in the proposed subdivision. Said plans shall be prepared by a civil engineer licensed in the State of Idaho. The installation of infrastructure improvements may be completed after the issuance of final plat, if the conditions in C below are met.

## C. Guarantee of Completion of Infrastructure Improvements

1. Financial Guarantee Arrangements: In lieu of the actual installation of required infrastructure public improvements before filing of the final plat, the Board ~~may permit~~ may require the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement.

### ~~Surety Bond:~~

- ~~a. Accrual: the bond shall accrue to Bear Lake County covering construction, operation and maintenance of the specific public improvement.~~
  - ~~b. Amount: the bond shall be in an amount equal to one hundred twenty percent (125%) of the total estimated cost for completing construction of the specific public improvement, as reviewed by the Bear Lake County engineer and approved by the board provided the term length is two years or less. A bond for time periods of more than two years shall be equal one hundred fifty percent (150%) of the total estimated cost for completing construction of the specific public improvement.~~
  - ~~c. Term length: the term length in which the bond is in force shall be for a period specified by the board for the specific public improvement.~~
  - ~~d. Bonding for Surety Company: the bond shall be with a surety company authorized to do business in the state of Idaho, acceptable to the board.~~
  - ~~e. Escrow Agreement: the escrow agreement shall be drawn and furnished by the developer and approved by the Board.~~
2. Cash deposit, certified check, or irrevocable bank letter of credit:
    - a. One hundred twenty five percent (125%) of the estimated cost of construction for the specific infrastructure public improvement, as estimated by the Bear Lake County engineer and approved by the board. A cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit for time periods of more than two years shall be equal one hundred fifty percent (150%) of the total estimated cost for completing construction of the specific public improvement.

- b. Treasurer, escrow agent or trust company: a cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the board shall be deposited with an escrow agent or trust company.
  - c. Dollar value: the dollar value of the cash deposit, certified check, or an irrevocable bank letter of credit, shall be equal to one hundred twenty five (125%) of the estimated cost of construction for the specific public improvement, as estimated the Bear Lake County engineer and approved by the board. For time periods of more than two years the dollar value shall be equal one hundred fifty percent (150%) of the total estimated cost for completing construction of the specific public improvement.
  - d. Escrow time: the escrow time for the cash deposit, certified check, or irrevocable bank letter of credit, shall be for a period to be specified by the board.
  - e. Progressive payment: in the case of cash deposits or certified checks, an agreement between the board and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.
3. Condition approval of final plat: With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:
    - a. The construction of improvements required by this ordinance shall have been completed by the subdivider and approved by the Board.
    - b. Surety acceptable to the Board shall have been filed in the form of a cash deposit, certified check, an irrevocable bank letter of credit or surety bond.
  4. Penalty in case of failure to complete the construction of a public improvement: In the event the subdivider shall, in any case, fail to complete such work within the period of time as required by the conditions of the guarantee for the completion of public improvements the Board may proceed to have such work completed. In order to accomplish this, the Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, or irrevocable bank letter of credit that the subdivider may have deposited as included in a written agreement between the Board and the subdivider.
  5. Performance Bonding, equal to 125% of the reclamation cost, to ensure reclaiming of disturbed land may be required in those instances where severe alterations to the physical conditions of the land, e.g., cuts, fills, grading improvements, is required to install or construct infrastructure.

#### **D. As-Built Drawing.**

Prior to acceptance by the Board of any improvements installed by the subdivider, two sets of "as-built" plans and specifications certified by the subdivider's engineer shall be filed with the County engineer. Within ten (10) days after completion of improvements and submission of "as-built" drawings, the County engineer shall certify the completion of the improvements and the acceptance thereof, and shall submit a copy of said

certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the County clerk. Thereafter, the County clerk shall release the performance bond upon application by the subdivider.

**E. Monumentation.**

Following completion of construction of the required improvements and prior to certification of completion by the County engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, type of material as shown on the subdivision plat. The monuments shall be located as follows:

1. All angle points in the exterior boundary of the plat,
2. All street intersections, points within and adjacent to the final plat,
3. All street corner lines ending at boundary line of final plat,
4. The point of beginning of the subdivision plat description.

**F. Lot and Block Requirements.**

1. Lot size, width, depth, shape, and orientation, and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.
2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contain land with a slope in excess of twenty-five (25) percent based upon natural contours, or create corner lots at the intersection of two or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Building envelopes shall also be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, water courses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "buildable lot." Building envelopes shall be established outside of hillsides of 25% or greater and outside of the floodway.
3. Corner lots shall have a property line curve or corner of a minimum radius of twenty-five (25) feet unless a longer radius is required to serve an existing or future use.
4. Side lot lines shall be within twenty (20) degrees to a right angle or radial line to the street line.
5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts. Should a double frontage lot, or lots, be created out of necessity, then such lot(s) shall be reversed frontage lot(s).
6. Minimum lot sizes in all cases shall be reversed frontage lot(s).

