

Title 12 GEM COUNTY SUBDIVISION ORDINANCE

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CHAPTER 1

AUTHORITY, APPLICABILITY AND AMENDMENTS

12-1-1: TITLE:

These regulations shall officially be known, cited, and referred to as the *SUBDIVISION ORDINANCE OF GEM COUNTY, IDAHO*. (Ord. 2006-06, 6-21-2006)

12-1-2: AUTHORITY:

This title is adopted pursuant to the authority delegated to Gem County pursuant to Article 12, Section 2 of the Idaho Constitution, and Idaho Code Title 67, Chapter 65 and Title 50, Chapter 13.

The provisions of this title shall be administered to ensure orderly growth and development and shall supplement and implement provisions of the Comprehensive Plan applicable to Gem County and of this code. In accordance with this title, the Board of County Commissioners of Gem County, the Gem County Zoning Commission, and the Gem County Development Services Department are vested with the authority to review, approve, approve with conditions, or disapprove applications for the creation of subdivisions as set forth in this title. (Ord. 2006-06, 6-21-2006)

12-1-3: APPLICABILITY AND JURISDICTION:

These regulations shall apply to the creation of subdivisions, as defined by this title, within the unincorporated territory of Gem County. In accordance with the Emmett area of city impact agreement between Gem County and the City of Emmett (set forth in Gem County Ordinance 2007-18), these regulations shall apply within the Emmett area of city impact, except that all applications for the creation of a subdivision within one mile of the city limits of the City of Emmett shall be governed by the subdivision ordinance of the City of Emmett.

It shall be unlawful for any person to create a subdivision without first complying with the provisions of this title and any other applicable provisions of this code.

It shall be unlawful for any person to transfer ownership of lots created by the subdivision of land before a plat has been prepared and recorded pursuant to Idaho Code, Title 50, Chapter 13. No plat shall be recorded until all improvements required by the provisions of this title and this code have been constructed and accepted by Gem County or have been suitably guaranteed in accordance with the provisions of this title.

No subdivision permit application shall be accepted by the department when the property sought to be subdivided is not in compliance with all applicable local land

use ordinances or is the subject of unresolved local land use ordinance violations. (Ord. 2006-06, 6-21-2006)

12-1-4: PURPOSES:

Lands proposed for subdivision must be suitable and safe for building without danger from flood, or other natural or manmade hazard. Proposed improvements/infrastructure shall conform to and not be in conflict with the goals and policies set forth in the Comprehensive Plan applicable to Gem County. It is intended that these regulations shall complement and implement provisions and standards contained in building codes, zoning ordinances, and the Comprehensive Plan.

These provisions are adopted to provide for the orderly division of land within the unincorporated areas of Gem County, and:

- A. To protect and provide for the public health, safety, and general welfare of Gem County.
- B. To guide the future growth and development of Gem County in accordance with the Comprehensive Plan.
- C. To protect the character and the social and economic stability of all parts of Gem County.
- D. To provide adequate and efficient roads, water, sewerage, drainage, parks, and other public services and facilities.
- E. To establish reasonable standards of design and procedures for subdivisions in order to further the orderly layout and use of land, and to ensure proper legal description and monumentation of subdivided land.
- F. To ensure that Gem County and its residents will bear no more than their fair share of any cost of providing services by requiring the applicant to pay fees, furnish land, or undertake measures to mitigate impacts on services generated by the creation of subdivisions.
- G. To assure the adequacy of drainage facilities, to safeguard the water table, aquifers and other drinking water sources, and to encourage the wise use and management of natural resources in order to preserve the stability, beauty, and value of land in Gem County.
- H. To provide open space through the most efficient design and layout of the land, while preserving the density of development as established in the zoning ordinance of Gem County and the Comprehensive Plan. (Ord. 2006-06, 6-21-2006)

12-1-5: ENACTMENT:

In order that subdivisions are created in accordance with these purposes and policies, this title is hereby adopted and shall become effective upon its passage and publication according to law. All applications for a subdivision permit pending on the effective date of these regulations shall be reviewed pursuant to the ordinance in effect at the time the original complete application was accepted for processing by the department. Applications that have been filed prior to adoption hereof but that have lapsed due to inaction by the applicant for a period of one hundred twenty (120) days shall be governed by this title if and when the application is refiled. Every subdivision shall conform to all local land use regulations applicable at the official submission date. (Ord. 2006-06, 6-21-2006)

12-1-6: AMENDMENTS:

When necessary to further its purposes, this title may be amended in the manner prescribed by Idaho law. (Ord. 2006-06, 6-21-2006)

12-1-7: FEES:

Gem County may charge reasonable fees sufficient to recover costs incurred by Gem County in administering this title. Such fees shall be set forth by resolution adopted by the Board.

Gem County may, as a condition of approval of a subdivision, require mitigation of the effects of the proposed subdivision on the ability of Gem County, and other political subdivisions, to deliver services without compromising quality or imposing substantial additional costs to current residents. Such conditions may not exceed the impact of the proposed subdivision unless the applicant agrees to such conditions. In lieu of such mitigation or as a complement thereto, the applicant may agree in writing to pay fees that will be used by Gem County to mitigate such impacts. (Ord. 2006-06, 6-21-2006)

12-1-8: ENFORCEMENT AND PENALTIES:

It shall be the duty of the Administrator or his/her designees to enforce the provisions of this title.

No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved by the Board and filed with the Gem County Recorder in accordance with this title and Idaho Code Title 50, Chapter 13.

No building permit shall be issued for the construction of any building or structure on a lot or plat that has been created or sold in violation of the provisions of this title, nor shall Gem County have any obligation to issue certificates of occupancy to any parcel created or established in violation of this title.

Violations of the provisions of this title shall constitute a misdemeanor, punishable up to the maximum allowed by Idaho law per violation, with each day such

violation continues constituting a separate offense. Gem County shall have recourse to such civil remedies in law and equity as may be necessary to ensure compliance with the provisions of this title. (Ord. 2006-06, 6-21-2006)

12-1-9: INTERPRETATION, CONFLICT, AND SEPARABILITY:

In their interpretation and application, the provisions of this title shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that such standards are necessary to protect the public health, safety and welfare.

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, regulation, or other provision of law, the provision that is more restrictive or imposes the standards most likely to protect the public health, safety and general welfare shall control.

These regulations are not intended to abrogate any easement, private covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations, the requirements of these regulations shall govern irrespective of private contractual provision.

The provisions of this title are separable. If any section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this title. The remainder shall be interpreted to further the purposes of this title.

The provisions of this title serve to supersede prior ordinances regulating the creation of subdivisions in Gem County. (Ord. 2006-06, 6-21-2006)

12-1-10: SAVINGS PROVISION:

The adoption of these regulations shall not abate any action now pending under prior subdivision regulations or abate, modify, or alter any penalty accruing or about to accrue.

