

ORDINANCE NO. 139

**AN ORDINANCE ESTABLISHING THE SHOSHONE COUNTY
SUBDIVISION REGULATIONS IN THE UNINCORPORATED
AREAS OF SHOSHONE COUNTY, STATE OF IDAHO**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF SHOSHONE
COUNTY, STATE OF IDAHO, AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

SECTION:

- 10-1-1: Title
- 10-1-2: Authority
- 10-1-3: Purposes
- 10-1-4: Applicability and Exemptions
- 10-1-5: Bunker Hill Superfund Site Overlay District and Operable Unit Three Institutional Controls Program
- 10-1-6: Floodway Provisions
- 10-1-7: Jurisdiction
- 10-1-8: Interpretation
- 10-1-9: Severability
- 10-1-10: Repeal
- 10-1-11: Effective Date

10-1-1: **TITLE:** These regulations shall be known and cited as the *SHOSHONE COUNTY SUBDIVISION REGULATIONS*, hereinafter referred to as “these regulations”.

10-1-2: **AUTHORITY:** These regulations are authorized by title 31, chapter 7; title 50, chapter 13, title 67, chapter 65 of the Idaho Code; and article 12, section 2 of the Idaho Constitution, as amended or subsequently codified.

10-1-3: **PURPOSES:** The purposes of these regulations are to promote the public comfort, welfare, and safety and to provide for:

- A. The harmonious development of the region.
- B. The coordination of streets and roads within the subdivision with other existing or planned roads or with the state or regional plan.
- C. Adequate open spaces for travel, light, air and recreation.
- D. The conservation of or provision of adequate transportation, water, drainage, and sanitary facilities.

- E. The avoidance of population congestion and of scattered subdivision of land so as to:
 - 1. Ensure adequate water supply, drainage, sanitary facilities, transportation, or other public services; and
 - 2. Ensure the subdivision would not necessitate an expenditure of public funds for the supply of such services.
- F. The requirements as to extent and the manner in which:
 - 1. Roads shall be created and improved; and
 - 2. Water and sewer and other utility mains, piping connections, or other facilities shall be installed as a condition prior to the approval of a plat.
- G. The manner and form of making and filing of any plat of subdivided lands.
- H. The administration of these regulations by:
 - 1. Defining the powers and duties of approval authorities including procedures for the equitable review of all plats of subdivisions covered by these provisions.
- I. Ensuring that development is in conformance with Idaho Code, with the goals and policies of the Shoshone County Comprehensive Plan, with the requirements of the Shoshone County Ordinance and with the requirements of other applicable agencies.
- J. Ensuring that development mitigates negative environmental, social, and economic impacts.

10-1-4: **APPLICABILITY AND EXEMPTIONS**

A. Applicability:

These regulations apply to the division of land into two (2) or more contiguous lots, tracts, or parcels, and to the reconfiguration, combination or change in status of a platted lot or right-of-way (e.g. conversion of a utility lot to a building lot) within the unincorporated areas of Shoshone County, unless otherwise specified by an Area of City Impact ordinance adopted pursuant to Idaho Code 67-6526.

B. Exemptions:

The following divisions of land are exempt from the remainder of the requirements of this Subdivision Ordinance or Title, however all other County Code requirements may still apply.

All divisions created under an 'Exemption' shall be reviewed and approved by the Planning Administrator prior to recordation. Applicable processing and review

requirements shall be provided by the Administrator, and shall be submitted to the Administrator with a fee as set forth on the fee schedule as adopted from time to time by resolution of the Board of County Commissioners.

All exception approvals shall file a Record of Survey (ROS) per Idaho Code Title 55, Chapter 19-Recording of Surveys. The ROS shall have a signature block on the face for Planning Administrator approval. The corresponding conveyance deed(s) with ingress/egress/utility easements granted shall be filed in conjunction with the ROS and referenced with the recorded instrument number. Ingress and egress from proposed parcel shall adjoin a public road, and access shall be demonstrated to comply with General Provision B (5) of Chapter 5 of this title and the appropriate ingress/egress easements shall be provided and may be required to be applied to the ROS face. Parcels of land created under these provisions will be recognized as separate pieces of property on the day the instrument creating them is legally recorded.

1. Division made for cemeteries or burial plots while used for that purpose.
2. An adjustment of lot or boundary lines which does not reduce the area, frontage, width, depth, or building setback lines of each lot below the minimum zoning requirements for the applicable zone and is otherwise in conformance with all County Ordinances, and does not create additional parcels, lots, or tracts. All lot line adjustments must be approved by the Planning Administrator prior to recordation. (Note: Lot and boundary line adjustments are accomplished by recording a deed of conveyance for the property that will be transferred, and then, for the receiving parcel, recording a second deed describing the new, exterior parcel boundaries – so that an additional parcel of land is not inadvertently created.)
3. Division made by the acquisition of right-of-way for road improvement purposes by a public agency.
4. Division resulting from the unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho and United States constitution and laws.
5. Divisions resulting from the conveyance of a parcel of land to a taxing district, government agency, or utility regulated by the Public Utilities Commission, providing the parcel will not be used for habitable structures such as offices or service centers. Divisions used for the purpose of housing emergency service responders such as fire stations, police stations or ambulance services are permitted.
6. The division of one (1) non-contiguous parcel in which each newly created parcel conforms with all County ordinances and has legal ingress/egress/utility access.
Non-contiguous status is defined as: created by a natural or geological separation, such as surface waterways (excluding Class II streams and drainage areas); or separations created by public dedication of right-of-way or easement. (i.e: Local, State or Federal roads, highways, and interstates, including private railroad right-of-way).

7. Divisions made pursuant to a court order or the execution of a Last Will and Testament, each having a recorded access easement to a public road (or road built to public road standards), and each conforming with all applicable County ordinances.
8. A large parcel division of land into nine (9) or less lots, tracts or parcels wherein the minimum lot, tract, or parcel to be created is ten (10.00) acres or greater in size and where the land to be divided was not created by way of large parcel conveyance within the prior two (2) years.

10-1-5: **BUNKER HILL SUPERFUND SITE OVERLAY DISTRICT AND OPERABLE UNIT THREE INSTITUTIONAL CONTROLS PROGRAM ADMINISTRATIVE AREA STANDARDS:** All subdivision procedures, improvements, activities, and uses which are in the Bunker Hill superfund site overlay district (BD) or the Operable Unit Three Institutional Controls Program Administrative Area (OUTICPAA) shall also be subject to and in compliance with the environmental health code and the institutional controls program. In addition to any other permits and/or certificates required by this title, an ICP permit may be required from Panhandle Health District 1 prior to the commencement of any work activities in the BD district or OUTICAPP district which are subject to the environmental health code and institutional control program. It is the responsibility of the applicant to determine if the proposed subdivision is subject to ICP regulations.

10-1-6: **FLOODWAY PROVISIONS:** If any portion of the site or infrastructure to serve the subdivision is in an Area of Special Flood Hazard, the plat and the development plans must conform to the Shoshone County Floodplain Overlay District (FP) Regulations.

10-1-7: **JURISDICTION:** These regulations shall apply to subdividing of all lands within the unincorporated territory of the county including the property within one mile outside the limits of an incorporated city or as mutually defined by both city and county and the requirements of section 50-1306 and 67-6526 Idaho Code as amended or subsequently codified, except as otherwise provided in any valid Area of Impact Agreement.

10-1-8: **INTERPRETATION:** All “subdivisions” as defined in section 10-2-2 of this title shall be submitted for approval pursuant to these regulations, and shall comply with the provisions of these regulations. These regulations shall supplement all other regulations, and where at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply.

10-1-9: **SEVERABILITY:** Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations are held invalid by a court or competent jurisdiction, such judgment shall affect only that part so held invalid. All other portions of this Ordinance shall remain in full force and effect; and to this end, the provisions of this Ordinance are hereby declared to be severable.

- 10-1-10: **REPEAL:** This Ordinance specifically repeals its' predecessor, Ordinance # 9, 9-8-1975, eff. 9-18-1975.
- 10-1-11: **EFFECTIVE DATE:** This Ordinance shall take effect and be in full force upon its' passage, approval and publication in one (1) issue of the Shoshone News Press.

CHAPTER 2

DEFINITIONS

SECTION:

10-2-1: Interpretation of Terms And Words

10-2-2: General Definitions

10-2-1: **INTERPRETATION OF TERMS AND WORDS:** For purposes of these regulations, certain terms or words used herein shall be interpreted as follows:

- A. The present tense includes the past or future tense, the singular includes the plural, and the plural includes the singular.
- B. The words “shall” and “must” are mandatory requirements; “may” is a discretionary requirement; and the word “should” is a preferred requirement.
- C. The masculine shall include the feminine.

10-2-2: **GENERAL DEFINITIONS:**

ADMINISTRATOR: An official having knowledge in the principles and practices of subdividing who is appointed by the board to administer this title or his designee.

AGENCY: Any city or political subdivision of the State, including but not limited to counties; school districts, highway districts, and any agency of State or Federal government, and any city or political subdivision of another State or federal government.

ALiquot PART: An exact division of a section.
Example: N.W. $\frac{1}{4}$, S.W. $\frac{1}{4}$, S.E. $\frac{1}{4}$, section 36.

APPLICANT: Any individual firm, association, partnership, corporation, private individuals, trust, or other legal entity creating or proposing a subdivision for himself or another.

BLOCK: A parcel or tract of land entirely surrounded by public streets or areas, watercourses and culverts, railroad rights of way, unsubdivided lands, or a combination thereof.

BOARD: The Shoshone County Board of Commissioners.

BONUS LOTS: Additional building lots earned within a Conservation Design Subdivision pursuant to these regulations.

BUILDING:	A structure that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some manner.
BUILDING SETBACK LINE:	An imaginary line established by this title or title 9 of this code designating the distance at which all buildings are to be set back from lot lines and street rights of way.
BUILDING SITE:	An area proposed or provided and improved by grading, filling, excavation or other means for erecting pads for building. Also including any area in which a structure is located.
BUNKER HILL SUPERFUND SITE OVERLAY DISTRICT (BD):	The Bunker Hill superfund site overlay district includes parts of the west corridor of the county as those areas are defined in the comprehensive plan and is synonymous with the area known as the federally created Bunker Hill superfund site.
COMMERCIAL COACH:	A manufactured building equipped with the necessary service connections and made so as to be readily movable as a unit on its own running gear and originally designed to be used either as a temporary dwelling unit or other use without a permanent foundation. A commercial coach is limited to use other than a single-family dwelling.
COMMISSION:	The Shoshone County Planning and Zoning Commission appointed by the County Board of Commissioners.
CONTIGUOUS:	Sharing a mutual boundary line.
COMPREHENSIVE PLAN:	A plan or any major portion thereof, adopted by the board and showing the general location and extent of present and proposed development, including, but not limited to, housing, industrial and commercial uses, streets, parks, schools and other community facilities as provided for in Title 67, chapter 65 of the Idaho Code.
COVENANT:	A written promise or pledge.
CULVERT:	A drain that channels water under a bridge, street, road or driveway.
DEAD END STREET:	See definition of Street Types.
DEPARTMENT:	The Department authorized by the Shoshone County Board of Commissioners to administer the planning and zoning regulations for Shoshone County.
DUPLEX:	A structure comprised of two dwelling units.