7. Every lot in a subdivision shall have a minimum of twenty (20) feet of frontage on a dedicated public street unless the Board approves a private street.

#### **G. Block Requirements.**

The length, width, and shape of blocks within proposed subdivisions shall conform to the following requirements:

1. No block shall be longer than one thousand five hundred (1,500) feet, nor less than four hundred (400) feet between the street intersections, and shall have sufficient depth to provide for two tiers of lots,
2. Blocks shall be laid out in such a manner as to comply with the lot requirements,
3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, water courses and topographical features,
4. Corner lots shall contain a building envelope outside of a seventy-five (75) foot radius from the intersection of the streets.

#### **H. Street Improvement Requirements**

1. The arrangement, character, extent, width, grade, and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land,
2. All new streets and roadways shall have a minimum sixty foot easement. At final plat a legal description, dedicating the roadway right-of-way easement to Bear Lake County must be recorded with the County Clerk Recorder. For developments that face out onto an existing Bear Lake County owned and/or maintained roadway a thirty foot easement, measured from the street or roadway centerline, shall be established. At final plat a legal description, dedicating the easement or right of way to Bear Lake County, must be recorded with the County Clerk Recorder.
3. The maintenance, including snow removal, of new streets/roads may or may not be accepted by the County until a suitable tax basis exists to cover the costs of maintenance and snow removal. For specific requirements see Bear Lake Land Use Ordinances Chapter 5 Zoning District Performance Standards.
4. All streets shall be constructed to meet or exceed the criteria and standards set by the County of Bear Lake or any other governmental entity having jurisdiction thereover, now existing or hereafter adopted, amended or codified.
5. The drivable surface width of minor streets or roadways shall be a minimum of 24 feet wide. Where fire hydrants are located along the roadway, the minimum width of the travelway shall be 28 feet. This may be accomplished by construction of a turnout providing an overall travelway width of 28 feet and 40 feet in length at the hydrant location.
6. Where a subdivision abuts or contains an existing or proposed arterial street, railroad, or limited access highway right-of-way, the Board may require a frontage street, planting strip or similar design features.

7. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods. Where an easement for a future street for these purposes is allowed, it shall be recorded on the plat and property deed as an irreversible easement.
8. Street grades shall not be less than three-tenths percent and not more than eight (8%) percent so as to provide a safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing; a grade up to ten percent may be permitted in special circumstances where the Board determines that such increased grade is beneficial,
9. In general, partial dedications shall not be permitted; however, the Board may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the Board finds it practical to require the dedication of the remainder of the right-of-way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right-of-way shall be dedicated,
10. Dead-end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead-end street serves more than two lots, a temporary turn-around easement shall be provided which easement shall revert to the adjacent lots when the street is extended,
11. A cul de sac, court, or similar type street shall be permitted only when necessary to the development of the subdivision and provided that no such street shall have a maximum length greater than five hundred (500) feet from entrance to center of turn-around, and all cul de sacs shall have a minimum turn-around radius of sixty (60) feet at the property line and not less than forty-five (45) feet at the curb line; provided that larger cul-de-sacs may be allowed or required by the Board in extenuating circumstances,
12. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy (70) degrees,
13. Where any street deflects an angle of ten (10) degrees or more, a connecting curve shall be required having a minimum center line radius of three hundred (300) feet for arterial and collector streets, and one hundred twenty-five (125) feet for minor streets,
14. Streets with center line off-sets of less than one hundred twenty-five (125) feet shall be prohibited,
15. A tangent of at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets,
16. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confusing with the names of existing streets within Bear Lake County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to Board for preliminary plat approval,

17. Street alignment design shall follow natural terrain contours to result in safe streets, useable lots, and minimum cuts and fills. All cuts and fills shall be revegetated,
18. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets,
19. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat and all landscaping and irrigation systems shall be installed as required improvements by the subdivider,
20. In general, the center line of a street shall coincide with the center line of the street right-of-way and all crosswalk markings shall be installed by the subdivider as a required improvement,
21. Street lighting may be required by the commission or Board where appropriate, and shall be installed by the subdivider as a required improvement,
22. Private streets may be allowed upon recommendation by the commission and approval by the Board. Private streets shall be constructed to meet the design standards of public streets as specified in this Ordinance and other applicable standards, private streets/roadway easements must be recorded with the Bear Lake County Clerk.
23. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the County,
24. Bridges: Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, said construction or improvement shall be a required improvement by the subdivider. Said construction or improvement shall be in accordance with adopted standard specifications therefore,
25. Sidewalks, curbs, and gutters may be a required improvement installed by the subdivider.

**I. Alley Improvement Requirements.**

Alleys shall be provided in business, commercial and industrial zoning districts. The width of an alley shall be not less than twenty (20) feet. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead-end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in this section.

**J. Required Easements.** Easements, as set forth hereinafter, shall be required for location of the utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.