These regulations shall not waive any right of Gem County under any section or provision existing at the time of adoption, or vacate or annul any rights obtained by any person, firm, or corporation by lawful action of Gem County except as expressly provided for herein. (Ord. 2006-06, 6-21-2006)

12-1-11: RESERVATIONS AND REPEALS:

Upon the adoption of these regulations according to law, the subdivision ordinance of Gem County, as previously adopted and amended, is hereby repealed. (Ord. 2006-06, 6-21-2006)

12-1-12: EXCEPTIONS:

Where strict compliance with these regulations and/or the purposes of these regulations may be better served by an alternative proposal, the Board may approve exceptions to these regulations. An "exception" is any alternative design, or proposed change to these subdivision ordinance requirements that is requested by the applicant. The exception requested must be reviewed as an integral part of the overall review process as outlined in this title.

A request for an exception shall be submitted in writing by the applicant at the time the subdivision permit application is filed and shall be reviewed along with the subdivision permit application. The request shall specify the ordinance provisions for which the applicant is requesting the exception, along with the proposed changes and the reasons why the changes are necessary. The Commission shall make a recommendation to the Board specific to the exception requested. A final decision on the exception shall be made by the Board at the time it issues its final decision on the subdivision permit application.

The granting of an exception shall not have the effect of nullifying the intent and purpose of these regulations. The Board shall not permit exceptions unless it finds, based upon the evidence presented to it in each specific case, that:

- A. The granting of the exception will not be detrimental to the public safety, health, or welfare or injurious to other property, and
- B. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property, and
- C. Because of the shape, or topographical conditions of the specific property involved, a particular and unnecessary hardship to the owner would result if the strict application of these regulations is applied, and
- D. The change sought will not vary the provisions of the zoning ordinance or Comprehensive Plan, except that those documents may be amended in the manner prescribed by law.

In approving exceptions, the Board may require conditions that will secure the purposes of this title. (Ord. 2006-06, 6-21-2006)

12-1-13: TIME LIMITS:

Time limits contained within this title are directory. Violation of time limits established in this title shall not be the basis for damages and shall have no effect on the approval or disapproval of a subdivision. Time limits provided herein may be extended for good cause. (Ord. 2006-06, 6-21-2006)

CHAPTER 2 DEFINITION OF TERMS

12-2-1: DEFINITIONS; GENERAL REQUIREMENTS:

For the purposes of this title, the following terms, phrases, and words shall have the meanings given below. When inconsistent with the context, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. (Ord. 2006-06, 6-21-2006)

12-2-2: DEFINITIONS:

ACCESS: A clear and unobstructed usable approach of not less than twenty feet (20') in width to a legally dedicated public way.

ADT (AVERAGE DAILY TRAFFIC): The average number of cars per day that pass by or through a given location.

ADMINISTRATOR: The Administrator of the Gem County Development Services Department, his or her designee, or another official expressly appointed by the Board of County Commissioners to administer the subdivision ordinance.

AFFECTED PERSON: One having an interest in real property that may be adversely affected by the issuance or denial of a subdivision permit, as set forth in Title 67, Chapter 65, Idaho Code.

ALLEY: A right of way designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other road.

APPLICANT: The individual or entity that has filed, or intends to file, an application for a subdivision permit or a final plat pursuant to this title. The legal or beneficial owner or owners of a lot or of any land included in a proposed subdivision may file an application for the creation of a subdivision. An application may also be filed by the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land with a signed consent from the property owner. An applicant as defined herein may be represented by an agent. When the applicant is not an owner, a signed consent from the property owner granting authority to act on such application must be submitted to the development services department.

APPROACH: The location at which a driveway intersects with a public road.

ARTERIAL, MINOR: The second highest level of road as defined by the Gem County Road and Bridge Department and designated on the functional classification map of Gem County.

ARTERIAL, PRINCIPAL: The highest level of road as defined by the Gem County Road and Bridge Department and designated on the functional classification map of Gem County.

BICYCLE LANE: A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

BICYCLE PATH OR PATHWAY A pathway, either separated from the roadway, or as its own lane within the roadway, designed to be used by nonmotorized vehicles.

BLOCK: A tract of land containing a lot or lots in a subdivision completely surrounded by public rights-of-way or boundaries of the subdivision.

BOARD: The Board of County Commissioners of Gem County, Idaho.

CENTRAL WATER SYSTEM: Any water delivery system, other than an individual well, used to provide domestic water.

COLLECTOR ROAD: A road which carries traffic from minor roads to arterial roads, including the principal entrance roads of a residential development and roads for circulation within such a development.

COMMISSION, PLANNING: The Planning Commission of Gem County as appointed by the Board of County Commissioners. Primary responsibilities will be to make long term planning recommendations for the County.

COMMISSION, ZONING: The Zoning Commission of Gem County as appointed by the Board of County Commissioners. Primary responsibilities will be to make zoning decisions for the County. The use of the term "Commission" in this ordinance shall refer to the Zoning Commission unless otherwise noted.

CONCEPT PLAN: A preliminary presentation and attendant documentation of a proposed subdivision of sufficient accuracy to be used for the purpose of discussion and classification. The concept plan shall include, but is not limited to:

- A. Vicinity map, including all properties of record within one-half (1/2) mile of the site;
- B. Adjacent property map showing existing buildings, roads, irrigation facilities, and other key natural features;
- C. Plat map showing proposed lots, roads, open space, general utilities/services, topography, existing trees over four inch (4") caliper in size, existing buildings, and all waterways (including floodplain, wetlands, etc.).

CONDOMINIUM: An estate consisting of an undivided interest in common real property, in an interest or interests in real property, or in any combination thereof, together with a separate interest in real property, in an interest or interests in real property, or in any combination thereof.

CONDOMINIUM PLAN: A plat of the ground in a condominium project along with the legal description of the individual ownership(s) within the project.

CONDOMINIUM PLAT: The drawing of a division of real property into individual interests in common together with a separate interest in the real property for the purpose of establishing condominium ownership together with the declaration that is filed according to law with the County Recorder.

CONTIGUOUS: Sharing a common boundary.

CONVEYANCE: The transfer of an interest in real property from one person or entity to another.

COUNTY: Gem County, Idaho, and its governing board.

CUL-DE-SAC: A local road with only one outlet and having the other end for the reversal of traffic movement.

DAY(S): Calendar day(s).

DEDICATION: The setting apart of land or interest in land for use by the public. Land becomes dedicated only when accepted by the Board of County Commissioners as a public dedication, either through the recording of a subdivision plat, by the passage of a county ordinance or by entry of a resolution of approval in the official minute book of the meeting of the Board of Commissioners.

DENSITY: The permitted number of dwelling units per gross acre of land to be developed.

DEPARTMENT: The Gem County Development Services Department.

DEVELOPMENT: Any grading, vegetation removal, construction activity, or any other activity, excluding maintenance, which changes the existing character or use of the land or has any impact on adjoining properties.

EXCEPTION: Any requested alternative design or change in subdivision ordinance requirements.

FINAL PLAT: The final map of all or a portion of a subdivision that is presented for final approval (see also definition of Plat).

FINAL PLAT APPROVAL: The official action of the Board taken on an approved subdivision after all conditions, engineering plans, and other requirements have been completed or fulfilled and the required improvements have been installed, or guarantees properly posted for their completion.