DWELLING UNIT:	A building, whose primary design or use is for residential purposes, including single-family, two-family, multi-family structures, but not including hotels, motels, and boarding houses.
EASEMENT:	A right of use of a portion of land falling short of ownership, and usually for a certain stated purpose.
ENGINEER:	Any person allowed to practice professional engineering in Idaho and registered in accordance with Idaho law.
ENVIRONMENTAL HEALTH CODE (EHC):	The health code, as amended from time to time, administered by Panhandle Health District 1 in connection with the institutional control program for the Bunker Hill superfund site.
FINANCIAL GUARANTEE:	An irrevocable letter of credit, cash deposit, bank account, or surety bond, pledged to secure the performance of an obligation.
FLOOD OR FLOODING:	A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.
FLOODPLAIN:	A plain bordering a stream or river that is subject to flooding as designated or approved by FEMA.
FLOODWAY:	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 (1'). Floodways are delineated on FEMA maps.
HYDROLOGIC PROTECTION AREAS:	The interface of land and a lake, river, stream, or drainageways.
IMPROVEMENT:	Any alteration to the land or other physical construction associated with subdivision and building site development.
INFRASTRUCTURE:	Support facilities for a subdivision including, but not limited to, water, sewer, road, fire protection, stormwater and utility systems. This term includes both project support facilities, and public system facilities serving the area.
INSTITUTIONAL CONTROL PROGRAM (ICP):	The various actions and programs undertaken to decrease human exposure to lead in the Bunker Hill superfund site, and its area of control.
KEY PLAN:	A map or drawing showing the location of a tract of land in

relation to a larger land area.

LOCATION MAP: A small scale map showing the location of a tract of land in relation to a larger area, such as the whole community or county. Synonymous with key plan.

LOT: See Parcel.

LOT AREA: The area of any lot shall be determined exclusive of street, highway, alley, road, or other rights of way. May include access easements.

LOT FRONTAGE: The portion of a lot that is contiguous with the road used to access the lot.

LOT MEASUREMENTS:

Lot Area: The area encompassed by the boundaries of the lot, including easements and excluding right-of-way.

Lot Depth: The average distance from the front of the lot to the back of the lot measured perpendicular to the road right-of-way or access easement.

Lot Width: The average distance from one side of the lot to the other side of the lot measured parallel to the road right-of-way or access easement.

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

Corner Lot: A lot located at the intersection of two (2) or more streets.

Interior Lot: A lot other than a corner lot, with frontage on only one local street.

Through Lot: A lot with frontage on more than one street, not a corner lot. Also known as double frontage lot.

MANUFACTURED HOME: A single-family dwelling structure built since July 1, 1976, that bears the department of housing and urban development certification that it has been constructed in conformance with the mobile home construction and safety standards in effect at time of its construction, is constructed of materials generally acceptable for site build housing and is to be used as a permanent residential dwelling.

MASTER GRADING PLAN: Any plan, map, drawing or other illustration, accurately showing grading plans and proposals, including any lot or neighborhood grading plan.

MASTER PLAN: A plan, comprehensive plan, comprehensive development plan, or any major portion thereof, adopted by the local

authority and showing the general location and extent of present and proposed development, including, but not limited to, housing, industrial and commercial uses, streets, parks, schools and other community facilities.

MOBILE HOME:

A structure which is mass produced in a factory; is designed and constructed for transportation to a site for installation and use when connected to required utilities; is built on a chassis; and is designed for long-term residential use by a family, containing kitchen, bath and sleeping facilities. For purposes of these regulations, mobile/manufactured homes shall be divided into the following classes:

A. Class A: A structure built since July 1, 1976, certified as meeting the mobile home and safety standards promulgated by the Department of Housing and Urban Development; or, the HUD Manufactured Home Construction and Safety Standards as amended June 29, 1982, and meeting the definition of a manufactured home as established by this title. Class A mobile homes are manufactured homes on permanent foundations.

B. Class B: Mobile/manufactured homes certified as meeting Department of Housing and Urban Development Mobile Home Construction and Safety Standards promulgated in 1976 but not necessarily meeting the definition of a Class A mobile home. Class B mobile homes may or may not be placed on permanent foundations.

C. Class C: Mobile homes constructed prior to 1976 which are found upon inspection to be in good condition and suitable for residential occupancy.

D. Class D: Mobile homes found upon inspection to be in poor condition and unsafe and/or unfit for residential occupancy due to conditions or defects which are deemed to endanger the life, health, property or safety of the occupants or of the public. Applicable conditions and/or defects are identified in chapter 3, section 302 of the Uniform Code for the Abatement of Dangerous Buildings.

MONUMENT:

Any permanent stone, iron, concrete or other marker used to permanently establish any tract, parcel, lot or street lines.

MULTIPLE FAMILY DWELLING:

A dwelling comprised of more than two units.

OPEN SPACE:

Land with natural, cultural or historic resources of value to the community, including but not limited to parks, yards, playgrounds, beaches, waterways, parkways, and pedestrian trails.

PARCEL: A single piece of land with common property lines, as recognized by the Shoshone County Assessor, and created in accordance with the Shoshone County Subdivision Code in effect at the time of creation. Taxing district boundaries do not create property lines.

**PERFORMANCE
BPMD:** An amount of money, irrevocable letter of credit, surety bond, or other negotiable security paid by the applicant or his surety to the clerk of the district court and recorder which guarantees that the applicant will perform all actions required by an approved plat, and provides that if the applicant defaults and fails to comply with the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

This provision does not prevent the County or any other affected party from pursuing all other rights and remedies afforded to it by law.

**PLANNED UNIT
DEVELOPMENT (PUD):** An integrated design for development of residential, commercial or industrial uses, or combinations of uses, under single ownership or control, in which the standards of the Shoshone County Zoning Ordinance may be varied. PUD's allow flexibility and creativity in site and building design and location, in accordance with an approved plan, and the goals and policies of the Shoshone County Zoning Ordinance and Comprehensive Plan.

PLAT: The map, drawing, or chart of a subdivision of land into lots, blocks, roads, and open space, along with associated conveyances, to be submitted in accordance with this Ordinance and to be filed as a public document.

Engineering Plan: The final and formal presentation by drawings or maps of particular engineering features and specifications required in a final plat and filed separately with the final plat, the original of which is submitted to the Administrator in accordance with this Ordinance.

Final Plat: The final and formal presentation by maps or drawings of an approved subdivision development and associated conveyances, the original and one copy of which is filed with the clerk of the district court and recorder.

Preliminary Plat: The first formal presentation by maps or drawings of a proposed subdivision and associated conveyances as required in this Ordinance.

PUBLIC SITE: An area established for the use of the public, or a place where the public has a right to go and be.

RECORD OF SURVEY:	Survey of land according to Idaho Code Title 55 Chapter 19.
RIGHT OF WAY:	A strip of land dedicated or reserved for use as a public way, and sometimes incorporating sidewalks and lawn strips between the sidewalk and street pavement or for use in the provision of other public utilities or services.
SENSITIVE AREAS:	Sensitive areas are defined as a) land in, or within 300 feet of wetlands, streams, or lakes, b) areas where the water table is within 6 feet of ground surface at any time of the year, c) areas with slopes $\geq 25\%$ or that exhibit signs of instability, d) habitat for rare, threatened or endangered plants or animals, e) areas where the ground surface is within 50 feet of an unconsolidated, sand or gravel aquifer, and f) areas of special flood hazard (flood zones).
SEWAGE SYSTEM:	A system of piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat or dispose of wastewater. This definition includes individual sewage disposal systems such as a septic system and drainfield.
SIDEWALK:	An improved route, off road trail, lanes or walkways designated for pedestrian traffic. Sidewalk shall not be less than four feet (4') wide, four inch (4") thick concrete or other approved material, with a two percent (2%) cross slope for drainage.
SINGLE FAMILY DWELLING:	A structure comprised of one dwelling unit. Includes group home facilities.
STATE:	The State of Idaho.
STREET ALIGNMENT:	
Horizontal Alignment:	The lining up of streets in a plane of horizontal direction.
Vertical Alignment:	The lining up of streets in an overhead or vertical direction.
STREET TYPES:	As used in these regulations, streets, or street types are as follows:
Alley:	A minor street primarily used for service access to properties.
Arterial:	A highway or major street mainly for through traffic carrying heavy loads and volumes of traffic in a continuous route.

Collector:	A major thoroughfare or street primarily for traffic exchange between local streets and arterials carrying traffic volume and loads.
Cul-De-Sac:	A local street of fairly short length with a turnaround at one end, and the other end connecting to either a local or collector street.
Dead-End Street:	A street temporarily providing access to properties and having only one outlet for traffic, and intended to be continued in the future.
Local:	A street mainly providing access to individual properties, often called a "minor street".
Loop:	A local street which starts and ends on the same collector or arterial street, generally used for access to properties.
Marginal Access:	A local or collector street usually parallel and adjacent to an arterial or major collector street, which provides access to abutting properties and safer control of traffic access to arterials or collectors. Required for properties adjoining major state or federal highways. Also known as "frontage street" or "road".
SUBDIVISION:	The result of an act of dividing land into two (2) or more contiguous lots, tracts, or parcels, in accordance with this ordinance.
SUBDIVISION, MINOR:	A division of land, so as to create nine (9) or fewer contiguous platted lots, tracts or parcels wherein all of said lots, tracts or parcels shall meet the minimum lot size requirements of the applicable zone or the minimum of two (2) acres whichever is greater, and which shall be pursuant to and meet all requirements of these regulations.
SURETY:	A person who engages under a contract of suretyship to answer for the debt, default, or miscarriage of another.
SURVEYOR:	Any person who is licensed in the state as a public land surveyor to provide professional surveying.
SWALES:	A low area used for the detention or retention of water, and where applicable provide stormwater treatment.
TECHNICAL REVIEW COMMITTEE:	A technical review and advisory committee selected by and serving at the pleasure of the Administrator consisting of agencies and experts with relevant input to a given application. The technical review committee may include, but is not limited to, representation of engineers, technicians, fire departments, law enforcement, school districts,

hospitals, Panhandle Health District, and any state or federal agencies, and any other specialist.

TRACT: See Parcel.

VACATED PLAT: A recorded plat which has been removed from the county record under provision of Idaho Code.

VARIANCE: Idaho Code §67-6516: "A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest."

WATERCOURSE: Any depression two feet (2') or more below the surrounding land level which gives direction to a current of water at any time of the year.

CHAPTER 3

DESIGN AND IMPROVEMENT STANDARDS

SECTION:

- 10-3-1: Applicability
- 10-3-2: General Standards
- 10-3-3: Streets
- 10-3-4: Sidewalks
- 10-3-5: Lighting
- 10-6-6: Blocks
- 10-3-7: Lots
- 10-3-8: Easements
- 10-3-9: Grading And Drainage
- 10-3-10: Water Supply
- 10-3-11: Sewage Disposal Facilities
- 10-3-12: Utilities
- 10-3-13: Inspection Fees
- 10-3-14: Sensitive Areas
- 10-3-15: Improvement Requirements
- 10-3-16: Operation And Maintenance Requirements

APPENDIX A: MINIMUM REQUIREMENTS FOR LEGAL ENTITIES ESTABLISHED TO OPERATE AND MAINTAIN SHARED LAND OR IMPROVEMENTS WITHIN SUBDIVISIONS

10-3-1: **APPLICABILITY:** All subdivisions approved by the Board shall comply with the provisions of this chapter, except those specifically exempted in 10-1-4 (B). This section establishes the minimum requirements for subdivisions. While offsite improvements may also be required to mitigate the effects of development, these will be considered on a project by project basis. When the regulations provide for a discretionary application of the requirements by the Administrator, Commission, or Board, such discretion will be exercised reasonably and consistently with the purpose of these regulations as set forth in §10-1-3 herein

10-3-2: **GENERAL STANDARDS:** The design and development of subdivisions shall preserve the natural terrain, natural drainage, existing topsoil, trees and natural vegetation to the greatest extent possible. Land subject to hazardous conditions such as slides, mud flows, rock falls, snow avalanches, possible subsidence, shallow water table, open quarries, floods, polluted or nonpotable water supply, inadequate sewer disposal capabilities, high voltage power lines, high pressure gas lines, poor air quality, and traffic hazards, or any other situation that may be detrimental to the health, safety, or welfare of residents or the public, shall be identified and shall not be subdivided until the hazards have been eliminated or will be eliminated by approved subdivision design and construction plans and required surety, when applicable.