1. A public utility easement at least ten (10) feet in width shall be required within the street right-of-way boundaries of all private streets. A public utility easement at least five feet in width shall be required within any property boundary as determined by the County engineer to be necessary for the provision of adequate public utilities.

2. Where a subdivision contains or borders on a water course, drainage way, channel or stream, an easement shall be required of sufficient width to contain said water course and provide access for private maintenance and/or reconstruction of said water course.
3. All subdivisions which border a watercourse shall dedicate a ten (10) foot scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the river bank and to protect structures from damage or loss due to river bank erosion.
4. No ditch, pipe, or structure for irrigation water or irrigation waste water shall be constructed, re-routed, or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights thereto. A written copy of such approval shall be filed as part of required improvement construction plans.
5. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements may be required and if required, may be within the sixty foot street or roadway right of way easements previously required provided they are dedicated by the subdivider to the County.
6. No subdivision shall eliminate any historic public access to public lands that is still in current use. A ten (10) foot easement shall be provided to allow the public to access such public lands. The Board may approve a relocation of the historic access point provided that the relocated access does not significantly impair public access.

**K. Sanitary Sewage Disposal Improvements.**

Central sanitary sewer and treatment systems shall be installed in all subdivisions or lot splits with lots less than 5 acres or where any lots are within one (1) mile of the historic high water mark for Bear Lake. All sewer systems within a city area of impact shall be connected to a public sewer system. The use of private septic or packaged sewer plants is permitted providing the minimum lot size meets the requirements set forth by the Southeastern Idaho Public Health Districts sewer permit. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the County engineer, Board, and Southeastern Idaho Public Health District prior to final plat approval.

**L. Water System Improvements.**

A central domestic water distribution system shall be installed in all subdivisions containing 10 lots by the subdivider as a required improvement within one (1) mile of the historic high water mark for Bear Lake. For those lots outside of this area private domestic wells, permitted by IDWR are permissible.

The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the County under the supervision of the Bear Lake Fire District and other regulatory agencies having jurisdiction thereover. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions and no dead-end systems shall be permitted. All water

systems in an area of city impact shall be connected to the municipal water system and shall meet the standards of all required agencies

**M. Planting Strip Improvements.**

Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or industrial districts or off-street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for said planting strip with the preliminary plat application and the landscaping shall be a required improvement.

**N. Cuts, Fills, and Grading Improvements.**

Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:

1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or Board as part of the preliminary plat application.
2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Said plan shall contain the following information:
  - a. Proposed contours at a maximum of five (5) foot contour intervals;
  - b. Cut and fill banks in pad elevations;
  - c. Drainage patterns;
  - d. Areas where trees and/or natural vegetation will be preserved;
  - e. Location of all street and utility improvements including driveways to building envelopes. Any other information which may reasonably be required by the administrator, commission, or Board to adequately review the affect of the proposed improvements.
3. Grading shall be designed to blend with natural land forms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.
4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.
5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as said revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.
6. Where cuts, fills, or other excavation are necessary, the following development standards shall apply:

- a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.
- b. Fills shall be compacted to at least ninety-five (95) percent of maximum density as determined by AASHTO T 99 (Am. Assoc. State Highway Officials) and ASTM D 698 (Am. Std. Testing Methods).
- c. Cut slopes shall be no steeper than two horizontal to one vertical. Subsurface drainage shall be provided as necessary for stability.
- d. Fill slopes shall be no steeper than two horizontal to one vertical. Neither cut nor fill slopes shall be located on natural slopes of three to one or steeper, or where fill slope toes out within twelve (12) feet horizontally of the top and existing or planned cut slope.
- e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet plus one-fifth of the height of the cut or the fill, but may not exceed a horizontal distance of ten (10) feet; tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet plus one-fifth of the height of the cut or the fill. Cuts and slopes shall be revegetated as provided in Section N (5). Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.

**O. Drainage Improvements.**

For subdivisions of 10 lots or more, the subdivider shall submit with the preliminary plat application, such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the County on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all major subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways, or improved public easements and shall extend across and under the entire improved width thereof including shoulders.

- 1. Culverts to be a minimum of 12” in diameter with a crush resistance as defined by AASHTO T99 Standards,
- 2. Natural drainage channels should be used when available,
- 3. Catchment basins to be designed to contain runoff during a one (1)- 25 year storm event,
- 4. All runoff to be contained on site,
- 5. Measures should be taken to prevent storm water from entering irrigation canals,
- 6. Easements shall be provided along drainages adequate to contain that watercourse and any further width necessary for maintenance or reconstruction.

**P. Utilities.**

In addition to the terms mentioned hereinabove, all utilities including but not limited to, electricity, natural gas, telephone, and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.

#### **Q. Off-Site Improvements.**

Where the off-site impact of a proposed subdivision is found by the commission or Board to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities. Such off-site improvements must be roughly proportional to the impacts of the proposed subdivision and must have a rational nexus to the impacts of the proposed subdivision.