FLOODPLAIN: The relatively flat area or lowland adjoining the channel of a river, stream, lake or other body of water which has been or may be covered by water

of a flood on 100-year frequency, as established pursuant to Title 13. The floodplain includes the channel floodway and floodway fringe, as follows:

Channel: A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

Flood: The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water.

Flood On 100-Year Frequency: A flood magnitude, which has a one percent (1%) chance of being equaled or exceeded in any given year.

Floodway: The channel of a watercourse and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse.

Floodway Fringe: That part of the floodplain that is beyond the floodway. Such areas will include those portions of the floodplain that will be inundated by a flood on 100-year frequency.

GENERAL DEVELOPMENT PLAN: A plan outlining general, rather than detailed, development intentions. It describes the basic parameters of a development proposal, rather than giving full engineering details. As such, it allows general intentions to be proposed and discussed without the extensive costs involved in submitting a detailed proposal.

GUARANTEE: See definition of Performance or Warranty Guarantee.

HEARING EXAMINER: Appointment by the County Commissioners of an individual to hear applications for subdivision, special use and variance permits, and requests for zone boundary changes

HILLSIDE: Parcel, lot, tract or other defined area of land that has at least thirty percent (30%) of its total area containing an average slope of ten percent (10%) or more. The slope determinations are based upon U.S. geological survey (USGS) datum or other acceptable topographic maps prior to any development occurring on the property.

INFRASTRUCTURE: Roads, sidewalks, pavement, pathways, sanitary and storm water facilities, wastewater systems, water systems, electric power, gas lines, telephone lines and appurtenances, irrigation canals and other such items as may be required to serve each proposed subdivision and comply with the intent and findings of the subdivision ordinance.

LARGE SCALE DEVELOPMENT: A land division consisting of fifty (50) or more dwelling units.

LOT: A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required, and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record; and
- C. A combination of complete lots of record, or of portions of lots of record.

LOT LINE: A line of record bounding a lot that divides one lot from another lot or from a public or private road or any other public space in a platted or proposed subdivision.

MEDIAN: That portion of a divided road separating lanes of traffic proceeding in opposite directions.

MINOR SUBDIVISION: A subdivision of four (4) or fewer building lots resulting from the minor subdivision process as set forth in this title.

NO ACCESS STRIP: Physical space that separate a frontage road from the main arterial or collector and limits traffic access to specific points for safety and aesthetic reasons.

OFF SITE: Not located on the property that is the subject of a subdivision permit application or on a contiguous portion of a road or right of way.

ON SITE: Located on the lot in question or on the property proposed for subdivision.

OPEN SPACE: An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts, picnic areas, and other recreational facilities that the Commission deems permissive. Roads, parking areas, structures for habitation and the like shall not be included.

ORIGINAL PARCEL: A lot or tract of land as described in the instrument of conveyance (recorded deed or contract in escrow, etc.) which was recorded prior to October 10, 1978.

PARCEL: A tract of unplatted land (or contiguous land), in single ownership, considered a unit for purposes of development.

PARKING LANE: A lane usually located on the side of roads, designed to provide on road parking.

PERFORMANCE GUARANTEE: Security in a form that serves as a guarantee that the public or identified common improvements required as part of the approval of a subdivision are satisfactorily completed.

PLAT: The reproducible and permanent drawing of a subdivision and dedications and easements, prepared for filing and recording with the County Recorder in accordance with state law and this title.

PREAPPLICATION CONFERENCE: A meeting among the applicant, department staff, and other representatives that affords the applicant an opportunity to present the proposed subdivision informally.

PRIVATE ROAD: A roadway that is not dedicated to the public, but intended for public use, privately maintained, serving more than two (2) building parcels and/or lots but not more than ten (10) building parcels and/or lots, and that is approved pursuant to the Gem County zoning ordinance. A private road does not include existing easements that may have provided access but have not been built to county standards.

PROPERTY BOUNDARY ADJUSTMENT: A realignment of boundary lines between adjoining lots or parcels where no additional lots or parcels are created and all new properties meet the minimum zoning requirements for the applicable zone as set forth in the Gem County zoning ordinance.

PUBLIC OPEN SPACE: A parcel of land or right of use conveyed or otherwise dedicated to the state or county agency, or other public body for recreational or conservation uses by the public.

RESIDENTIAL DENSITY: The number of dwelling units per gross acre of residential land area including roads, easements, and open space portions of a development.

RIGHT OF WAY: A strip of land dedicated or reserved for use as a public road, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special uses.

STANDARD SUBDIVISION: A subdivision of five (5) or more lots resulting from the standard subdivision procedures set forth in this title. The standard subdivision procedures apply to all proposed subdivisions not entitled to use the minor subdivision process.

SUBDIVIDER: Shall be deemed to be the individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of the subdivision ordinance of Gem County. The subdivider need not be the owner of the property; however, he shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.

SUBDIVISION: A tract of land that has been divided into two (2) or more lots, for the purpose of sale or building development, whether immediate or future; provided, that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A "bona fide division or partition of agricultural land for agricultural purposes" shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands without development (building permit) capability. If a division of an original parcel is for development purposes and each parcel is forty (40) acres or greater, then this ordinance shall also apply upon the fifth division from the original parcel. All divisions of land must be accomplished in accordance with the standard or minor subdivision processes set forth in this title unless exempted by the provisions of

this title. The term subdivision also refers to the act of dividing a tract of land into two (2) or more lots or parcels as set forth above.

The following land divisions do not constitute a subdivision for the purposes of this title:

A. Divisions made for the purpose of property boundary adjustments, as defined herein, and filed with the County Recorder where no additional parcels are created and where all parcels comply with the requirements of the underlying zoning classification. Property boundary adjustments shall be governed by separate ordinance ¹.

B. Divisions made as the result of the exercise of the powers of eminent domain as defined and allowed for by Idaho Code.

C. Divisions made for the expansion or acquisition of road rights of way by a public agency.

D. Divisions for conveyance of land to Gem County, a public entity, homeowners' association or public utility for a public or common purpose (well site, drainage site, fire station, school site, park site, etc.).

E. Division of land into quarter-quarter sections or into parcels equal to or more than forty (40) acres without development (building permit) capacity. Division of up to four (4) parcels equal to or more than forty (40) acres is also exempt.

SUBDIVISION PERMIT: A permit approved by the Board that authorizes development of a subdivision in accordance with this title. Also commonly referred to as an approved preliminary plat.

SUBDIVISION PERMIT APPROVAL: The approval status of a subdivision permit application prior to final plat approval but after specific elements of a subdivision plan have been approved by the Board.

SUBDIVISION PLAN: A drawing indicating the proposed layout of a proposed subdivision showing locations of rights of way and lots and blocks and related information that is submitted for subdivision permit approval.

TRIP: A single or one-way vehicle movement to or from a property or study area. "Trips" can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

UNPLATTED: A property that is not included in any subdivision of record in Gem County.