10-3-3: **STREETS:** The street or highway layout shall conform to existing or planned streets. Local streets shall be designed to discourage through traffic. Half streets shall not be permitted. Service or marginal access roads shall be required where subdivisions abut major state or federal highways. Street improvements for corner lots shall be installed on side streets and alleys. In addition, all roads within the proposed subdivision shall comply with “Shoshone County Code Title 6 chapter 1 “Highways, Streets, and Public Ways”, “Use of Public Right-of-Way Standard Approach Policy”, and with the current “Highway and Street Guidelines for Design and Construction by the Local Highway Technical Assistance Council.”

10-3-4: **SIDEWALKS:** Sidewalks shall be provided when required by the Administrator, Commission, or Board on one or both sides of all streets. Sidewalks shall not be less than four feet (4') wide, four inch (4") thick concrete or other approved material, with a two percent (2%) cross slope for drainage.

Sidewalks, off road trails, lanes or walkways may be required:

a) If shown on a bicycle facilities plan adopted by a road agency, b) along through streets in subdivisions within 1.5 miles of a school, park, bicycle trail, recreational area, or community facility, or c) when necessary to ensure the safety of pedestrians and bicyclists. The trail shall be designed to serve the intended use and except for bicycle lanes, shall be separated from the road by a vegetation strip at least five (5) feet wide. If there is no direct route through a subdivision, or if cul-de-sacs are proposed, one or more trails may be required to provide short, direct routes for pedestrians. For safety, trails should be located in close proximity to and visible from homes and streets. If a trail or walkway is required, an easement or right-of-way must be dedicated or conveyed to Shoshone County if acceptable to the Board, or to the entity that will provide maintenance as approved by the Board.

10-3-5: **LIGHTING:** Lighting shall be provided when reasonably required by the Administrator, Commission or Board – this requirement may include lighting for roads, driveways, sidewalks, parking lots, and common areas.

10-3-6: **BLOCKS:** The following items apply to block design:

A. Size: Blocks shall be reasonable in length and shall be compatible with surrounding topography and adjacent uses. The block width shall accommodate two (2) tiers of lots, except where unusual topography or other acceptable designs provide suitable building sites and public areas.

10-3-7: **LOTS:** Satisfactory building sites shall be provided on each lot, which are properly related to topography and conform to health district regulations, the Shoshone County Zoning Ordinance and Comprehensive Plan regulations.

A. Boundary Line: No single lot shall be divided by a municipal or county boundary line.

B. Rights Of Way: No single lot shall be divided by a street, road, alley, existing right of way, or other lot, unless approved by the Board.

- C. Street Frontage: Each lot shall have frontage on a road meeting the standards required in section 10-3-4 herein. Dedication to the public may be required by the Board and the Board may, at the time of preliminary or final plat approval, prescribe both the timing and nature of the dedication. (e.g. the Board may require that the road be maintained by the applicant or owners as described herein until the fiscal analysis shows no undue financial burden upon the County, then the road shall be dedicated and conveyed to the County.) All roads dedicated and conveyed to the County shall meet all current applicable standards at the time of dedication. Any maintenance, repairs, or other work necessary to bring the road to such standards shall be the responsibility of the applicant or owners of the road in question and shall not be born by the County. In the event that a sub-standard road is dedicated to the County, the County may assess the costs of bringing the road to acceptable standards to the individual owners or may decline acceptance of the dedication, at the Board's discretion.
- D. Corner Lots: Corner lots shall be considered fronting on the same street as interior lots.
- E. Double Frontage Interior Lots: Double frontage interior lots shall not be permitted on local streets, except where unusual topography or acceptable designs provide suitable building sites and public areas.
- F. Corner Lots:
 - 1. Size: Corner lots should be larger than interior lots to provide for proper building setback from each street and to provide a desirable building site.
 - 2. Design; Visibility: Corner lots shall be designed to provide acceptable visibility for traffic safety.
- G. Side Lot Lines: Side lot lines shall be at substantially right angles to street lines and radial to curved street lines, except where a design variation is approved by the Board.
- H. Minimum Frontage: Lots shall have a minimum width of seventy feet (70') measured at the building setback or front lot line.

10-3-8: **EASEMENTS:** Easements at least ten feet (10') wide shall be provided, centered along rear and side lot lines whenever practical for maintenance and servicing of improvements and utilities. Additionally, easements at least ten feet (10') wide shall be provided along all watercourses and drainageways as measured from the ordinary high water mark.

Any shared components of sewage, water, stormwater or other infrastructure systems, shall either be within the general utility easement or an easement dedicated or conveyed to the entity responsible for maintenance. Easements must also be provided for individual sewage lines and drainfields that will not be located on the same parcel as residences.

Public trail easements or rights-of-way may be required, depending on the location of the subdivision and the need for pedestrian trails and/or sidewalks. If required, they shall be dedicated or conveyed to Shoshone County or to the entity that will provide maintenance as approved by the Board. The width of trail easements and rights-of-way shall be adequate for the intended use, and shall meet the requirements of the County or maintenance entity. When future access may be needed to adjacent parcels of land, trail easements and rights-of-way shall extend to the property line of the subdivision.

Public Access, Parks and Facilities. Public access easements or the conveyance of land for public access, parks or facilities may be required for subdivisions that are contiguous to: a) public lands, b) streams, lakes, ponds, wetlands or similar areas, or c) for areas designated in a County facilities acquisition plan. If so required, the property owner shall be paid fair market value for the easement or land, or grant the easement to the County as may be negotiated by way of a development agreement.

10-3-9: **GRADING AND DRAINAGE:** Subdivisions shall be designed so as to provide drainage away from building sites. Subdivision grading and drainage systems shall be designed, signed and certified by a qualified and registered engineer, and shall comply with Shoshone County Site Disturbance Ordinance.

10-3-10: **WATER SUPPLY:** All subdivisions shall be provided with or connect to adequate and approved domestic water supply systems that shall meet the minimum standards of the applicable Local, State or Federal agencies. When a water district or utility regulated under Idaho Code Title 61 (Public Utility Regulation) provides a “will serve” letter for a subdivision, annexation and/or connection may be required.

Residential subdivisions that propose to use individual wells shall demonstrate the available resource by a summary statement and evaluation of an attached representative number of existing groundwater well logs from adjoining properties of similar physical and topographic features.

10-3-11: **SEWAGE DISPOSAL FACILITIES:** All subdivisions shall be provided with or connect to adequate and approved sewage disposal / wastewater system. Minimum standards of Title 9 of this code and of any of the applicable Local, State or Federal agency regulations shall be met. If a public sewage system is available and provides a “will serve” letter, connection shall be required. If a private, shared sewage system is available and provides a “will serve” letter, connection may be required. If connection to a shared system is required, collection lines shall be installed to each lot. All sewage disposal systems shall meet the standards of the Panhandle Health District and/or DEQ. If required, shared sewage systems shall be installed and approved, or the necessary improvements secured by a financial guarantee, prior to final approval of the subdivision. Individual septic systems may be installed after final subdivision approval, in conjunction with building permits.

10-3-12: **UTILITIES:** Unless utility providers determine site conditions preclude underground utility installation, utilities shall be placed

underground in the street right of way between the paved roadway and street line to simplify location and repair of lines when required. The Applicant shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved. Overhead utility lines, when permitted, shall be located at the rear property line with adequate easements. The design of utility facilities shall conform to the appropriate standards acceptable by the utility provider and regulatory agencies involved.

10-3-13: **APPLICABLE FEES:** At least fifteen (15) days prior to commencing construction of required improvements, the subdivider shall pay in full any inspection, application review, administrative, etc. fees as shown on the fee schedule adopted by resolution from time to time by the Board of County Commissioners.

10-3-14: **SENSITIVE AREAS**

A. Subdivisions in Viewsheds - Mountain views and vistas are an important part of the character of Shoshone County, contributing to the visual quality of the area, increasing property values, attracting visitors, and enhancing the desirability and livability of the community. As such, it is in the public interest that land be developed in a manner that is visually unobtrusive, environmentally responsible, and is compatible with the character of the area.

1. Subdivisions with natural slopes (particularly those area proposed for building envelopes and access roadways) that equal or exceed 35%, must be designed to fit the houses, structures and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, that will not result in a net increase of soil erosion, and that is compatible with the natural characteristics of the area.
2. If the vertical height of any cut or fill slope, or any combination thereof, will exceed thirty (30) feet, effective measures must be taken to mitigate the visibility of the slope.”

B. Hydrologic Protection Areas - When a subdivision abuts a lake, river, stream, wetland, or drainage way, a Hydrologic Protection Area must be reserved and shown on the plat. The purpose of this area is to protect downstream property owners and water resources from increased or decreased flows, to prevent sedimentation, to promote good water quality, and to protect fish and wildlife habitat. The area shall be labeled “Stream (lake or wetland, as applicable) Protection Area”, and within this area native vegetation and large organic debris shall be protected or replanted to leave the area in the most natural condition possible. Any necessary maintenance must be in conformance with the Shoshone County Site Disturbance Ordinance, Floodplain Overlay District Regulations, and with applicable best management practices. Proposed road and utility crossings must be shown on the plat, must be kept to a minimum, and must take the shortest possible route across the area. Other than approved crossings, roads and utilities shall not be constructed within this area. Fences, walkways which do not exceed four (4) feet in width, stairway landings which do not exceed six (6) feet in length or width, and trams may be constructed in hydrologic protection areas, providing there is minimal disturbance of the ground

and vegetation. The Board may require that this area be shown as an easement, including a conservation easement, or that ownership of the area be transferred to a homeowners association, highway district or other maintenance entity.

Hydrologic Protection Areas shall be as required by the Shoshone County Site Disturbance Ordinance.

10-3-15: IMPROVEMENT REQUIREMENTS:

- A. Installation of Improvements. Before application for final approval of any plat, required improvements shall either a) be installed and approved by the design professional who developed the plans and the agencies with jurisdiction, or b) a financial guarantee and subdivision completion agreement, in conformance with Section 10-7-3, and approved by the Board, shall be provided to ensure installation. If a portion of the work has been completed and approved by the design professional and agency with jurisdiction, only the remaining work need be covered by the Financial Guarantee.

- B. Plan Approval and Site Disturbance Permit.
 - 1. No site disturbance, terrain modification, construction or clearing shall take place until preliminary subdivision approval has been granted, construction plans have been approved by the appropriate agencies, and a site disturbance permit has been issued by Shoshone County.
 - 2. All construction plans shall be prepared by an Idaho-licensed professional engineer or other appropriate design professional.
 - 3. Dust Control Required. Dust control is required on all construction sites, and a Dust Control Plan must be submitted for review and approval by the County prior to the start of any site work.

10-3-16: OPERATION AND MAINTENANCE REQUIREMENTS:

- A. Operation and Maintenance Required. All subdivision improvements, common areas and green space shall be operated and maintained by the owner(s), in accordance with applicable best management practices (BMP's) and approved plans. An organization that will operate and maintain shared land and improvements must be established prior to or concurrent with final approval and recordation of the plat. Organizational options include taxing districts (such as water or sewer districts), for profit corporations, including utility corporations, and cooperative corporations such as homeowners associations. If private maintenance by a cooperative corporation is proposed, the documents establishing the organization must meet the minimum requirements outlined in Appendix A, must be approved by the Board, and must be recorded concurrently with the plat. In addition, if land or improvements are going to be owned and managed by a cooperative corporation, and the corporation ceases to exist, or fails to fulfill its obligations, the individual lot owners must be responsible for operation and maintenance of the land and improvements.