#### **R. Open Space.**

**Non Conservation** Subdivisions with ten (10) or more lots shall have a minimum of twenty five (25%) percent of the gross land area reserved for usable common open space and recreational facilities for the residents or users of the area being developed. An open space usage management plan shall be provided for approval of the Commission.

The aggregate overall allowable open space shall be no less than twenty-five (25%) percent of the gross land area reserved for common open space and recreational facilities. Notwithstanding the above, the Commission may recommend waiver or deferral of the minimum open space and the Board may lower the aggregate minimum open space only for projects which:

- a. Provide a minimum of ten (10) percent of community (affordable) or employee housing, as herein defined; and,
- b. Guarantee the use, rental prices, or maximum resale prices thereof based upon a method proposed by the applicant and approved by the Bear Lake County housing authority and/or the Bear Lake Board. Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof,
- c. Application for waiver or deferral of this criterion shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof; or,
- d. Provide dedicated infrastructure for police protection, fire protection and/or medical services.
- e. The creation of or participation in a grant program to offset increased property taxes to vulnerable populations.

The required amount of common open space land reserved shall either be held in corporate ownership by owners of the project area for the use of each owner who buys

property within the development or be dedicated to the public and retained as common open space for parks, recreation, and related uses. Public utility and similar easements and right-of-ways for water courses and other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Board. The developer before approval of the final plat shall specify the responsibility for the maintenance of all open spaces.

Subdivisions developed under the Rural Conservation Zone must provide a minimum of 70% open space and meet the requirements for open space management and dedication in the Conservation Subdivision Ordinance. Subdivisions developed under the Rural Living Zone must provide a minimum of 50% open space and meet the requirements for open space management and dedications in the Rural Living Subdivision Ordinance.

#### **S. Landscaping Improvements.**

1. Substantial landscaping is to be provided, which is in scale with the development and which provides relief from and screening of hard surfaces. Total building surface area and street frontage will be considered when determining whether substantial landscape is being provided ("landscaping" shall be defined as trees, shrubs, planters, hanging plants, ground cover and other living vegetation),
2. Landscape materials and vegetation types specified shall be readily adaptable to a site's microclimate, soil conditions, orientation and aspect, and shall serve to enhance and compliment the neighborhood and townscape. Consideration should be given to the use of native, drought resistant plant materials and the use of designed xeriscapes shall be encouraged,
3. The preservation of existing significant trees, shrubs and important landscape features shall be encouraged, and
4. Landscaping shall provide a substantial buffer between land uses, including, but not limited to, structures, streets and parking lots. The development of landscaped public courtyards, including trees and shrubs where appropriate shall be encouraged.

#### **T. Fire Protection**

In areas where Impact Fees have not been established the subdivider shall also be required to locate and install an adequate means of fire suppression within the proposed subdivision according to specifications and requirements of the County, under the supervision of the Bear Lake Fire District and other regulatory agencies having jurisdiction thereover. The fire suppression system may include a pressurized hydrant system, water storage in ponds or tanks, structures with permanent sprinklers, or a combination of systems. Fire water system shall have sufficient storage or flow for fire protection according to the International Fire Code. All such permanent fire water piping systems installed shall be engineered to provide sufficient water flow at each hydrant location as described in #5 below.

Fire protection facilities, hydrants, storage, or other appurtenances shall be included in the ~~development plans~~ preliminary plat and delineated thereon, adequate provision for access by firefighting personnel and equipment to and from all such fire protection facilities, including, but not limited to hydrants, storage, structure sprinklers, and appurtenances. Such access shall be approved by the fire chief and the owner may be

required to dedicate to the County as a condition of approval of the **development plans preliminary plat**, an easement sufficient for access by firefighting equipment to such fire protection facilities. All such access easements shall be maintained in such a manner as to provide clear and unobstructed ingress and egress by fire-fighting personnel and equipment at all times.

1. On-site fire protection facilities may be altered or repaired with the written consent of the fire chief subject to the provisions of this ordinance.
2. Fire hydrants shall comply with NFPA Standards and be a two (2) butt hydrant, minimum of 6" piping,
3. Water mains shall be a minimum 6",
4. Fire hydrant spacing: No dwelling more than 400' from a hydrant. Hydrants shall have equal spacing of 700'.
5. Storage capacity on site shall be designed such that it provides 1,000 gallons per minute (gpm) for 2 hours at 20 P.S.I. for dwellings less than 3,600 square feet, and 1,500 gallons gpm for dwellings greater than 3,600 square feet. Storage capacity alternatives may be approved with the concurrent approval of the Fire District provided that such alternatives provide equivalent fire protection.
6. The subdivider shall encourage xeriscaping and/or firewise landscaping in conditions covenants and restrictions when development is within close proximity of the wildland urban interface

#### **U. Emergency Services**

1. All direction and location signs to be constructed of non-flammable material.
2. Lettering and numbering of location and direction signs to be of sufficient size to be easily read from 75' and constructed of light reflecting material.
3. Signs shall be located in the dedicated county right of way, or in the case of private roads signs, shall be placed 15 feet from travel surface.