UTILITIES: Installations or facilities, underground or overhead, furnished for use by the public, including, but not limited to, electricity, gas, steam, communications, water, drainage, irrigation, sewage disposal or flood control, owned and operated by any person, firm, corporation, municipal department or board duly authorized by state or municipal regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments or boards, as applicable herein.

WARRANTY GUARANTEE: A percentage of the cost of public subdivision improvements provided as cash in escrow, bond, or irrevocable letter of credit to warrant the design, construction materials, and workmanship of the improvements for a specified period of time. (Ord. 2006-06, 6-21-2006)

CHAPTER 3

SUBDIVISION APPLICATION, REVIEW AND APPROVAL

12-3-1: PURPOSE AND GENERAL PROCESS:

All individuals and/or entities desiring to create a subdivision must apply for a subdivision permit following either the minor or standard subdivision processes set forth in this chapter, unless otherwise exempted by the provisions of this title. The purpose of this chapter is to establish the procedures for review and action on applications for subdivision permits. The procedures are intended to provide orderly and expeditious processing of applications for subdivision permits.

Once a subdivision permit is obtained, the applicant must obtain approval of the final plat prior to its recording. The process for obtaining approval of the final plat is described in a later chapter of this title. (Ord. 2006-06, 6-21-2006)

12-3-2: PREAPPLICATION:

Prior to the submittal of any minor or standard subdivision permit application, the applicant shall have completed a preapplication conference.

An applicant seeking a preapplication conference shall submit one (1) copy, on 11X17' paper, of a concept plan to the Administrator.

The concept plan shall include, but is not limited to, vicinity map, including all properties of record within one-half (1/2) mile of the site; adjacent property map showing existing buildings, roads, irrigation facilities, and other key natural features; and plat map showing proposed lots, roads, open space, general utilities/services, existing trees over four inch (4") caliper in size, existing buildings, and all waterways (including floodplain, wetlands, etc.). The concept plan shall show all parcels under forty (40) acres that are contiguous to the parcel to be subdivided and are under the same ownership. For a minor subdivision, the Administrator determines which elements of a concept plan are required and which may be omitted.

The Administrator shall schedule and hold the preapplication conference within thirty (30) days from the submittal date unless the applicant agrees to additional time.

A preapplication conference allows the applicant an opportunity to meet with the Administrator and other agency/department representatives deemed appropriate by the Administrator. Members of the Board and of the Commission shall not participate in the preapplication conference. Items to be reviewed shall include, but are not limited to:

- A. The subdivision process.
- B. Overall design, lot sizes, and road layout.

C. Preliminary utility design.

D. Conformity with the Comprehensive Plan and the Gem County zoning ordinance.

E. Potential on site and off site impacts/mitigation.

F. Off site/on site improvements.

The Administrator may require additional preapplication conferences when the proposed subdivision is extraordinarily complex, proposes large impacts to Gem County public services, or requires extraordinary department staff time.

The Administrator shall provide the applicant with a written notice to proceed, which includes a statement of issues, concerns, and recommendations deemed important by department staff and participating agencies/departments. The notice to proceed shall be mailed to the applicant within fourteen (14) days of the completion of the preapplication conference.

The notice to proceed allows the applicant to submit an application for subdivision review. A notice to proceed states that the proposed subdivision has been reviewed by appropriate staff and agencies and that the applicant is eligible to submit an application. It does not constitute an approval in any way.

A notice to proceed is valid for a period of one hundred twenty (120) days. The Administrator may extend the duration of the notice to proceed for an additional ninety (90) days if conditions of the preapplication review have not materially changed. After expiration of a notice to proceed, the applicant shall be required to resubmit the application for a preapplication conference. (Ord. 2006-06, 6-21-2006)

12-3-3: NEIGHBORHOOD MEETING:

After receiving a notice to proceed, and prior to submitting an application, an applicant desiring to submit an application for a subdivision permit for a subdivision of ten (10) or more proposed lots must conduct a neighborhood meeting.

Notice of the neighborhood meeting shall be provided to all property owners of record within three hundred feet (300') of the exterior boundary of the proposed subdivision property. Notice of the meeting shall be either hand delivered or mailed to the property owners and shall set forth the time and place for the meeting.

Notice of the meeting shall be provided at least ten (10) days prior to the meeting. The meeting shall be held not more than ninety (90) days nor less than five (5) days prior to the submittal of an application.

The neighborhood meeting shall be conducted by the applicant at a public place where the applicant shall present the concept plan and allow for comment and

questions by the above specified property owners. The meeting shall not be held on official holidays or on weekdays between the hours of seven thirty o'clock (7:30) A.M. and five thirty o'clock (5:30) P.M., unless a written consent agreeing to the day and time, signed by at least fifty one percent (51%) of the property owners within three hundred feet (300'), is filed with the department prior to the neighborhood meeting.

At the time of submitting an application, the applicant shall be required to demonstrate that a neighborhood meeting was conducted in accordance with this section by filing a copy of the meeting sign up sheet and a copy of the meeting notice. (Ord. 2006-06, 6-21-2006)

12-3-4: APPLICATION:

Applications for any subdivision permit shall be submitted and accepted prior to the date of the public hearing or the minor subdivision review at which the subdivision permit application is to be reviewed. No application for any subdivision permit shall be accepted until a preapplication review has been completed and a written notice to proceed has been issued by the Administrator.

The applicant shall have the option of seeking the direction of the Administrator as to which approvals are required and the appropriate review process, or of filing an application the applicant believes to be appropriate. (Ord. 2006-06, 6-21-2006)

12-3-5: APPLICATION SUBMITTAL:

The documents submitted are intended to provide the approving authority with sufficient information and data to assure compliance with all Gem County ordinances and specifications and ensure that the proposed subdivision meets the design and improvement standards contained in this title.

Documents to be submitted are listed and described in this section. In specific cases and for documented reasons, the Administrator may waive the submission of a particular document. An applicant may request that an incomplete application be accepted by submitting a letter stating which items are missing and giving a detailed explanation and rationale for the incomplete submission. The Administrator must determine that the information is not necessary to establish conformance with the required findings. If so, he/she may deem the application complete and allow it to be processed. All documents must be submitted, unless waived in writing, before an application is accepted and processed.

An application for any subdivision permit shall include the following:

A. Application Form: An application form, provided by the department, filled out completely and signed by the applicant.

B. Names; Addresses: The names and addresses of the owners of real property within three hundred feet (300') of the exterior boundaries of the proposed subdivision. The names and addresses shall be prepared by either the Gem County Assessor's Office or by the department.

C. Subdivision Plans; Copies: Plans of the proposed subdivision. The Administrator will determine the number of copies. In addition to the paper plans, a digital copy of the subdivision plat shall be submitted in a format acceptable to the assessor's office. A reduced copy, eleven inches by seventeen inches (11" x 17") in dimension, shall also be provided.

D. Plan Elements: Plans submitted shall include the elements listed in table 3-1, "Subdivision Plan Elements", of this section.