APPENDIX A

A. MINIMUM REQUIREMENTS FOR LEGAL ENTITIES ESTABLISHED TO OPERATE AND MAINTAIN SHARED LAND OR IMPROVEMENTS WITHIN SUBDIVISIONS

In all cases where shared land or improvements will exist within a subdivision, a valid legal entity registered with the state of Idaho, complying with all statutory requirements, must be created to operate and maintain said land improvements. In addition to the documents required by the Idaho Code, all such entities must contain the following governing documents:

1. **Capital Improvement Plan.** This plan must be developed by the project engineer and must include an inventory, projected service life and estimated replacement cost for all components of all improvements that will be operated and maintained by the corporation (water, sewer, and stormwater systems etc.). This document is necessary to allow the corporation to plan for periodic, major expenses associated with replacement of system components.
2. **Operation and Maintenance Plan and Manual** for infrastructure improvements. O & M plans must be developed by the project engineer, and must include:
 - a. A schedule of routine maintenance, performance checks and preventive practices.
 - b. Manufacturer's literature.
 - c. A contact list for system repairs.
 - d. Operational procedures.
3. **Budget.** This document summarizes anticipated expenses and revenues over the first five (5) years of operation, including accrual of an emergency fund (adequate to replace the largest system component), a cash operating fund (adequate to operate the systems for two months in case there is a revenue shortfall), and a capital replacement fund (based on the capital replacement plan). This budget must include costs associated with any land owned by the corporation such as taxes, insurance, upkeep etc
4. **Land Management Plan.** If property will be owned by the corporation, a land management plan must be provided. This plan must conform to applicable BMP's, and if bonus lots were granted, it must ensure that designated green space land will remain in conformance with this title.

B. MINIMUM REQUIREMENTS FOR DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

In all cases where a Declaration of Covenants, Conditions and Restrictions (CC&R's) are required by this title, the CC&R document must contain the following minimum elements:

1. A statement that the owner of any lot in the subdivision, by acceptance of a deed or other conveyance, is deemed to consent to membership in the

corporation, and to covenant and agree to the terms and requirements of the CC&R's, which constitute a contract between the corporation and each lot owner.

2. A statement that use of the services provided by the corporation is required.
3. A statement that each lot owner shall pay to the corporation, assessments for the operation and maintenance of commonly owned land, shared infrastructure or improvements, together with applicable interest, late charges, attorney's fees, court and other collection costs. The CC&R's must also state that assessments and other charges are the personal obligation of the owner of each lot at the time the assessment was due, and that his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.
4. Effective methods of enforcing payment of assessments, which must include the authority to withhold service, to take civil action to recover a money judgment for unpaid assessments, and to assess, record and foreclose a lien against the real property of corporation members. Other, optional methods of enforcing payment include late fees and restrictions on voting. Individual lot owners must also have the ability to enforce the CC&R's.
5. A statement that commonly owned land and improvements shall be operated and maintained in conformance with applicable best management practices and approved land management plans.
6. A requirement that the Corporation maintain a capital replacement plan for improvements managed by the corporation and a statement that annual assessments must be adequate to cover anticipated capital expenses. Funds collected as reserves for capital expenses must be deposited in separate accounts and held in trust.
7. A statement that if the corporation, or individual lot owners, fail to operate and maintain commonly owned land, shared infrastructure or improvements in accordance with approved plans and applicable best management practices, that the County may contract for necessary operation and maintenance and bill the individual lot owners on a pro-rata basis. If the County assumes this responsibility, the County shall have the same authority as the corporation board, including the right to suspend service for non-payment of assessments.
8. Enforcement procedures, including recourse for improper use of common property.
9. Notification procedures.
10. Procedures for amending the CC&R's and a requirement that amendments be recorded.
11. A statement that the corporation shall not divest itself of responsibility for operating and maintaining common land or shared improvements except to the individual lot owners or a public agency or organization that agrees to assume the responsibilities. At a minimum, the individual lot owners must have a means of taking over the responsibilities and authorities of the Corporation if it fails to carry

out its obligations, and if that occurs each lot owner must be given an equal and undivided interest in property previously owned by the corporation.

12. Duration. The CC&R's of a corporation that has operation or maintenance responsibilities must be of perpetual duration unless the individual lot owners, a public agency or other organization agrees to assume those duties.
13. A statement that until management of the corporation is transferred from the developer to the Corporation Board, the developer must fulfill all of the duties and responsibilities of the corporation, and have the authority to exercise the rights and powers of the corporation. At the time the corporation is turned over to the Corporation Board, commonly owned land and all components of shared improvements must be in good operating order and in compliance with applicable laws, regulations, conditions of approval, BMP's, and approved O&M and land management plans. Prior to transfer to the Corporation Board, the corporation must be fully funded and operational, and the developer must provide sufficient funds to meet anticipated expenses for one year.
14. Statement of the location of the articles of incorporation, by-laws, CC&R's, rules and amendments.
15. Severability clause.
16. Required approval signatures.

CHAPTER 4

PROCEDURES FOR SUBDIVISION APPROVAL

SECTION:

10-4-1:	Applicability
10-4-2:	Approval Required
10-4-3:	Preapplication
10-4-3-1:	Preapplication Meeting
10-4-3-2:	Fee
10-4-4:	Preliminary Plats
10-4-4-1:	Application
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10-4-4-5:	Planning And Zoning Commission Review
10-4-4-6:	Technical Review Committee Recommendation
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10-4-4-9:	Board Decision
10-4-4-10:	Approval Period
10-4-5:	Final Plat
10-4-5-1:	Application
10-4-5-2:	Contents
10-4-5-3:	Fee
10-4-5-4:	Administrator Review And Recommendation
10-4-5-5:	Agency Review
10-4-5-6:	Board Action
10-4-5-7:	Approval Period
10-4-5-8:	Recording

10-4-1: **APPLICABILITY:** All subdivisions approved by the Board shall comply with the provisions of this chapter, except those specifically exempted in 10-1-4 (B). This section establishes the minimum procedural requirements for subdivisions.

10-4-2: **APPROVAL REQUIRED:**

- A. Subdivision Approval Required: Any person desiring to create a “subdivision” as herein defined shall submit all necessary applications and accompanying documents, along with any requested copies of the same, to the Administrator. The Administrator shall determine which agencies will receive applications and shall forward copies of the application and accompanying documents to them as appropriate. Applications shall not be processed or scheduled for public hearing until complete. The determination of completeness shall be made by the Administrator and may be appealed pursuant to 10-4-4-9 of this title. An application shall be governed by the rules and policies in effect on the day a complete application is submitted to and accepted by the Administrator. No final plat shall be filed with the county recorder or improvements made on the property until the plat has been acted

upon by the commission and approved by the board. No lots shall be sold until the plat has been recorded in the office of the county recorder.

The subdivision application and plat shall contain the information that the Board needs to make a decision on the proposal. To gain approval, adequate information must be provided to demonstrate that the project can meet the requirements of the County and other applicable agencies. A completed application packet shall comply with the requirements of this ordinance.

10-4-3: **PREAPPLICATION:**

10-4-3-1: **PREAPPLICATION MEETING:** The developer shall meet with the Administrator prior to the submission of the preliminary subdivision plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this title and the criteria and standards contained herein, and to familiarize the developer with the comprehensive development plan requirements, this title and title 9 of this code and such other plans and ordinances as deemed appropriate.

10-4-3-2: **FEE:** None required for a preapplication meeting.

10-4-4: **PRELIMINARY PLATS:**

10-4-4-1: **APPLICATION:** The applicant shall file with the Administrator a completed subdivision application form and preliminary plat data, along with all designated fees, as required in this title.

10-4-4-2: **PRELIMINARY PLAT REQUIREMENTS:** The following shall be shown on the preliminary plat or shall be submitted separately:

- A. Narrative: listing the acreage of the subdivision; the number of lots proposed; the location, approximate dimensions, and intended use of any nonresidential lots (e.g. for utilities, schools, churches, parks or open space); the characteristics of the site, including existing vegetation, soils, and wildlife, what is proposed for water, sewer service, roads, trails or other improvements; plans for preserving the land for various uses; proposed phasing; proposed conveyances, including conservation easements; special design features of the subdivision (e.g. clustering or conservation design); proposed completion schedule; and proposed methods of ownership and maintenance of open or green space, shared infrastructure and improvements. A general statement of the intended use of the proposed subdivision, such as: residential single-family; two-family and multiple housing; commercial; industrial; recreational; or agricultural and a showing of any sites proposed for parks, playgrounds, schools, churches or other public uses shall also be included.
- B. Legal Description: The legal description of the subdivision.
- C. Adjoining Property Owners: A list of property owners within 300 feet of the site (including any contiguous lots or parcels under the same ownership.) Names and addresses to be provided on mailing labels. Adjacent Property Owner list shall be accurate to within 30 days. (See "N" below)

- D. Name: The name of the proposed subdivision, meeting the requirements of Idaho Code 50-1307.
 - E. Map Showing: Boundary lines and dimensions of proposed lots within the subdivision. Two (2) copies at least eighteen inches by twenty-seven inches (18"x27") in size and one (1) copy eight and a half inches by eleven inches (8½ "x11") in size.
 - F. Applicant: The names, addresses and telephone numbers of the applicant, the property owners, project engineer (Idaho licensed), and the professional land surveyor (Idaho licensed) who prepared the plat. The application shall either be signed by the owner or include a notarized letter from the property owner authorizing the applicant to file the subdivision application.
 - G. Vicinity Map: Three (3) copies showing the relationship of the proposed plat to the surrounding area (1/2 mile minimum radius), at a scale to legibly and accurately depict, showing adjoining subdivisions, street and lot layout sufficiently distant from the project to illustrate the relationship to proposed streets and lots; neighboring land owned by the same applicant, and surrounding properties within ¼ mile or 2 parcels (whichever is greater) in every direction.
 - H. Land Use; Existing Zoning: The land use and existing zoning of the proposed subdivision and the adjacent land.
 - I. Streets: Streets, street names, right-of-way and roadway widths, approximate centerline grade and curve radius, including adjoining streets or roadways.
 - J. Lot Lines; Blocks: Lot lines and blocks showing the approximate dimensions, area, and numbers of each.
 - K. Contour Lines: Contour lines, slope at five foot (5') intervals where land slope is greater than fifteen percent (15%).
 - L. Proposed, Existing Utilities: Any propose or existing utilities, including, but not limited to, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants, electrical conduits, and their respective profiles at the County's discretion.
 - M. Common lot(s) will be owned by the Homeowner's Association.
 - N. Current Title Report no more than thirty (30) days old.
- 10-4-4-3: **FEE:** At the time of submission of an application for a preliminary plat, or an approved combined preliminary and final plat application, the fee as shown on the fee schedule adopted by resolution from time to time by the board of county commissioners shall be paid. There shall be no additional fee for the combining of the preliminary and final plats.
- 10-4-4-4: **COMBINING PRELIMINARY AND FINAL PLATS:** The applicant may request that the subdivision application be processed as both a

preliminary and final plat if all the following exist:

- A. The proposed subdivision is less than five (5) lots.
- B. No new street dedication or street widening is involved.
- C. No major special development considerations are involved, such as development in a floodplain, hillside development or the like.
- D. All required information for both preliminary and final plat is complete and in an acceptable form. The decision of whether or not the preliminary and final plat may be combined in one application process shall be made by the commission. If accepted as a combined preliminary and final plat application, the application will proceed through the notice and hearing provisions to a final determination by the Board as provided herein.

10-4-4-5: TECHNICAL REVIEW COMMITTEE AND AGENCY REVIEW:

- A. Certification: Upon receipt of the application for a preliminary plat and all other required data and fees as provided for herein, the Administrator shall certify the application as complete and shall affix the date of application acceptance thereon.
- B. Review by Technical Review Committee and Other Agencies: The Administrator shall be responsible for determining if a review of the proposed application is warranted. The Administrator shall refer the preliminary plat and application to the Technical Review Committee and as many agencies as deemed necessary by the Administrator for a thirty (30) day comment period. Such agencies may include any agencies or entities as determined by the Administrator. The technical review committee and/or agencies shall review the preliminary plat from the viewpoint of the technical disciplines represented on the committee. Any fees or charges are the responsibility of the applicant.
- C. Recommendation: The committee's and/or agency recommendation should include how deficiencies or shortcomings of the preliminary plat might be overcome. Responses should also indicate any negative effects that may result from the subdivision, additional information that may be needed, and what will be required or recommended prior to final approval.