#### **V. Building/Structure Height**

No building or structure shall exceed thirty-five feet. Nonetheless the Commission may recommend waiver or deferral of the maximum height and the Board may grant additional height above the overall allowable height only for projects which:

- a. Provide a minimum of ten (10) percent of community (affordable) or employee housing, as herein defined; and,
- b. Guarantee the use, rental prices, or maximum resale prices thereof based upon a method proposed by the applicant and approved by the Bear Lake County housing authority and/or the Bear Lake Board. Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof, or
- c. Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof; or,

- d. Provide dedicated infrastructure for police protection, fire protection and/or medical services.
- e. The creation of a sewer and/or water district that includes the PUD.
- f. The creation of a grant program to offset increased property taxes to vulnerable populations.

Building height waivers shall consider impacts upon view corridors and ridgeline views.

### **Vacations and Dedications:**

#### **A. Application.**

Any property owner desiring to vacate an existing public street, alley or easement right-of-way, or desiring to dedicate a street or alley right-of-way shall file an application with the administrator. Upon receipt of the completed application and other information reasonably required by the administrator, the date of acceptance of the application shall be affixed thereon. Thereafter, said application shall be placed upon the commission agenda for consideration of a regular meeting of the commission, and the procedures followed for such vacations shall comply with Idaho Code Sections 50-1321, 50-1325, and 50-1306(A), including subsequent amendment or codification.

#### **B. Commission Action.**

The commission shall consider the application and testimony of the applicant, and such other information as may come before it with regard to the proposed vacation or dedication. The commission shall consider the interests of the adjacent property owners, public utilities, conformance of the proposal with the comprehensive plan, and the future development of the neighborhood, and shall make its recommendations for accepting or rejecting said application. If dedication of a street is accepted, recommendations for improvements to be made prior to the acceptance shall be made by the commission.

#### **C. Board Action.**

In considering an application for vacation of an existing street, alley or easement right-of-way, the Board shall establish a date for public hearing and give such notice as required by law. The Board shall hear and consider the public testimony, applicant testimony, recommendations of the commission, and any other information as may be brought before the Board. Whenever the Board vacates an existing public street, the County shall provide adjacent property owners with a quitclaim deed for the said vacated street as prescribed by law. Said vacation shall become effective upon delivery of said deed(s). When considering an application for dedication to the public of a street, alley or easement right-of-way, the Board may require certain improvements be constructed or performance bond furnished prior to acceptance of the dedication. To complete the acceptance of any dedication, the Board shall accept same by resolution or by approval of a final subdivision plat.

#### **D. Provisions.**

The provisions of this section shall not apply to the widening of any street which is shown in the comprehensive plan or the dedication of nonvehicular easements to the County.

## **Condominiums:**

### **A. Purpose.**

The purpose of this section is to set forth special provisions for property created or converted pursuant to the Condominium Property Act, Title 55, Chapter 15, Idaho Code, as amended, revised, or compiled. The provisions of this section are found necessary in order to provide for the public health, safety, welfare of purchasers and residents of such condominiums.

### **B. Preliminary Plat Procedure.**

The subdivider of the condominium project shall submit with the preliminary plat application a copy of the proposed by-laws and condominium declarations of the proposed condominium development. Said documents shall adequately provide for the control and maintenance of all common areas, recreational facilities, and open space. The Commission and Board shall act on the preliminary plat pursuant to procedures herein.

### **C. Final Plat Procedure.**

The final plat procedure contained herein shall be followed. However, the final plat shall not be signed by the County Clerk and recorded until the condominium has received:

1. An approved life safety inspection for the building shell and all common areas from the Bear Lake Building Official; and,
2. Prior to final plat approval, the subdivider shall submit to the County a copy of the final by-laws and condominium declarations which shall be approved by the Board and filed with the Bear Lake County Recorder, including the instrument number(s) under which each document was recorded.

### **D. Garage.**

All garages shall be designated on the preliminary and final plat and on all deeds as part of the particular condominium units. No garage may be condominiumized or sold separate from a condominium unit.

### **E. Storage Areas.**

Adequate storage areas shall be provided for boats, campers, and trailers, as well as adequate interior storage space for personal property of the resident of each condominium unit.

### **F. Maintenance Building**

Bear Lake County Subdivision Ordinance  
Proposed Revision 9-10-2009

A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas.

**G. Open Space.**

The subdivider shall dedicate to the common use of the homeowners adequate open space of such shape and area useable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access. A plan must be provided that ensures the continued and perpetual maintenance of open space.

**H. General Applicability.**

All other provisions of this ordinance and all applicable ordinances, rules and regulations of the County and all other governmental entities having jurisdiction shall be complied with by condominium subdivisions.

**Townhouses:**

**A. Purpose.**

The purpose of this section is to set forth provisions for real property subdivided into townhouse sublots, said provisions found necessary in order to provide for the public health, safety, and welfare of purchasers and residents of such townhouse developments.