E. Construction Plans:

1. Standard Subdivision: Preliminary construction plans shall be submitted for all required improvements including sanitary sewer, water supply, storm water collection and disposal, roads, and any other elements determined to be necessary during the preapplication conference. A civil engineer licensed in Idaho shall prepare preliminary construction plans. Listed elements may be waived, or additional items added, by the Gem County Engineer at the preapplication conference. The waiving or the addition of elements to the plans shall be in writing and made a part of the notice to proceed. A list of elements to be included on preliminary construction plans is found in table 3-2, "Preliminary Construction Plan Elements", of this section.

F. Water Rights Statement: If all or any parts of a proposed subdivision are located within the boundaries of an existing irrigation district or other canal company, ditch association, or like irrigation water delivery entity, the applicant shall submit a statement demonstrating how the applicant is or will be in compliance with Idaho Code 31-3805 relating to delivery of water.

In addition, if the property has existing surface and/or ground water rights, the applicant shall include a summary of said rights in this statement and whether or not the existing water quantity is adequate to meet the proposed agricultural, domestic, and landscape needs, or whether additional rights will be sought.

G. Neighborhood Meeting Statement: If applicable, a statement of the date, time and place the meeting was held and a list of the meeting participants. Include a list of any unresolved issues between the participants and the developer that were discussed at the meeting.

H. Request For Exception: If any exceptions as set forth in this title are proposed, a statement complying with Section [12-1-12](#) of this title shall be submitted with the application.

TABLE 3-1

SUBDIVISION PLAN ELEMENTS

Elements Required	Standard Subdivision	Minor Subdivision
1. Name of subdivision, name and address of the applicant.	X	X
2. A vicinity map.	X	X
3. Existing or proposed zoning.	X	X
4. North arrow and scale (1:40 preferred).	X	X
5. Metes and bounds description with dimensions of the site.	X	X
6. Acreage of the tract to the nearest tenth of an acre.	X	X
7. Location of existing structures and setbacks from proposed lot lines.	X	X
8. Location, width, and names of all existing or platted roads or other public ways within or immediately adjacent to the tract, including curbs, sidewalks and swales.	X	X
9. Location, sizes, elevations, and slopes of existing sewers and/or septic, water mains and/or wells, culverts, and other underground structures within the tract and adjacent thereto.	X	X
10. Location and size of proposed sewer lines and/or community septic systems and water mains and/or wells.	X	X
11. Location of existing and proposed streetlights.	X	
12. All proposed roads(private and public); show right of way width, sections, curbs, swales, and sidewalks.	X	X
13. Location, dimensions, and area of all parcels of land to be set aside for parks, pathways, open space, or other public use or for the use of property owners in the proposed subdivision.	X	
14. Location and size of proposed lots.	X	X
15. Any existing or proposed easements and right of way dedications.	X	X
16. Development phases, or stages, if the project will be built over several years.	X	
17. Existing vegetation on the property (trees over 4 inch caliper and significant	X	X

vegetation).		
18. Streams, watercourses, wetlands, or floodplains.	X	X
19. Proposed road names.	X	
20. Topography shall be shown at an appropriate contour interval. Unless waived by the County Engineer, contour lines shall be shown a minimum of 300 feet beyond the proposed boundary lines. Slopes of over 5 percent shall be shown in 5 foot intervals.	X	
21. Data table showing number of lots, amount of open space, density in lots per acre, and average lot size.	X	
22. Show any natural or constructed site drainage patterns and proposed modifications unless waived by the County Engineer.	X	X

TABLE 3-2

PRELIMINARY CONSTRUCTION PLAN ELEMENTS

Items Required	Standard Subdivision	Minor Subdivision
1. Proposed preliminary utility infrastructure plans, including sewer, septic, water, and storm water. (see Note #1)	X	
2. Soil erosion and sediment control plan if required by the County Engineer.	X (if required)	X
3. Road and paving cross sections. Indicate slopes in excess of 5 percent.	X	
4. Proposed road names.	X	
5. Street lighting plans.	X	
6. Pedestrian circulation plans (if less than 2 acre lots).	X	X
7. Traffic studies, if required by the County Engineer. (see Note #2.)	X (if required)	
8. Areas of cuts or fills of more than 4 feet.	X	X
9. Fire suppression systems (i.e., tanks, hydrants, etc.).	X (if required)	X (if required)
10. Reference to IDAPA 58.01.03.013	X	X

concerning individual Subsurface Sewage Disposal	(if using community septic system)	(if using community septic system)
11. Drainage Plan (per Zoning Ordinance Section 11-6-11).	X (if required)	X (if required)

Notes:

1. For subdivisions proposing individual septic systems, in lieu of submitting preliminary septic drawings with the subdivision permit application, the applicant may submit a copy of the predevelopment meeting form, signed by Southwest District Health Department, stating a nutrient-pathogen study is not required. If a nutrient-pathogen study is required, this item will not be waived and preliminary construction drawings will be required with the application. Percolation tests will be accepted when done in the preliminary process and completed before the final plat. Individual septic systems are prohibited on lots less than two acres.

2. Subdivision applicants will be required to submit a traffic study if average daily traffic is estimated to exceed 1,000 ADT (average trips per day).

(Ord. 2006-06, 6-21-2006)

12-3-7: MINOR SUBDIVISION REVIEW AND APPROVAL:

The purpose of minor subdivision review is to provide, to the extent allowed by Idaho law, a simplified procedure for processing minor subdivision permit applications. An applicant may use the minor subdivision process when the proposed subdivision:

- A. Will contain four (4) or fewer building lots and all lots will meet minimum standards in size as set forth in the County zoning ordinance, and
- B. Will contain no new public roads, and
- C. Involves no new extensions of existing public road (not including road widening), and
- D. Is already served by public infrastructure required to serve the subdivision, or where the required public infrastructure is within three hundred feet (300') of the property boundary, and
- E. Provides all lots with direct frontage on an existing public or private road or provides access to a new private road, as authorized under Section 12-6-1.F.4.

The provision in subsection D of this section may be waived by the County Engineer and Administrator when it is jointly determined that detailed construction drawings are not necessary to accommodate the infrastructure extension and when there is no affected party opposition.

The minor subdivision process may not be used when the proposed subdivision lies in a floodplain or on a hillside.

An applicant may, upon written request, combine the application for a minor subdivision permit and the application for final plat approval so that the review processes for each application are conducted together. (Ord. 2006-06, 6-21-2006)

12-3-7-1: REVIEW DATE:

Upon receipt of a complete application, the Administrator shall schedule a minor subdivision review with department staff and the applicant. The review shall take place within thirty (30) days from the date of application acceptance. (Ord. 2006-06, 6-21-2006)

12-3-7-2: NOTICE:

A. The Administrator shall:

1. Mail written notice to the owners of properties that are within three hundred feet (300') of the boundaries of the proposed minor subdivision. When the proposed minor subdivision lies within the Emmett area of city impact, the City of Emmett shall also be entitled to mailed notice. The notice shall provide the property owners with a plan of the minor subdivision, general information concerning the proposal, and the time frame for submitting written comments. Notice shall be mailed at least twenty five (25) days prior to the review. Written comments or responses must be received by the Administrator no later than seven (7) days prior to the date of the review.