10-4-4-6: PLANNING AND ZONING COMMISSION:

- A. Placement On Agenda: Following receipt of the technical review committee's recommendations and any other agency or entity comment required within the 30 day comment period, the Administrator shall place the preliminary plat application on the next available regular planning and zoning commission meeting agenda. Prior to scheduling, the applicant may make minor changes, but once the application is scheduled for hearing, the proposal should not be modified. If new information is provided after scheduling, the Administrator or commission may require new agency letters, additional public notice, rescheduling or continuation of the hearing to allow time for review.

Additional fees for legal notice and adjacent property owners mailing will be the responsibility of the applicant.

10-4-4-7: **PUBLIC NOTICE:** At least thirty (30) days prior to the hearing before the planning and zoning commission, the Department shall publish notice of the hearing in the newspaper. Once notice is published, no new information can be received from the applicant. The applicant shall provide the Department with an Adjacent Property Owners (APO) report establishing all adjacent property owners within 300 feet of the site (including any contiguous lots or parcels under the same ownership). The Department shall mail notice to these neighbors on or before the newspaper publication date. At least thirty (30) days prior to the hearing, the Department shall also post a notice on the site. All written comments from property owners must be submitted fifteen (15) days prior to the hearing. Nothing in this section precludes submission of additional evidence or testimony at the time of public hearing.

10-4-4-8: **COMMISSION ACTION:**

- A. Hearing: The planning and zoning commission shall conduct a hearing in accordance with current County ordinances. The applicant presents their proposal, addresses any issues that have been identified, and demonstrates that the project can meet the requirements of all agencies. The Administrator will present the staff evaluation. Public testimony is taken, followed by closing remarks by the Applicant. The commission shall review the preliminary plat, the recommendations and comments of the technical review committee, and comments from concerned persons and agencies to arrive at a recommendation on the preliminary plat.
- B. Findings: In making a recommendation to the Board, the planning and zoning commission shall consider the objectives of this title, including, but not limited to the following:
 - 1. The conformance of the subdivision with the comprehensive plan.
 - 2. The availability of public services to accommodate the proposed development.
 - 3. The compatibility of the proposed development with the capital improvement program.
 - 4. The public financial capability of supporting services for the proposed development.
 - 5. Any health, safety or environmental problems that may be brought to the planning and zoning commission's attention.
 - 6. Conformance with the surrounding land uses.
 - 7. Whether the Applicant provided adequate information to determine compliance with requirements.

8. Whether the subdivision proposal meets (or is capable of meeting) the requirements of this Title.
9. Whether the plan, project and proposed lots are capable of meeting all other applicable County ordinances without variances (e.g. the Zoning, Site Disturbance, Road Naming, Area of City Impact and Flood Ordinances).
10. Whether the plan, project and proposed lots are capable of meeting the requirements of other agencies.
11. Whether the proposal will contribute to orderly development of the area. Proposed uses, design and density are compatible with existing homes, businesses, neighborhoods, and with the natural characteristics of the area. The subdivision will create lots of reasonable utility and livability, which are capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development are designated as open space.
12. Where appropriate, whether the proposed subdivision will have adequate open space for recreation, wildlife, agriculture or timber production. Road construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion. The design will adequately address site constraints or hazards and will adequately mitigate any negative environmental, social or economic impacts.
13. Whether services and facilities such as schools, electricity, water, sewer, stormwater management, garbage disposal, EMS, police and fire protection are feasible, available and adequate. The proposal includes on and off site improvements, and if necessary payments, to mitigate the impacts of the subdivision so that it does not compromise the quality, or increase the cost, of public services. Mitigation actions or fees must be commensurate with the impacts of the subdivision, and fees must be authorized by law.
14. Whether proposed roads, sidewalks and trails establish or adequately contribute to a transportation system for vehicles, bicycles and pedestrians that is safe, efficient and that minimizes traffic congestion.
15. Whether the proposal is anticipated to result in significant degradation of surface or ground water quality as determined by DEQ.
16. Whether public notice and the processing of this application met the requirements set forth in this Title, County adopted hearing procedures and Idaho Code.

- C. Action On Preliminary Plat Application: The commission may recommend approval, with or without conditions, recommend denial, or table the preliminary plat application for additional information. (If the hearing is continued to allow for additional information, action must be taken within six (6) weeks, unless otherwise approved in writing by the Applicant.)

Recommendations for approval, denial, or continuances shall occur within thirty (30) days of the date of the regular meeting at which the application is first considered by the planning and zoning commission. The action and the reasons for such action shall be stated in writing by the planning and zoning commission and forwarded to the applicant. The planning and zoning commission shall also forward a statement of the action taken and the reasons for such action, together with a copy of the preliminary plat, to the board. In the event the commission fails to carry out its responsibilities according to these regulations, the Board shall assume the duties of the Commission.

- D. **Action On Combined Preliminary And Final Plat:** If the planning and zoning commission's conclusion is favorable to the applicant's request for the subdivision to be considered as both a preliminary plat and final subdivision plat, then a recommendation shall be forwarded to the Board in the same manner as herein specified for a final plat. The planning and zoning commission may recommend that the combined application be approved, approved conditionally or disapproved, or tabled for additional information.

10-4-4-9: **BOARD DECISION:** The Board makes the final decision on subdivision applications. Upon receipt of the commission's recommendation, the Board is to consider the application at its next available Board deliberation agenda. After reviewing the evidence in the record and the above standards, the Board must then take one of the following actions:

1. Approve the request, with or without conditions;
2. Deny the request;
3. Remand to the commission;
4. Schedule its own public hearing to allow additional information to be entered into the record, and then make a decision following the close of that hearing.

After a decision is made, the Board shall issue an Order of Decision, citing the applicable legal standards; stating the evidence and conclusions on which the decision was based; explaining any relevant contested facts and the Board's evaluation of these facts; and if the decision is a denial, the actions, if any, the applicant may take to gain approval.

Unless otherwise approved in writing by the Applicant, the Board shall take one of the above actions within four (4) weeks of receipt of a recommendation from the commission.

APPEALS: Any affected person may appeal, in writing, the decision of the Administrator concerning the completeness of an application or a decision of the planning and zoning commission relative to the final action taken by the planning and zoning commission. Such appeal must be in writing, include an explanation of the grounds for the appeal, be accompanied by all applicable fees, and must be submitted to the Board within fifteen (15) days from the effective date of the action being appealed. An affected person is one having an interest in real property which may be affected by the decision. The hearing and public notice shall be conducted according to section 10-4-4-7, 10-4-4-8 and 10-4-4-9 of this title. The final decision on the appeal

shall be made by the Board. Decisions made by the Board may be appealed to the district court as provided by law.

10-4-4-10: **APPROVAL PERIOD:**

- A. Failure To File And Obtain Certification: Failure to file and obtain the certification or the acceptance of the final plat by the Board within two years after action by the Board shall cause all approvals of such preliminary plat application to be null and void, unless an extension of time is applied for (prior to the end of the two (2) year period) by the applicant and granted by the Board.
- B. Developed In Phases: In the event that the development of the preliminary plat is made in successive continuous segments in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of one year, may be considered for final approval without resubmission for preliminary plat approval.
- C. Construction approval: After receiving preliminary subdivision approval, construction plans may be developed for review and approval by Shoshone County and other agencies with jurisdiction, and construction permits may be issued. No construction or site disturbance may commence until plans are approved and a County site disturbance permit is issued. At this time, the Administrator will review the plans for conformance with the design standards of this Title, (10-3), and with any applicable conditions of approval. Construction plans may include plans for roads, water and sewer systems, trails, vegetation buffers, and stormwater, erosion and dust control.

After construction plans are approved and permits issued, the applicant may either a) install the improvements, obtain written approval of the construction by the design professionals and applicable agencies, and apply for final subdivision approval, or b) submit a financial guarantee and subdivision completion agreement meeting the requirements of Shoshone County regulations 10-3-4, and approved by the Administrator and agencies with jurisdiction, and then apply for final subdivision approval. If an agency is unable or unwilling to approve a financial guarantee, the Administrator or his designee shall assume this authority.

10-4-5: **FINAL PLAT:**

10-4-5-1: **APPLICATION:** After the approval or conditional approval of the preliminary plat, the applicant may cause the total parcel, or any part thereof, to be surveyed and a final plat prepared in accordance with the approved preliminary plat. The applicant shall submit to the Administrator for processing the following, which shall be in conformance with all requirements and provisions of this title including the provisions applicable to the Bunker Hill Superfund Site Overlay District, and Title 50, Chapter 13 of the Idaho Code.

- A. A written application for approval of such final plat as stipulated by the Administrator.
- B. Proof of current ownership of the real property included in the proposed final plat.

- C. One (1) set of final as-built drawings, stamped certification letter(s), or final engineering construction drawings for streets, water, sewers, sidewalks, stormwater control, and any other required development improvements. Such other information as the County may deem necessary to establish whether or not all proper parties have signed and/or approved such final plat.
- D. Conformance with the approved preliminary plat and meeting all requirements or conditions thereof.
- E. Two (2) exact copies of the final plat on eighteen inch by twenty-seven inch (18" x 27") paper for review by the Administrator and the County Surveyor. Upon acceptance by the Administrator and County Surveyor, the Applicant will provide two (2) original drawings on drafting film three (3) mil or thicker for the county assessor and county engineer and three (3) paper copies of the final plat. Review plats and Final plats shall meet the requirements set forth in 10-4-5-2 'CONTENTS' within this title.

The applicant bears the burden of demonstrating compliance with all requirements.

- F. **FEE:** At the time of submission of an application for approval of the final plat, a fee as shown on the fee schedule adopted by resolution from time to time by the Board of County Commissioners shall be paid in full.

10-4-5-4: ADMINISTRATOR REVIEW AND RECOMMENDATION:

- A. **Acceptance:** Upon receipt of the final plat and compliance with all other requirements as provided for herein, the Administrator shall certify the application as complete and shall affix the date of acceptance thereon.
- B. **Resubmittal Of Final Plat:** The Administrator shall review the final plat for compliance with the approved or conditionally approved preliminary plat. If the Administrator determines that there is substantial difference in the final plat or conditions which have not been met, the Administrator may require that the final plat be submitted to the technical review committee and or Planning and Zoning Commission in the same manner as required in the preliminary plat process.
- C. **Submission To Board:** Upon the determination that the final plat is in compliance with the preliminary plat and all conditional requirements have been met, and that the application meets all requirements of this Ordinance, the Administrator shall place the final plat on the next available Board agenda.

- 10-4-5-5: AGENCY REVIEW:** The Administrator may transmit one copy of the final plat, or other documents submitted, for review and recommendation to the departments and agencies as he deems necessary to ensure compliance with the preliminary approval and/or conditions of preliminary plat approval. Such agency review may also include the construction standards of improvements and the legal review of the performance bond.

10-4-5-6: **BOARD ACTION:** The Board at its next available meeting following receipt of the Administrator's report shall consider the Administrator's recommendation, and comments from concerned persons and agencies to arrive at a decision on the final plat. The board shall approve, approve conditionally, disapprove, or schedule a public hearing to allow for additional information within thirty (30) days of the date of the regular meeting at which the plat is first considered and then make a decision.

Unless otherwise approved in writing by the Applicant, the Board shall take one of the above actions within four (4) weeks of receipt of a recommendation from the Administrator.

After a decision is made, the Board issues an Order of Decision, citing the applicable legal standards; stating the evidence and conclusions on which the decision was based; explaining any relevant contested facts and the Board's evaluation of these facts; and if the decision is a denial, the actions, if any, the applicant could take to gain approval.