**B. Townhouse Owners' Documents.**

The subdivider of the townhouse project shall submit with the preliminary plat application a copy of the proposed party wall agreement and any proposed document(s) creating an association of owners of the proposed townhouse sublots, which shall adequately provide for the control and maintenance of all commonly held facilities, garages, parking and/or open spaces. Prior to final plat approval, the subdivider shall submit to the County a final copy of said documents and shall file said documents prior to recordation of the plat, which shall reflect the recording instrument numbers thereupon.

**C. Preliminary Plat Procedure.**

The subdivider may apply for preliminary plat approval from the commission pursuant to the procedures herein. The Commission may recommend, not recommend or conditionally recommend said preliminary plat. The preliminary plat, other data, and the commission's findings shall then be transmitted to the Board. The Board shall act on the preliminary plat pursuant to the procedures herein.

**D. Final Plat Procedure.**

The final plat procedure contained herein shall be followed. However, the final plat shall not be signed by the County Clerk and recorded until the townhouse has received an approved life safety inspection for the building shell and all common areas from the Bear Lake Building Official.

**E. Garage.**

All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sublots,

provided that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

**F. General Applicability.**

All other provisions of this ordinance and all applicable ordinances, rules and regulations of the County and all other governmental entities having jurisdiction shall be complied with by townhouse subdivisions.

**Mobile Home Subdivisions:**

**A. General.**

Mobile home subdivisions shall be treated the same as any residential subdivision project to the requirements set forth in the zoning ordinance, building code, and any other statute, ordinance, or regulations of any governmental entity having jurisdiction thereover.

**B. Requirements.**

Mobile home subdivisions shall also be subject to the following additional requirements:

1. Such subdivisions may be submitted and reviewed as a conditional use permit.
2. Such subdivisions shall be screened from adjacent areas other than subdivisions of the same type by an aesthetically acceptable fence and/or planting strip.
3. Adequate provision shall be made for the maintenance of the subdivision.
4. Side lot lines shall be within thirty (30) degrees of right angle or radial line to the street line.

**Planned Unit Development (PUD):**

In addition to the requirements herein set forth in this ordinance, a proposed planned unit development shall comply with the Bear Lake large scale planned unit development ordinance or the Bear Lake land use ordinance.

**Phased Development Projects:**

**A. Development Phases.**

Any subdivider wishing to develop a subdivision, or planned unit development over a series of years shall comply with the additional requirements and regulations set forth in this section. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future states in a stable manner and shall comply with all applicable zoning regulations.

**B. Development Plan.**

In addition to the subdivision application and data, the subdivider shall submit to the administrator a development plan and development schedule for the entire project,

containing all of the information required herein; if approved, this shall be the master plan for the entire project subject to modification by the subdivider through the same procedures as required for approval of the original plan; and,

1. Subject to additional regulations of subsequently adopted or amended ordinances and statutes; and
2. Subject to additional requirements imposed by the commission or Board due to changes in the development plan or as a result of subsequent subdivision or development of neighboring properties.

After approval of the development plan, the subdivider shall submit to the County a preliminary plat and final plat of each phase of the project built or to be built. The time limitations set forth herein shall apply to each phase of phased developments.

**C. Planning Commission Action.**

Upon receipt of the application and development plan and schedule, the administrator shall place the same on the agenda of the next regular meeting of the planning commission. The planning commission shall review the application, development plan, and development schedule and make such recommendations on the proposed project as required by any applicable ordinance(s) and all other applicable ordinances or portions thereof. After the planning commission has made its findings and recommendations, the administrator shall give notice of a public hearing before the zoning commission. At the regular commission meeting, where the public hearing is held, the commission shall take public comment, testimony from the subdivider and any interested parties, and review all information and data available to it. After review of the development plan and schedule, the commission shall make findings and recommendations with regard thereto.

**D. Board Action.**

The administrator upon receiving the findings and recommendation of the commission shall place the subdivision application, development plan and schedule on the agenda of the next regular Board meeting. The Board shall review the recommendations of the planning commission, the commission, and all information and data contained in the file and shall approve or deny the application and development plan.

**E. Preliminary Plats.**

Upon approval of a development plan, the subdivider shall file a preliminary plat for each stage of his development in conformance with the approved development plan. Upon approval of the preliminary plat, the subdivider may commence construction of the required improvements as herein provided.

**F. Required Improvements.**

The Board may require that the subdivider install all or a portion of the required improvements for the entire project as set forth in the development plan. Such required improvements shall be constructed prior to approval of the final plat for any phase of the development.

**Impact Statement:**

**A. Impact Statement Required.**

Bear Lake County Subdivision Ordinance  
Proposed Revision 9-10-2009

The subdivider proposing a subdivision of more than ten (10) lots or condominium units, or a planned unit development, **or a conservation subdivision** will be required by the commission or Board to prepare an impact statement prior to approval of a preliminary plat. The statement shall discuss the potential effects of the proposed development upon the County in terms of impact upon economics, public facilities, or environment as set forth herein.