2. Post notice on the property. Notice shall be posted by use of a sign in accordance with the provisions of Gem County zoning ordinance. Notice shall be posted on the property at least twenty five (25) days prior to the review and will remain posted for at least seven (7) days.

3. Provide copies of submitted documents, as necessary, to outside agencies and jurisdictions that, in the opinion of the Administrator, may be affected by the proposal.

B. No hearing will be conducted by the Administrator/Hearing Examiner unless specifically requested in writing by the applicant or an affected person. An applicant must request a hearing at the time the application is submitted. An affected person must request a hearing at least eighteen (18) days prior to the date set for review. In the event an applicant or affected person requests a hearing, the review by the Administrator/Hearing Examiner shall be conducted as a public hearing at which the applicant and affected persons shall have an opportunity to be heard.

C. A transcribable record shall be made of the hearing and the hearing shall take place within thirty (30) days from the date of application acceptance. Written comments or responses must be received by the Administrator not less than

seven (7) days prior to the date of the review hearing. In addition to the above notice requirements, the Administrator shall ensure that, at least fifteen (15) days prior to the review hearing, notice of the hearing shall be mailed to owners of properties that are within three hundred feet (300') of the property boundaries. Such notice shall provide the time and place of the review hearing, a description of the location of the proposed minor subdivision, a brief statement summarizing the request, and the time by which written comments must be received. (Ord. 2006-06, 6-21-2006)

12-3-7-3: REVIEW:

The Administrator, who may act as Hearing Examiner, or a Hearing Examiner shall conduct a minor subdivision review, along with appropriate staff and agencies, to ensure that all applicable ordinance provisions are followed or completed. Minor subdivision review shall include, but not be limited to:

- A. Review of lot size and dimensions for conformance with the Gem County zoning ordinance.
- B. Determination that there are adequate provisions to serve the minor subdivision with all necessary infrastructure.
- C. Review of the location of fire hydrants or other fire suppression mechanisms as required by the local fire district.
- D. Review of the location for the installation of streetlights if determined to be necessary by the Gem County Road and Bridge Department.
- E. Determination of whether mitigation of any development impact is warranted.
- F. Determination of the scope of improvements and dedications required (curb, sidewalk, paving, water, sewer, drainage, easements, right of way dedication, etc.).
- G. Evaluation of the location of potential rights of way to access adjoining parcels.
- H. Conformance of the proposed subdivision with the Comprehensive Plan policies and land use map. (Ord. 2006-06, 6-21-2006)

The applicant may be required by the Administrator/Hearing Examiner to submit a resubmittal letter in response to the County's review comments.

12-3-7-4: ACTION:

The Administrator/Hearing Examiner shall forward the minor subdivision application to the Board with a written recommendation within fourteen (14) days after the minor subdivision review/hearing. A copy shall be delivered or mailed to the applicant. The written recommendation shall set forth the relevant standards

and criteria, the relevant facts relied upon, and the rationale for the recommendation. The Administrator/Hearing Examiner may recommend approval, approval with conditions, or denial of the minor subdivision. A recommendation to deny shall indicate reasons for denial and indicate what steps are necessary to obtain approval.

Upon issuance of the of the Administrator's/Hearing Examiner's recommendation, the application shall be scheduled for a regularly scheduled Board meeting. Within fourteen (14) days after the date on which the application is considered by the Board, the Board shall issue a written decision on the application. The decision shall be based upon the record created by the Administrator during the minor subdivision review/hearing process. The Board shall consider the recommendations of the Administrator/Hearing Examiner. The decision shall set forth the relevant standards and criteria, the relevant facts relied upon, and the rationale for the decision. A denial by the Board shall indicate reasons for denial and indicate what steps are necessary to obtain approval. (Ord. 2006-06, 6-21-2006)

12-3-7-5: REQUIRED FINDINGS FOR APPROVAL OF MINOR SUBDIVISION APPLICATIONS:

No minor subdivision permit application shall receive a recommendation of approval from the Administrator/Hearing Examiner or be approved by the Board unless each of the following findings and conclusions are made:

A. Adequate provisions have been made for a domestic water supply system that meets or exceeds the adopted water quality standards within Gem County and the State of Idaho.

B. Adequate provisions have been made and approvals from the health authority sought for treatment of wastewater within the proposed minor subdivision.

C. All areas of the proposed minor subdivision that may involve soil or topographical conditions presenting hazards have been identified and that the proposed uses of these areas are compatible with such conditions.

D. The area proposed for minor subdivision is zoned for the proposed use and the use conforms to other requirements found in this code and the Comprehensive Plan.

E. The applicant has made adequate plans to ensure that Gem County and its citizens will bear no more than their fair share of costs to provide services, by paying fees, furnishing land, or providing other mitigation measures for off site impacts to roads, parks, and other public facilities within Gem County.

F. The proposed minor subdivision complies with the design and improvement standards set forth in this title.

G. The proposed subdivision complies with all other standards set forth in this title or any other applicable ordinance or statute. (Ord. 2006-06, 6-21-2006)

12-3-7-6: EFFECTIVE PERIOD OF MINOR SUBDIVISION APPROVAL:

The approval of a minor subdivision permit shall be effective for a period of one year from the date of approval. If a final plat is not submitted for approval within the one year period, the minor subdivision permit approval shall be null and void, and the applicant shall be required to submit a new application and fee, unless a time extension is granted in accordance with Section 12-3-7-7 of this chapter. (Ord. 2006-06, 6-21-2006)

12-3-7-7: EXTENSION OF THE EFFECTIVE PERIOD:

Prior to the expiration date of the effective period, the applicant may request a time extension of the minor subdivision permit approval, in writing, from the Administrator. The Administrator may grant a onetime extension, not to exceed twelve (12) months, upon a showing of good cause by the applicant. The Administrator shall decide a request for extension within fourteen (14) days of the receipt of the written request. The applicant may appeal the Administrator's decision to deny extension to the Board. (Ord. 2006-06, 6-21-2006)

12-3-7-8: AMENDMENTS TO APPROVED MINOR SUBDIVISION:

At any time after minor subdivision permit approval and before recording of a final plat, the applicant may request of the Administrator that an amendment be made to the minor subdivision permit. If the proposed amendment is a minor change to the plan and consistent with conditions of approval, the Administrator may grant the amendment in writing within fourteen (14) days after the request. If the amendment is major or involves a change in the conditions of approval, the Administrator shall disapprove the amendment and notify the applicant to adhere to the approved plan or to reapply for the appropriate subdivision permit. (Ord. 2006-06, 6-21-2006)

12-3-8: STANDARD SUBDIVISION REVIEW AND APPROVAL:

The purpose of the standard subdivision review process is to provide a timely and efficient review of applications for a subdivision permit when the proposed subdivision does not qualify as a minor subdivision. Typically, the standard subdivision process is used when the proposed subdivision contains new roads or extensions to existing roads, and/or proposes installation or modification of infrastructure such as sewer, water, and utilities. Subdivisions proposed in a floodplain or on a hillside shall follow the standards for subdivisions in floodplains or on hillsides as set forth in this title.