10-4-5-7: **APPROVAL PERIOD:** Final plat, including the Mylar plat and associated documents (e.g. CC&R's, Conservation Easements, etc.) shall be filed with the county recorder, in a form ready to record, within one year after written approval by the board; otherwise, such approval shall become null and void and a new application for final approval must be submitted, unless prior to such expiration date an extension of time is applied for by the applicant and granted by the board.

10-4-5-8: **RECORDING:** Upon approval of the final plat by the board, the applicant's prepayment of recording fees for construction of off-site improvements or posting of surety bond, and the inclusion of the following signatures on the final plat. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. The applicant shall submit the final plat to the county recorder for recording.

- A. Certification and signature of the board verifying that the subdivision has been Approved, and acceptance of dedications as required or appropriate.
- B. Certification and signature of the clerk of the district court, if required, and the county engineer or surveyor verifying that the subdivision plat meets the county requirements and has been approved by the board.
- C. Certification of the sanitation restrictions on the face of the plat per section 50-1326 Idaho Code.
- D. Auditor's certification and signature.
- E. Treasurer's certification and signature.
- F. Planning Administrator's certification and signature.

CHAPTER 5

MINOR SUBDIVISION

SECTION:

- 10-5-1: General Provisions
- 10-5-2: Administrative Procedure
- 10-5-3: Application, Content and Form
- 10-5-4: Final Plat and Approval Procedure
- 10-5-5: Bunker Hill Superfund Site Overlay District (BD)
- 10-5-6: Repeal

10-5-1: **GENERAL PROVISIONS:**

- A. Purpose: In addition to the purposes previously set forth in 10-1 herein, the purpose of these regulations is to provide for the manner and form of making and filing a minor subdivision. This is an administrative procedure that does not require a public hearing.
- B. Requirements: A minor subdivision procedure is acceptable when an owner desires to subdivide land, when the land has not been subdivided within the past five (5) years (*or if it has been subdivided, the two subdivisions together will create 9 or fewer lots*) and the owner desires to subdivide the land so as to create nine (9) or fewer contiguous platted lots, tracts or parcels wherein all of said lots, tracts or parcels shall meet the following requirements:
 - 1. The minimum lot size requirements of the zone in which the land is located or the minimum of two (2) acres, whichever is greater.
 - 2. The application proposes no shared infrastructure or improvements, other than a water system and/or a common driveway that would require engineering to meet the requirements of the County or other agencies
 - 3. Conformance with the Shoshone County comprehensive plan and zoning ordinances.
 - 4. In any proposed minor subdivision, except those for subdivisions in which mining, agricultural, or timber uses, recognized as such by the Assessor's office, each lot shall be provided with road and utility access as described herein. A homeowner's association shall be formed to provide provisions for road maintenance and improvements, which may be dissolved only upon the event of dedication to the public. Documents establishing the Homeowners' Association must meet the Administrator's approval and upon approval, shall be recorded with the Plat.
 - 5. All roads within the proposed minor subdivision, except those for subdivisions with mining, agricultural, or timber uses, recognized as such by the Assessor's office, shall be compliant to "Shoshone County Code Title 6 chapter 1 Highways, Streets, and Public Ways", "Use of Public Right-Of-Way, Standard Approach Policy" and with the current "Highway and Street Guidelines for Design and Construction" by the Local Highway Technical Assistance Council with the following amendments:

- a. Roads shall have an all weather driving surface with a minimum of four to six inches of in place sub-base/ballast and/or base course with a minimum width of twenty feet (20') with a two-foot (2') shoulder on both sides for a total road width of twenty-four feet (24') together with appropriately sized and adequately functioning cut and fill slopes, drainage ditches and features.
 - b. Driving surface of roads shall have a minimum exterior curve radius of fifty feet (50').
 - c. Road gradient shall not exceed ten percent (10%) slope, except where the applicable Fire District has granted a variance or approval.
 - d. All roads within the proposed subdivision shall comply with Shoshone County Ordinance #129, the Shoshone County Site Disturbance Ordinance.
 - e. All private roads shall be named "Lanes", names shall be approved by the Administrator. Signage shall be provided and installed by the applicant conforming to the "Uniform Manual of Traffic Control Devices" as adopted in Idaho.
 - f. Any private road(s) shall be constructed on a perpetual fifty-foot (50') access & utility easement, controlled and maintained by the homeowner's association.
6. Ingress and egress from subdivision shall adjoin a public road, or access shall be demonstrated to comply with General Provision B (4) of this chapter and the appropriate Egress/Ingress easements shall be provided and may be required to be applied to the Plat face.
7. All Residential Subdivision applications shall meet all other applicable regulations, requirements and provisions of this Title. Proof of such approval shall be provided to the Administrator in order for the application to be deemed complete.

10-5-2: **ADMINISTRATIVE PROCEDURE:**

- A. **Administrative Duties:** The Administrator is vested with the duty of administering the provisions of this chapter, not specifically delegated to the Board herein. The Administrator may prepare and require the use of such forms as are deemed necessary.
- B. **Application; Fee:** Application for any minor subdivision shall be submitted to the administrator with a fee as set forth on the fee schedule as adopted from time to time by resolution of the Board of County Commissioners. An application not accompanied by the appropriate fee, unless the fee is expressly waived by the Board of County Commissioners, shall not be deemed complete.

Action By Administrator: Upon receipt of an application for minor subdivision and all other required data and fees as provided for herein, the Administrator shall certify the application as complete and shall affix the date of application acceptance thereon. The Administrator shall determine if a review of the proposed application by agencies or the Technical Review Committee is warranted. The Administrator shall refer the preliminary plat and application to the Technical Review Committee and as many agencies as deemed necessary by the Administrator for a thirty (30) day comment period. Such agencies may include any agencies or entities as determined by the Administrator. The technical review committee and/or agencies shall review the preliminary plat from the viewpoint of the technical disciplines represented on the committee. Any fees or charges are the responsibility of the applicant. At the conclusion of the 30 day comment period, the Administrator shall determine if the application meets the standards for a minor subdivision.

If the application meets the requirements of this chapter, the applicant may proceed with the remaining regulations delineated for the processing and approval of a minor subdivision.

The applicant shall provide the Department with an Adjacent Property Owners (APO) report establishing all adjacent property owners within 300 feet of the site (including any contiguous lots or parcels under the same ownership).

The Planning Department shall publish a thirty (30) day Notice of Public Comment Period and shall mail the notice to those property owners listed on the report. Notices to property owners within 300 feet must be mailed on or before the first day of the Comment Period.

Information submitted prior to the close of the Comment Period will become a part of the record on the application.

Within 21 days after the close of the Comment Period, the Administrator shall review the relevant evidence in the record and determine whether the proposed minor subdivision satisfies the requirements of this title. If the Administrator determines that the proposed minor subdivision application is complete and satisfies the requirements of this title, and if there were no public comments received requesting a public hearing, the Administrator shall make a recommendation to the Board of County Commissioners for action pursuant to section D below.

The Administrator's recommendation shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, explain any relevant contested facts and his/her evaluation of these facts, and if the decision is a denial, the actions, if any, the Applicant could take to gain approval. The applicant bears the burden of demonstrating compliance with requirements. Conditions may be attached to an approval and the plat may not be recorded until compliance with the conditions is demonstrated.

If public comments requesting a public hearing are received, the Administrator shall schedule the matter for the next available agenda of a regular meeting of the Planning and Zoning Commission, and proceed with the applicable

requirements of this title. Notice for the hearing before the Planning and Zoning Commission shall comply with the provisions of §10-4-4-7 of this Title.

If the administrator determines that the requirements of this title have not been met, the application shall be disapproved and notice shall be sent to the applicant together with the reasons for disapproval. The applicant may, within fifteen (15) days of the notice of disapproval, submit a notice of appeal together with the appropriate fee to the Planning and Zoning Commission. The Planning and Zoning Commission shall consider the appeal on completeness of an application and all submissions of the applicant in support thereof at its next available public meeting agenda. The Commission may consider the appeal without a public hearing and render a decision on the completeness of the application in writing within 14 days of the meeting at which the appeal was considered.

The Planning and Zoning Commission shall conduct a hearing in accordance with current County ordinances. The applicant presents their proposal, addresses any issues that have been identified, and demonstrates that the project can meet the requirements of all these regulations and all applicable agencies. The Administrator will present the staff evaluation. Public testimony is taken, followed by closing remarks by the Applicant. The Commission shall consider all of the relevant evidence and testimony and then make a recommendation to the Board. The Commission may recommend approval, with or without conditions, recommend denial, or table the preliminary plat application for additional information. (If the hearing is continued to allow for additional information, action must be taken within six (6) weeks, unless otherwise approved in writing by the Applicant.)

Recommendations for approval, denial, or continuances shall occur within thirty (30) days of the date of the regular meeting at which the application is first considered by the Planning and Zoning Commission. The action and the reasons for such action shall be stated in writing by the Planning and Zoning Commission and forwarded to the applicant. The Planning and Zoning Commission shall also forward a statement of the action taken and the reasons for such action, to the Board. In the event the Commission fails to carry out its responsibilities according to these regulations, the Board shall assume the duties of the Commission.

- D. Board Action: The Board, at its next available meeting following receipt of the Administrators recommendation or the receipt of the recommendation from the Planning and Zoning Commission shall consider the findings and recommendation(s). If, prior to that meeting, a request is made by any affected party for a public hearing before the Board, the Board may set the matter for public hearing, consistent with the established hearing procedures, to be held at the next available Board meeting. Notice for the hearing shall be in accord with the notice provisions of §10-4-4-7 within this Title. The Board shall approve, approve conditionally, disapprove, set the matter for hearing, or table the application for additional information within thirty (30) days of the date of the regular meeting at which the application is first considered. If the application is tabled for additional information, the Board shall then approve, approve conditionally, or disapprove the application within thirty (30) days of receipt of the requested information by the Board. If the matter is set for public hearing, the

Board shall issue an Order of Decision within 15 days of the close of the public hearing. The Board's Order of Decision shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, explain any relevant contested facts and his/her evaluation of these facts, and if the decision is a denial, the actions, if any, the Applicant could take to gain approval. The applicant bears the burden of demonstrating compliance with requirements. Conditions may be attached to an approval and the plat may not be recorded until compliance with the conditions is demonstrated.

10-5-3: APPLICATION, CONTENT and FORM

An application and drawing disclosing the following information in an accurate, clear legible manner shall be submitted to the Administrator for consideration and processing pursuant to this chapter.

- A. Legal description to include section, township, and range.
- B. Name, address and phone number of all persons holding an interest in the property.
- C. Date of application acceptance.
- D. Boundary lines and dimensions of proposed lots within the minor subdivision.
- E. North arrow and scale.
- F. The location and dimensions of all roads and easements within or serving the lots in the minor subdivision.
- G. Plans of proposed water systems, sewage disposal systems, drainage systems or other utilities proposed within the minor subdivision, if applicable.
- H. A Consent to Subdivide statement bearing the typed names of all persons having an interest in surface rights to the land to be divided, signed and acknowledged by them before a notary public, which states their consent to the division of land.
- I. Current title report.
- J. List of property owners within 300 feet of the site (including any contiguous lots or parcels under the same ownership.) Names and addresses are to be provided on mailing labels.
- K. Any other information deemed necessary and/or useful by the Administrator and/or Planning and Zoning Commission.

10-5-4: Final Plat and Approval Procedure:

- A. Minor Subdivision Plat containing lots, tracts, or parcels the following

requirements shall be met:

1. A minor subdivision plat shall be filed in compliance with Idaho Code, Title 50 chapter 13, plats and vacations and shall be required for final approval of a minor subdivision.
 2. The planning administrator's approval shall appear on the face of the minor subdivision plat, if the plat has been approved pursuant to this chapter. All appropriate signature blocks shall be indicated on the plat and all signatures shall have been obtained.
 3. There shall be placed on the face of the minor subdivision plat, prior to it being recorded, the sanitary restriction required by Idaho Code, sections 50-1326 through 1329. The provisions of the foregoing Idaho Code sections are applicable to all minor subdivisions.
 4. On the face of the minor subdivision plat, prior to it being recorded, the source of drinking water shall be identified as required by Idaho Code, section 50-1334.
 5. If required, there shall be placed on the face of the minor subdivision plat, prior to being recorded, the recorded instrument number of the established Homeowner's Association Agreement and Conditions, Covenants, and Restrictions.
- B. Final Plat: Two (2) reproducible and three (3) paper copies, together with the current filing fee shall be submitted for filing with the county recorder.