**B. Requirements.**

The impact statement shall include a study of the potential impact upon:

1. Sewer facilities,
2. Domestic water facilities,
3. Fire protection, including fire protection water supply,
4. Police protection,
5. Emergency Services,
6. Utilities,
7. Schools,
8. Roads and traffic,
9. Other public facilities,
10. Noise, water, and air pollution,
11. Environmental impact, including impact upon vegetation, wildlife, and wildlife habitat, ground and surface water, and soil erosion,
12. Public transportation,
13. Public easements, created or threatened, and recreational availability,
14. Avalanche hazard and flood hazard,
15. Drainage,
16. Grading of slopes,
17. Adjacent properties and the neighborhoods,
18. Snow removal areas and services,
19. Designating and defining impact upon areas of historical significance,
20. Effects upon agriculture.

**Additional Design impacts may be provided for Conservation Subdivision as required in the Rural Conservation and Rural Living Subdivision Ordinance.**

**C. Additional Requirements.**

The commission or Board may reasonably require the impact statement to be extended to include other factors and criteria not listed above due to unusual characteristics of the land or character of the proposed development or improvements thereon. Furthermore,

the subdivider may be required to provide additional information and studies with regard to any of the factors or criteria required in the impact statement.

When an owner or subdivider owns or controls contiguous or adjacent land, to that which he proposes to subdivide under the terms of this ordinance, the commission or Board will require that the contiguous or adjacent property be included in the subdivision or that a development plan for the entire tract be presented. Furthermore, the commission or Board may require that the entire parcel or parcels of land be platted.

### **Waiver and Appeal:**

#### **A. Waiver.**

Waiver of any of the requirements of this ordinance may be granted by the Board on a case by case basis upon the recommendation of the commission. Application for such waiver(s) must be in writing and must show that there are special physical characteristics or conditions affecting the property in question where literal enforcement of this ordinance would result in undue hardship not the result of actions by the subdivider, and that the waiver would not be detrimental to the public welfare, health, and safety, nor injurious to property owners in the immediate area. Such waiver must be minor in scope and not affect the overall intent of this ordinance.

#### **B. Application for Waiver.**

Applications shall be made to the administrator in writing at the time of subdivision application. Said waiver, together with such related data and maps as are necessary to fully illustrate the relief sought shall be filed at that time. Such applications shall be processed and considered with the preliminary plat application.

### **Appeals:**

#### **A. Appeals from Planning and Zoning Administrator.**

An appeal from any order, requirement, decision or determination of the Planning and Zoning Administrator made in the administration or enforcement of this ordinance may be taken by any affected person as that term is defined by Idaho Code Section 67-6521, as it may be amended from time to time, or any officer or department of the county, to the Planning and Zoning Commission by filing a notice of appeal in writing with the office of the Planning and Zoning Administrator of the county in the manner prescribed herein.

1. **Action Required by the Planning and Zoning Administrator.** The Planning and Zoning Administrator shall verify that all procedural requirements have been satisfied and fees paid and transmit to the commission the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the Planning and Zoning Administrator.
2. **Hearing and Notice.** The commission shall, following receipt of the Planning and Zoning Administrator's certificate and the record of the case, set the matter for public hearing and give notice of the date, time, place and purpose thereof, and of the right to request a copy of the decision thereon, to appellant, the Planning and Zoning Administrator, and to any other affected person, as defined in Idaho Code Section 67-

6521, all in accordance with Idaho Code Section 67-6501 et seq., as they may be amended from time to time.

3. Authority of Commission. Upon hearing the appeal, the commission shall consider the record, the order, requirement, decision or determination of the Planning and Zoning Administrator and the notice of appeal together with oral presentation by the appellant and the Planning and Zoning Administrator. The commission may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the Planning and Zoning Administrator.
4. Decision by Commission. The commission shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written findings of fact and conclusions of law separately stated. The commission shall transmit a copy of the decision to the appellant and any affected person who has requested a copy in writing, as defined in Idaho Code Section 67-6521, as that section may be amended from time to time.

#### **B. Appeals from Planning and Zoning Commission.**

An appeal from any order, requirement, decision or determination of the commission made in the administration or enforcement of this ordinance may be taken by any affected person as that term is defined by Idaho Code Section 67-6521, as it may be amended from time to time, or any officer or department of the county, to the Board by filing a notice of appeal in writing with the office of the Planning and Zoning Administrator of the county in the manner prescribed herein.