The application for a subdivision permit using the standard subdivision process may not be reviewed in conjunction with the application for final plat approval. (Ord. 2006-06, 6-21-2006)

12-3-8-1: OFFICIAL SUBMISSION DATE:

The date that a completed application is accepted by the Administrator shall be the official submission date. (Ord. 2006-06, 6-21-2006)

12-3-8-2: PUBLIC HEARING DATE, NOTICE:

Upon receipt of a complete application for standard subdivision permit approval, along with all of the required submittals, the Administrator shall schedule a public hearing before the Commission. The public hearing shall be held at least forty five (45) days after but within seventy five (75) days of the official submission date. The Administrator shall:

A. Submit a notice for publication in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Such notice shall provide the time and place of the public hearing, a description of the location of the subdivision, and a brief statement summarizing the request. The notice shall also indicate that, to be considered, all written comments and/or materials must be received by the department at least ten (10) days prior to the hearing. Notice shall be published at least fifteen (15) days prior to the public hearing.

B. Mail notices to all owners of property within three hundred feet (300') of the boundaries of the land proposed to be subdivided or to such owners as the Administrator believes should receive notice. When the proposed subdivision lies within the Emmett area of city impact, the City of Emmett shall also be entitled to mailed notice. The notice shall provide the time and place of the public hearing, a description of the location of the proposed subdivision, a brief statement summarizing the request, and a vicinity map. The notice shall also indicate that, to be considered, all written comments and/or materials must be received by the department at least ten (10) days prior to the hearing. Notice shall be mailed at least thirty (30) days prior to the public hearing.

C. Post notice on the property. Notice shall be posted by use of a sign in accordance with the provisions of Gem County zoning ordinance. Notice shall be posted on the property at least fifteen (15) days prior to the public hearing.

Notice and request for comment shall be mailed to agencies, utilities, and other jurisdictions deemed appropriate by the Administrator or required by Idaho Code no later than thirty (30) days prior to the public hearing date. The notice and request for comment shall include application information, notice of the public hearing date, and additional department staff comments. The notice shall also indicate that, to be considered, all written comments and/or materials must be received by the department at least ten (10) days prior to the hearing. A legible copy of the subdivision plan shall be included.

To be considered, all written comments and/or materials must be received by the department at least ten (10) days prior to the hearing, unless good cause is shown why written comments/materials should be submitted and considered less than ten (10) days prior to the hearing. (Ord. 2006-06, 6-21-2006)

12-3-8-3: STAFF REPORT AND RECOMMENDATION:

In order to aid the Commission in making a recommendation to the Board, the Administrator, prior to the public hearing, shall prepare and submit a written staff report and recommendation to the Commission that provides information about the site and the proposed subdivision. The report and recommendation shall include a reasoned statement that explains the relevant criteria and standards, states the relevant facts, and explains the rationale for the recommendation based upon the applicable provisions of the Comprehensive Plan, relevant ordinances and statutory provisions, pertinent constitutional principles, and factual information contained in the record. The report shall include, but is not limited to, the following information, whether part of the application materials or otherwise:

- A. The current zoning and Comprehensive Plan designation of the area of the proposed subdivision, along with any policies applicable to the area of the proposed subdivision.
- B. Existing land uses on the site of the proposed subdivision as well as the surrounding land uses.
- C. The location and size of existing sewer and water lines, along with a site report from the appropriate health district.
- D. A description of the physical characteristics of the site to include a basic inventory of vegetation and any unique features.
- E. A description of existing roads serving the site of the proposed subdivision and a synopsis of the proposed roads.
- F. A list of issues that the Commission and Board should focus upon.
- G. An analysis of the impact of the proposed subdivision on the infrastructure of Gem County. This shall include deficiencies in existing infrastructure and what improvements would be needed to bring the infrastructure up to an acceptable level of service.
- H. Recommended conditions should the proposed subdivision be approved. (Ord. 2006-06, 6-21-2006)

The applicant may be required by the Administrator to submit a resubmittal letter in response to the County's review comments.

12-3-8-4: ZONING COMMISSION RECOMMENDATION:

After the Commission has reviewed the subdivision plan, preliminary construction plans, staff report, and testimony and exhibits submitted at the public hearing, the Commission shall forward a written recommendation to the Board. The Commission shall recommend approval, approval with conditions, or disapproval of the subdivision within forty five (45) days after the public hearing. The Administrator shall mail a copy of the Commission's written recommendation to

the applicant within seven (7) days of the issuance of the Commission's written recommendation and schedule review of the subdivision permit application by the Board. (Ord. 2006-06, 6-21-2006)

12-3-8-5: BOARD ACTION:

Within forty five (45) days after the issuance of the Commission's recommendation, the Board shall conduct a public hearing of the subdivision permit application at a regular meeting. Said public hearing shall follow the same noticing procedures as required for the Commission hearing. The Board shall review the record, the staff report, the Commission's recommendation, and the minutes of the Commission's public hearing and shall approve, approve with conditions, or disapprove the subdivision permit application in writing within thirty (30) days after the date on which the hearing is conducted by the Board. The Gem County Clerk shall provide the applicant with a copy of the written decision of the Board by mailing a copy of the written decision within seven (7) days after issuance of the decision. (Ord. 2006-06, 6-21-2006)

12-3-8-6: REQUIRED FINDINGS FOR APPROVAL OF STANDARD SUBDIVISION APPLICATIONS:

No standard subdivision permit application shall receive a recommendation of approval from the Commission or be approved by the Board unless each of the following findings and conclusions are made:

- A. Adequate provisions have been made for a domestic water supply system that meets or exceeds the adopted water quality standards within Gem County and the State of Idaho.
- B. Adequate provisions have been made and approvals from the health authority sought for treatment of wastewater within the subdivision.
- C. Proposed roads are consistent with the transportation element of the Comprehensive Plan and meet Gem County Road and Bridge Department standards.
- D. All areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards have been identified and that the proposed uses of these areas are compatible with such conditions.
- E. The area proposed for subdivision is zoned for the proposed use and the use conforms to other requirements found in this code and the Comprehensive Plan.
- F. The applicant has made adequate plans to ensure that Gem County and its citizens will bear no more than their fair share of costs to provide services, by paying fees, furnishing land, or providing other mitigation measures for off site impacts to roads, parks, and other public facilities within Gem County.
- G. The proposed subdivision complies with the design and improvement standards set forth in this title.