CHAPTER 6

CONSERVATION DESIGN SUBDIVISIONS AND BONUS DENSITY

Section:

- 10-6-1: Applicability
- 10-6-2: Conservation Design Subdivisions; Purpose
- 10-6-3: Bonus Densities
- 10-6-4: Open Space
- 10-6-5: Public Access
- 10-6-6: Conservation Design Procedure
- 10-6-7: Additional Requirements for Conservation Design Subdivisions
- 10-6-8: Conservation Design Subdivisions Without Bonus Lots
- 10-6-9: Ownership Options for Open Space

10-6-1: **APPLICABILITY:** This Chapter may be used in conjunction with any Major Subdivision application submitted pursuant to this Title (or these regulations).

10-6-2: **CONSERVATION DESIGN SUBDIVISIONS PURPOSE:** Shoshone County encourages the use of conservation designs for subdivisions. The purpose of a conservation design is to fit the development to the land, to cluster homes on smaller lots, to minimize road construction, to reduce stormwater and water quality impacts, to make it possible to develop shared water and sewage systems, and to save large areas of open space for farming, pasture, timber production, wildlife habitat, recreation and other uses that benefit the community. In Suburban Residential and Natural Resource Zones, bonus lots may be granted as an incentive to do this type of development (i.e. the County may allow the platting of additional lots that otherwise could not be approved). This Chapter explains the requirements for conservation design subdivisions and for obtaining approval of bonus lots.

Note: The density of this type of subdivision will be considered to be as compatible as that of a traditional subdivision, and clustered lots in a conservation design subdivision are not considered to be urban density.

10-6-3: **BONUS DENSITIES** (Suburban Residential and Natural Resource Zones Only):

In Conservation Design Subdivisions in the Suburban Residential and Natural Resource Zone, the following actions, when done in conformance with this Chapter, may earn additional building lots. For each action, the number of lots that can be approved in a standard subdivision (base density) may be increased by the listed percentage. After the bonus is applied, fractions of a lot are rounded up to the next whole number. If bonus lots are requested in more than one category, the percentage figures are added together, multiplied by the base number of lots for the zone, and then rounded up to a whole number. If the property being subdivided is located in one or more of the Suburban Residential, and Natural Resource Zones, the base number of lots is calculated for the acreage in each zone, then added together to yield the base number of lots for the project. Density may not be transferred from other zones.

A. **Conserve Open Space** (conservation of at least 50% of the property is required

of all subdivisions requesting bonus lots)

Amount of Land Preserved as Open Space (net acreage)	Increase in Approved Building Lots
20 - 49%	0%
50 - 64%	10%
65% - 79%	15%
≥80%	20%

B. Other Actions Additional Increase in
Approved Building Lots

1. Provide subdivision residents with usable access to open space or adjacent streams, lakes or public land.	5%
2. Provide the general public with usable access to open space, or adjacent streams, lakes or public land. <i>(Note: This option is in lieu of, not in addition to Option 1.)</i>	10%
3. Provide other public amenities. The Commission may approve bonus lots for other actions and amenities, both on and off site, if they benefit and are desired by the public. In all such cases the value of the extra lots shall be commensurate with the cost of proposed amenities, and the bonus lots granted shall not exceed 10%.	≤10%

Improvements required to mitigate impacts shall not be used to earn bonus lots.

Example: If an applicant proposes to retain 80% of their land as open space (20% lot bonus), and to allow subdivision residents access to a road along the open space (5% lot bonus), the number of building lots would be increased by 25%. To determine the total number of building lots that would be allowed, the base number of lots for the zone would be multiplied by 1.25. For a 100-acre parcel in a zone with a base density of one (1) lot per five (5.00) acres, twenty (20) lots could be approved in a standard subdivision and 25 lots could be approved in a conservation design subdivision.

10-6-4: OPEN SPACE:

Open space is land with natural, cultural or historic resources of value to the community. To qualify for bonus lots, open space land that is to be preserved must be a part of the land being divided, must be unencumbered by existing conservation easements, must be in good condition (e.g. stable, in conformance with applicable best management practices), and must fall into one or more of the following categories:

- A. Actively managed pasture, farm or timber land, except agricultural uses the Commission deems incompatible in a residential area. Appurtenant structures are allowed, including residential structures in conformance with the Shoshone County Zoning Ordinance. If the open space lot will have residential structures, it must, however, be counted as one of the allowable building lots. If the proposed

agricultural use requires irrigation, water rights, sufficient to support the use, must be retained with the land.

- B. Wildlife habitat or wildlife corridors as identified by the Idaho Department of Fish and Game. These areas might include stream corridors, draws, wetlands, grassland, stands of mature timber, areas with snags, wintering areas, nesting and roosting sites, waterfront areas and travel corridors between habitat blocks and sources of food and water. *Note: Any fencing in these areas must allow for the safe movement of wildlife.*
- C. Areas with native vegetation, including native grass land, or unique vegetative communities as identified by the Idaho Conservation Data Center.
- D. Recreational areas, including trails and wildlife viewing areas, but excluding uses the Commission deems incompatible in a residential area.
- E. Historic or culturally significant areas.
- F. Natural landmarks and scenic areas.
- G. Parks, playgrounds, picnic areas, community gardens and similar uses. Up to 10% of the open space area may be used for structures appurtenant to such uses, in conformance with County ordinances and the requirements of other agencies.
- H. Sensitive areas as defined by this Title.
- I. If required by the Commission to allow public use of open space, up to 2% of the open space may be used for public parking.
- J. Ridge tops and other prominent, natural features.
- K. Hydrologic protection areas and land adjacent to these areas.
- L. Land preserved to protect drinking water supplies.
- M. Sites for shared water, wastewater or stormwater systems.
- N. Other land with natural, cultural or historic value as approved by the Commission.

10-6-5: **PUBLIC ACCESS:**

- A. To earn density bonuses for public access (either to residents of the subdivision or to the public in general), a trail must be provided to and either through, around or next to the open space area. This trail must be convenient and accessible to lots that are not adjacent to the open space. This does not mean the public necessarily has access to the entire site. For example, granting an easement that allows people to walk on a road along the edge of a field or pasture is adequate to qualify for bonus lots. If the trail doesn't already exist, it must be constructed as part of the subdivision improvements.

- B. To earn density bonuses for providing access to the general public, the Commission may require installation of a small parking area, and may require a vegetative buffer and/or fencing to separate it from nearby residences.

10-6-6: **CONSERVATION DESIGN PROCEDURE:**

Conservation subdivisions shall be designed according to the following procedure:

Step One: Identify potential open space areas that meet the requirements of this Chapter.

Step Two: If requesting bonus lots, develop an Existing Resources Report and Site Analysis Map. Requirements for the Report and Map are as follows:

Existing Resources Report and Site Analysis Map (only required for conservation design subdivisions requesting bonus lots) - The report and map must be prepared by a landscape architect in consultation with a professional wildlife or conservation biologist or the Idaho Department of Fish and Game. The map shall be shown as a supplemental page to the plan at a scale between 1"= 40' and 1"= 100'.

The map shall clearly show the conditions on and within 500 feet of the property and must show woodlands and timber; functioning farm and pasture land; adjacent public lands and lands under Conservation Easement; habitat for rare, threatened or endangered plants or animals (if known); important wildlife habitat; historic or cultural features; areas with scenic views; hillsides and other areas visible to the public; disturbed areas; natural features such as streams, ponds, rock outcrops, unusual geologic formations, forested areas, and wetlands; and existing roads. In addition to a paper copy, at least one clear overlay copy of the map shall be provided. If available, an aerial photograph of the site, with boundaries marked, shall also be submitted.

The written report shall:

Describe the subject site boundaries. Explain in a brief paragraph of the proposed project.

Explain the different resources found on site that includes, but is not limited to, timbered areas, cultural resources, wildlife habitat, streams and other surface water areas.

Describe how these resources will be impacted by the proposed project. If streams are found on the project site, list the classification of the streams. If the land falls within a timbered area, as determined by Staff, a Wildfire Mitigation Plan will be required.

Explain what mitigation will be done for the impacted areas of the project. The Resource Map should reflect all resources delineated in the report.

Step Three: Determine zoning districts and expected numbers of base and bonus lots. Select building sites positioned to avoid slopes in excess of 15% and to take

advantage of views and open space. *Note: Though building sites should be designed to avoid slopes, this is a recommendation, not a requirement.*

Step Four: Align streets and trails to be compatible with topography, to minimize road length and site disturbance, to avoid drainageways, sensitive areas, open space lands, and slopes >15%, and to meet the requirements of this Title and the highway district.

Step Five: Draw lot lines.

10-6-7: **ADDITIONAL REQUIREMENTS FOR CONSERVATION DESIGN SUBDIVISIONS:**

- A. To the extent possible, open space must be contiguous within the subdivision, and must be contiguous with that on adjacent properties, so as to eventually develop a network of interconnected open space.
- B. Concurrent with recordation of the subdivision plat, a perpetual conservation easement meeting the requirements of the Uniform Conservation Easement Act, Idaho Code Title 55, Chapter 21, and approved by the Administrator and the entities accepting the easement, must be recorded on the land that is to be conserved. Each easement will be tailored to the specific situation, and though it limits future development of the property, it does not affect the landowner's ability to sell the land or use it within the parameters of allowed open space uses and the easement. As approved by the Board, conservation easements shall be dedicated or conveyed to a land trust, a governmental body, or a conservation organization that has expertise in managing the type of open space that is proposed, and who meets the requirements of Idaho Code §55-2101(2). Prior to any preliminary application submittal for a conservation design subdivision, as part of the application package, the applicant shall provide the conceptual boundaries of the conservation easement and the name of the entity that will receive and hold the future easement. As part of the plat submittal, the Applicant shall provide Shoshone County with a letter from the proposed holder of the easement that indicates the organization will accept the conservation easement. Shoshone County, as a government entity will not be considered as a holder of conservation easements.
- C. Prior to application for final subdivision approval, any required payments must be made to the stewardship fund of the organization that will hold the conservation easement. This payment is to cover the easement holder's yearly costs for site inspections and, if necessary, enforcement.
- D. Open space lands must be actively managed by the landowner, in conformance with applicable best management practices and approved land management plans.
- E. If the open space is going to be owned by a homeowners association, documents establishing the association must be approved by the Administrator, and must be recorded concurrently with the plat.
- F. Conservation design subdivisions are subject to all other provisions of this Title.

- G. If necessary to bring the site into conformance with applicable BMP's, a Land Management Plan must be developed and approved by the agency with jurisdiction.

10-6-8: CONSERVATION DESIGN SUBDIVISIONS WITHOUT BONUS LOTS:

Conservation Design Subdivisions which conserve 20-49% of the property as open space, or which conserve property that does not fall into one of the approved open space categories are permitted, however, no bonus lots will be granted. The subdivision must follow the conservation design procedure in Section 10-6-5, as well as the requirements outlined in Section 10-6-6. Conservation of at least 20% of the property is required for all Conservation Design Subdivisions.

10-6-9: OWNERSHIP OPTIONS FOR OPEN SPACE:

Open space may be owned and managed by one of the following, providing all open space is under the same ownership:

- A. An individual or individuals.
- B. A corporation (for profit or non-profit).
- C. An incorporated homeowners or condominium association. The CC&R's must state that the common open space cannot be encumbered, and that the homeowners' association is responsible for upkeep, taxes, insurance and other ownership responsibilities.
- D. A nonprofit conservation organization. If open space is to be held by a conservation organization, appropriate provisions must be made for transfer to another conservation organization or agency in the event that the organization becomes unwilling or unable to manage the land.
- E. A public agency or governmental body.