1. Action Required by the Planning and Zoning Administrator. The Planning and Zoning Administrator shall verify that all procedural requirements have been satisfied and fees paid and transmit to the Board the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the commission. Upon written request of the appellant or any affected person, as defined in Idaho Code Section 67-6521, as that section may be amended from time to time, and the advance payment of the cost thereof, a verbatim transcript of the commission proceedings shall be prepared and transmitted to the Board.
2. Hearing and Notice. The Board shall, following receipt of the Planning and Zoning Administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to appellant, the commission, and to any other affected person, as defined in Idaho Code Section 67-6521, all in accordance with Idaho Code Section 67-6501 et seq., as they may be amended from time to time.
3. Authority of Board. Upon hearing the appeal, the Board shall consider only matters which were previously considered by the commission as evidenced by the record, the order, requirement, decision, or determination of the commission and the notice of appeal together with oral presentation by the appellant and the commission. The Board may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the commission. Furthermore, the Board may remand the application to the commission for further consideration with regard to specific criteria stated by the Board.

4. Decision by Board. The Board shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written findings of fact and conclusions of law separately stated. The Board shall transmit a copy of the decision to the appellant and any affected person who has requested a copy in writing, as defined in Idaho Code Section 67-6521, as that section may be amended from time to time.

**C. Time for Filing Appeals.**

All appeals permitted or authorized by this ordinance shall be taken and made in the manner, and within the time limits as follows: the written notice of appeal shall be filed before 5:00 o'clock p.m. of the tenth (10) calendar day after the order, requirement, decision or determination of the Planning and Zoning Administrator has been made or after findings of fact have been approved by the commission, whichever is applicable. The failure to physically file a notice of appeal with the Planning and Zoning Administrator of the county within the time limits prescribed by this section shall be jurisdictional and shall cause automatic dismissal of such appeal.

**D. Fee for Appeals.**

A fee as set forth by the Board shall be paid within two days after receipt from the Planning and Zoning Administrator of the amount thereof. In the event the fee is not paid as required, the appeal shall not be considered filed.

**E. Notice of Appeal - Form and Contents.**

The notice of appeal shall be in writing and shall set forth with specificity all bases for appeal, including the particulars regarding any claimed error or abuse of discretion.

**Fees:**

The subdivider shall pay to the County by depositing with the County administrator certain fees and costs. There shall be a preliminary plat application fee, and a final plat application fee. At the time of submission of an application for a plat, the applicant shall pay a processing fee in accordance with the fee schedule established by the County Board. The Board shall establish the amount of the plat fee and shall include pertinent engineering, legal, planning, postage, publication, copying fees and all other costs incurred by the County in processing the application. Such cost reimbursement may exceed the initial estimate. All outstanding fees and costs must be paid before a plat application will be approved. Fees shall be set resolution.

**Time Periods for Approval:**

1. The planning commission shall have sixty (60) days to examine and consider all applications made pursuant to this ordinance and to make its recommendations with regard thereto. Said sixty (60) day period shall commence upon the first meeting at which said commission considers such an application. If no recommendation is made within said period, the application shall be placed upon the appropriate agenda without recommendation.
2. The Board shall have sixty (60) days to examine and consider all applications made pursuant to this ordinance and make its finding(s) and/or decision(s) with regard thereto.

3. The time periods set forth above may be extended for a reasonable period of time by the planning commission or Board upon a finding that due to the complexity of an application, or changes made in an application during the review process additional time to examine or consider same is reasonably required.

**Enforcement, Violations and Penalties:**

1. It shall be the duty of the administrator and building inspector to investigate compliance with these regulations and to bring to the attention of the Board and the County attorney any violations of this ordinance.
2. No owner, or agent of the owner, shall transfer, sell, encumber by mortgage or deed of trust an unsubdivided parcel of real property before a final plat thereof has been approved by the Commissioners and filed with the office of the Bear Lake County recorder as required by law.
3. The subdivision of any lot or of any parcel of land by the use of a metes and bounds description for the purpose of sale, transfer, encumbrance by mortgage or deed of trust, or lease shall not be permitted, without the filing of a final plat as herein required. All such divisions of land shall not be recognized by the County, nor shall building permits be issued for any improvements thereon until such subdivisions have received final plat approval and met all requirements of this Ordinance.

**Violations and Penalties.**

Any person, firm, association, or corporation that fails to comply with or violates any of these regulations shall be subject to a fine not more than three hundred dollars (\$300.00), and/or imprisonment for a period not exceeding six months, or both. Each day that said violation continues shall be considered a separate offense.

**Civil Enforcement.**

Appropriate actions and proceedings of law or in equity may be instituted by the County attorney to prevent or rectify illegal subdivisions, to recover damages, to restrain, correct, or abate any violation, or to prevent illegal occupancy of a building, structure or premises. These remedies shall be accumulative and in addition to the penalties described herein above.

**Conditions.**

Regulation of the subdivision of land and the attachment of reasonable conditions thereto are a proper exercise of valid police power granted to the County by Article XII, Section 2 of the Idaho Constitution. The subdivider has the duty of compliance with reasonable conditions laid down by the Board and commission for design, dedication, improvement, and restrictive use of land so as to conform to the physical and economic development of the County and the safety and general welfare of future plat owners in said subdivision and the public at large.