CHAPTER 7

ADMINISTRATIVE PROVISIONS

SECTION:

- 10-7-1: Applicability
- 10-7-2: Administrative Authority and Requirements
- 10-7-3: Financial Guarantees
- 10-7-4: Vacating Recorded Plats
- 10-7-5: Enforcement
- 10-7-6: Penalty
- 10-7-7: Sunsetting of Unrecorded Plats
- 10-7-8: Development Agreement

10-7-1: **APPLICABILITY:** The requirements of the provisions of this chapter apply to all subdivisions regulated by this Title. This section establishes minimum administrative requirements for subdivisions.

10-7-2: **ADMINISTRATIVE AUTHORITY AND REQUIREMENTS**

A. Fee Schedule: Fees shall be as provided on the fee schedule adopted from time to time by resolution of the Board of County Commissioners.

B. Administrator's Authority: The Administrator shall be responsible for administering this Title within the unincorporated areas of Shoshone County.

C. Adoption of Criteria for Supporting Documents: The Board may adopt, by resolution, criteria for supporting documents that may be necessary in the administration of this Title.

D. Interpretation: In applying this Title to situations that are not specifically addressed, the actions taken shall be in conformance with the purpose and intent of this Title, and shall be in the best interest of the public.

E. Right to Inspect: The property owner or authorized applicant's signature on the subdivision application shall constitute approval for the Department or its designee to enter onto and inspect the subdivision property.

F. Amendments: The Board may, from time to time, amend, supplement, or repeal the provisions of this Title in accordance with Idaho Code. When any provision of this Title is amended after the County accepts a complete application for subdivision approval, the applicant may elect to have the application processed under either the provisions of this Title in existence at the time of application, or under the provisions of this Title as amended. A request to proceed under the provisions of this Title as amended must be submitted in writing, and the applicant shall be bound by all the provisions of this title as amended. Where no written request is made, the application shall be processed under the provisions of this Title in effect on the date a complete application was received.

G. Penalty for Sale of Lots: In accordance with Idaho Code §50-1316, any person

who shall dispose of or offer for sale any lots prior to recordation of a plat, as provided in §50-1301-§1325, shall pay \$100.00 (one hundred dollars) for each lot and part of a lot sold or disposed of or offered for sale. Enforcement of this penalty does not preclude the County from taking additional enforcement action as authorized by law.

Notice of Penalty and Hearing:

1. A person upon whom a penalty is imposed shall receive a written notice of the penalty to be assessed and the factual basis upon which the penalty has been imposed. Such notice shall be sent by first class mail, postage prepaid, to the owner(s) of record, at the address on file with the County Assessor.
2. A person cited for violating this Title shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the Board of County Commissioners to contest the citation.
3. The hearing shall be informal and strict rules of evidence shall not apply. The alleged violator may be represented by counsel, present oral and written evidence and cross-examine witnesses.
4. The Board of County Commissioners shall issue a decision within a reasonable time after the close of the hearing and shall notify the alleged violator in writing of the decision.
5. If the alleged violator fails to appear at a hearing or fails to request a hearing, it shall be conclusively established that this Title was violated, and the \$100.00 forfeiture shall be applied as well as any applicable appropriate criminal and civil sanctions.

In addition to the above penalty, if a portion of the property that is the subject of a subdivision request is divided prior to recordation of the plat, the application becomes null and void, and a new application must be filed by the owners. If the property is not divided, and is sold in its entirety, a new application is not required and the new owner or owners may proceed through the subdivision process with the existing application.

H. Mediation. Pursuant to Idaho Code §67-6510, the Board may require an applicant and affected persons objecting to a subdivision application to participate in at least one mediation session. If required, the Board shall select and pay the expense of the mediator for the first meeting. Compensation of the mediator for additional meetings shall be determined among the parties at the outset of any mediation undertaking. Requests for mediation must be submitted to the Board in writing, and may be submitted by the applicant, an affected person, the Planning Commission, or a hearing examiner.

Mediation may occur at any point during the decision-making process or after a final decision has been made, however, if mediation occurs after a final decision, any resolution of differences must be the subject of another public hearing before the hearing body. The mediation session shall not be a part of the official record for an application. During mediation, any relevant time limitation on the application shall be tolled. Such tolling shall cease when the applicant or other affected person, after having participated in at least one mediation session, provides the County with a written statement that no further participation is desired, and the other parties are

notified. If no mediation is scheduled, tolling shall cease 28 days from the date of the request.

10-7-3: **FINANCIAL GUARANTEES:**

A. Financial Guarantee in Lieu of Improvements.

Financial Guarantees provided in lieu of improvements shall be reviewed and approved by the Board and affected agencies prior to application for final approval of a subdivision. If an agency is unwilling or unable to approve a Financial Guarantee, the Board shall assume this authority. The amount of the guarantee shall be 150% of the estimated cost of construction and the expiration date of the guarantee shall be at least sixty (60) days after the agency approval date for the improvements. Cost estimates shall be developed by the design professionals who developed the construction plans. If it is anticipated that improvements will be completed over a period of time, separate financial guarantees should be provided (e.g. one for roads, another for the water system). Partial releases are not permitted.

B. Warranty.

A separate financial guarantee is required as a warranty to ensure correction of any deficiencies identified within twelve (12) months of final agency approval of improvements. The amount of this warranty shall be 10% of the total cost of construction. If improvements are completed and approved by applicable agencies and design professionals prior to application for final subdivision approval, the warranty shall be provided with the application. If improvements are to be completed after final approval, the warranty shall be provided prior to release of the financial guarantee for construction. If the Applicant fails to provide this warranty, the County may withdraw a portion of the construction guarantee to meet this requirement, or take other enforcement action as authorized by law.

C. Subdivision Completion and Warranty Agreements.

A Subdivision Completion and/or Warranty Agreement, meeting the requirements of Appendix B and approved by the Board, shall accompany each financial guarantee. These agreements shall be considered to be contracts between Shoshone County, the property owner, and if a party to the Agreement, the contractor. Financial Guarantees shall provide for installation and agency approval of improvements within two (2) years from the date of final subdivision approval. Upon written request by the property owner submitted prior to the expiration of the two year period, the Board may grant one extension of up to one (1) year for cause.

D. Types of Financial Guarantees. The county will accept the following types of Financial Guarantees:

1. Cash deposit (cash, cashiers check, bank draft, or money order).
2. CD or other bank account, providing the Board of Commissioners has exclusive access to the account.

The County may, at its discretion, accept Surety Bonds for required Warrantees, and for a portion of Financial Guarantees for incomplete improvements, except those related to stormwater and erosion control. A Surety Bond will not be accepted for stormwater/erosion control work. If accepted for other incomplete improvements, at least \$7,500 of the required Financial Guarantee must be provided in the form of cash or a bank account.

- E. Failure to Complete Improvements or correct deficiencies in accordance with a subdivision completion or warranty agreement and approved plans, shall be cause for the County to take enforcement action as authorized by law, and/or to draw on the funds and contract for completion of the work. In addition to direct costs to complete the work, the County may also withdraw funds to cover their administrative costs. The County shall give the property owner written notice, by first class mail, prior to taking action. The property owner shall permit the County, or its agent, access to the property to complete improvements. If the County is unable to gain access to the funds, or if costs exceed the value of the Financial Guarantee, the property owner will be billed for the outstanding balance.
- F. Release of Financial Guarantee. No Financial Guarantee shall be released until the associated improvements have been approved in writing by the applicable agencies, the developer's design professionals and the Board. No partial releases are permitted.

10-7-4: **VACATING RECORDED PLATS:** Any plat prepared and recorded as herein required may be vacated, in whole or in part, as provided by section 50-1306A, Idaho Code. Easements shall remain to continue operation and maintenance of existing public utility facilities.

10-7-5: **ENFORCEMENT:** No subdivision plat required by this title or the Idaho Code shall be admitted to the public land records of the county or recorded by the county recorder, until such subdivision plat has received final approval by the board. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this title until the final plat has received the approval by the board. The prosecuting attorney, may in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this title.

10-7-6: **PENALTY:** Penalties for failure to comply with the provisions of this title shall be as follows:

- A. Unlawful Subdivision and Site Work: As provided in Idaho Code section 67-6518 and 67-6527, it shall be unlawful for any person, firm or corporation, or their agent, to knowingly and willfully participate in constructing a road, installing utilities or otherwise developing a subdivision, except in conformance with this Title. In addition to the actions and penalties provided in Idaho Code Title 50, Chapter 13, any person, firm or corporation, or their agent, who knowingly and willfully commits, participates in, assists in or maintains a violation of this Title may be subject to the following criminal and civil remedies, fines and penalties.

- B. **Criminal Penalties:** Violation of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor, with each day of an ongoing offense considered a separate violation. In addition to any jail and/or fines imposed, if found guilty, the violator shall pay all reasonable expenses incurred in enforcing this Title. In cases where multiple individuals, firms, corporations or agents participated in violating this Title, they shall be held jointly and severally liable for the above payment and any restitution awarded by the Court and each person so involved, either as a principal or a co-conspirator, shall be subject to the full criminal penalties.
- C. **Civil Enforcement:** The County may also take civil action in district court to prevent, restrain, correct, abate, or otherwise enforce this Title. In addition to other actions that may be ordered by the court, if the County prevails, the violator shall pay to the County a sum equal to two times the monetary gain associated with the violation and shall pay all reasonable expenses incurred in enforcing this Title. In cases where multiple individuals, firms, corporations or agents participated in violating this Title, they shall be held jointly and severally liable for the above penalties and payments.
- D. **Stop Work Order:** Whenever any terrain modification, construction, or other site work is not in compliance with this Title, specific conditions of approval, or other related laws, ordinances, or requirements, the Administrator may order the work stopped by written notice. Such notice shall be served on any persons engaged in doing or causing such work to be done, and persons shall forthwith stop such work until authorized by the Administrator to proceed. Stop work orders may be appealed according to the procedure outlined in Section 10-4-4-9.
- E. **Withholding of Permits:** The Administrator may withhold issuance of permits, including building permits, for subdivisions, lots, or parcels of land that are in violation of this Title. Withholding of permits may be appealed according to the procedure outlined in Section 10-4-4-9.
- F. **Processing of Applications:** Applications for approvals authorized by this Title will not be accepted until all violations of County ordinances are corrected, and the property is brought into compliance. If any un-permitted site disturbance or subdivision development has previously occurred (e.g. construction of roads, driveways, building pads), a site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems meeting the requirements of the Shoshone County Site Disturbance Ordinance and applicable BMP's, must be installed and approved before an application will be accepted. These requirements may be appealed according to the procedure outlined in these regulations.
- G. **Additional Remedies:** Nothing herein contained shall prevent the Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of the Idaho Code.

10-7-7: **SUNSETTING OF UNRECORDED PLATS:** Any plats previously approved without recordation deadlines, including Idaho Code Plats, shall

be null and void if not recorded within ninety (90) days of the effective date of this Title.

10-7-8: **DEVELOPMENT AGREEMENT:** If the Technical Review Committee identifies deficiencies or concerns then the applicant may negotiate a development agreement to mitigate the deficiencies pursuant to Shoshone County Title 10-8-1 Development Agreements and Idaho Code § 67-6511A.

This ordinance shall take full force and effect upon its passage, approval, and publication in one (1) issue of the Shoshone County News-Press.

APPROVED by the Shoshone County Board of Commissioners on this 22nd day of December 2009.

BOARD OF COMMISSIONERS

Jon Cantamessa, Chairman

Vern Hanson, Commissioner

Vince Rinaldi, Commissioner

ATTEST:

Susan K. Hendrixson
Administrative Assistant