H. The proposed subdivision, when applicable, meets any standards for subdivision in floodplain or hillside areas.

I. The proposed subdivision complies with all other standards set forth in this title or any other applicable ordinance or statute. (Ord. 2006-06, 6-21-2006)

12-3-8-7: EFFECTIVE PERIOD OF STANDARD SUBDIVISION APPROVAL:

The approval of a standard subdivision permit shall be effective for a period of two years from the date the Board issues its written decision, unless a different time period is requested by the applicant, in writing at the time of application, and agreed to by the Board. By the end of the time period, the applicant must have submitted a final plat for review and approval. If a final plat is not submitted for final approval within the two year period, or period specified by the Board, the subdivision approval shall be null and void, and the applicant shall be required to submit a new application. (Ord. 2006-06, 6-21-2006)

12-3-8-8: EXTENSION OF THE EFFECTIVE PERIOD:

Prior to the expiration date of the effective period, the applicant may request an extension, in writing, from the Administrator. The Administrator may grant an extension, not to exceed twelve (12) months, upon a showing of good cause by the applicant. The Administrator shall render a decision to grant or not grant an extension within fifteen (15) days of the date of submittal to the Administrator. The applicant may appeal the decision of the Administrator to the Board. (Ord. 2006-06, 6-21-2006)

12-3-8-9: AMENDMENTS TO APPROVED STANDARD SUBDIVISION BEFORE FINAL PLAT APPROVAL:

At any time after subdivision approval and before submission of a final subdivision plat, the applicant may request of the Administrator, in writing, that an amendment be made to the approved standard subdivision permit. If the proposed amendment is a minor change to the plan, the Administrator may grant the amendment in writing. If the amendment is major or involves a substantial change in the conditions of approval, the Administrator shall schedule a public hearing to be held at least thirty (30) days after the receipt of the request but within sixty (60) days of the request. For the purpose of this section, a "substantial change" is any change that includes realignments of roads more than forty five degrees (45°), the addition of any building lot, adjusting lot lines of more than ten percent (10%) of total lots and/or similar changes that may negatively affect service providers. This list is not intended to be all-inclusive but rather used as a guide by the Administrator in making a determination. The Commission shall hold the public hearing to consider the proposed amendment in accordance with the same requirements for a public hearing for standard subdivision permit approval.

A public hearing on a proposed major amendment shall be limited to whether the proposed amendment should or should not be approved. The Commission may approve, approve with modifications, or disapprove any proposed major

amendment and may make any modifications in the terms and conditions of subdivision permit approval reasonably related to the proposed amendment. The Commission shall render a written decision on the proposed amendment within forty five (45) days from the date of the public hearing. Any proposed changes to conditions shall be forwarded to the Board for a public hearing in the same manner as for a new standard subdivision permit application. Any changes approved by the Board shall be included in an addendum to the Board's written decision. (Ord. 2006-06, 6-21-2006)

12-3-8-10: PHASING OR SECTIONALIZING SUBDIVISIONS:

Large developments may be phased or sectionalized, to be developed in portions periodically according to a proposed schedule. The applicant shall indicate plans for phasing or sectionalizing at the time of application. No more than twenty-four months may elapse between phases. The plans, subject to review and approval, shall show the entire property as well as the proposed phasing boundaries. Proposed interim or temporary solutions to sanitary sewer and water systems and to the handling of traffic on local roads, collectors, and arterials within the subdivision, shall be shown on the submitted plans.

A preliminary plat must be filed showing the entire property and a final plat must be filed on the property within the phase being developed.

The Board's written decision for each final plat will require that the dedication of public roads and improvements occur according to the phasing plans unless otherwise specified by the Board. The Board may, in the interest of public safety and welfare, require that certain collectors and arterials be dedicated and constructed in their entirety regardless of the phasing plan.

In approving a standard subdivision to be developed in phases, the Board shall require that the amounts calculated for guarantees are commensurate with the phasing plan. The Board shall require that the guarantee amount be that amount calculated for each phase and may defer the remaining amounts of the guarantee until the remaining sections of the subdivision are platted.

A phasing plan shall coordinate required infrastructure systems, dedications, off site improvements, open space/parks, landscaping, private utilities, or other elements of a subdivision. The plan may indicate times or triggering mechanisms for improvements. (Ord. 2006-06, 6-21-2006)

No more than twenty-four months may elapse between phases unless the applicant files a request for extension to the Administrator and the Board approves the extension.

12-3-9: CONSTRUCTION PLANS:

After approval of a subdivision permit application, the applicant shall submit to the Administrator two (2) copies of final construction plans prepared by a civil engineer licensed in Idaho. Such plans shall adhere to the design and improvement standards set forth in this title as well as all applicable Gem County

standards. No construction of any kind shall take place on the site of an approved subdivision until final construction plans are reviewed and approved by the County Engineer. Systems reviewed and subject to approval include, but are not limited to:

- A. Roads, including curbs and sidewalks.
- B. Water delivery system and/or water supply.
- C. Sanitary sewer system.
- D. Storm water collection and treatment plans, including storm water management during construction.
- E. Streetlight plans (if proposed by developer).
- F. Off site improvements (roads, traffic signals, sidewalks, lighting, etc.).
- G. Irrigation water delivery system.
- H. Site grading plans. (Ord. 2006-06, 6-21-2006)

12-3-9-1: EFFECT OF APPROVAL:

Upon final written approval and signatures by the Board, and upon subsequent review and approval of construction plans by the County Engineer, the applicant may proceed with construction of the subdivision. Approval of the subdivision permit does not, however, authorize the conveyance of lots or other privileges reserved until after the final plat is approved and recorded. (Ord. 2006-06, 6-21-2006)

12-3-10: FURTHER SUBDIVISION IN A RECORDED, PLATTED SUBDIVISION; AMENDING A RECORDED SUBDIVISION PLAT:

An applicant desiring to further subdivide property within a recorded, platted subdivision shall follow the procedures in this title for obtaining a standard subdivision permit and final plat approval.

A property boundary adjustment within a platted subdivision is permitted as set forth in the property boundary adjustment section of the Gem County zoning ordinance. Additionally, a platted subdivision may be amended when:

- A. The amendment will not create more than the original number of lots in the subdivision, and
- B. All lots in the amended subdivision plat will comply with the minimum requirements of the zoning ordinance (including setbacks of any existing structures), and
- C. No new roads or extensions of existing roads will be required, and

D. The amendment is approved in accordance with the final plat approval procedures outlined in this title, and

E. The amendment shows (in faint background data) the original lot lines and lot numbers. (Ord. 2006-06, 6-21-2006)

CHAPTER 4 FINAL PLAT REVIEW AND APPROVAL

12-4-1: PURPOSE:

The purpose of this chapter is to establish the procedure for final plat review. The procedure is intended to provide orderly and expeditious processing and recordation of subdivision plats. (Ord. 2006-06, 6-21-2006)

12-4-2: APPLICATION:

Following approval of a standard subdivision or, if applicable, a minor subdivision permit, the applicant shall file, within the designated time period, an application for final plat review with the Administrator. The application for final plat review shall:

- A. Be made on forms provided through the department.
- B. Include the entire standard subdivision, minor subdivision, or section/phase thereof as determined by a phasing plan approved during subdivision permit application review.
- C. Comply in all material respects with the approved standard subdivision or minor subdivision permit, whichever is applicable.
- D. Include all formal irrevocable offers of dedication to the public of all roads, local government uses, utilities, additional rights of way, parks, and easements in a form approved by the Gem County Prosecuting Attorney.
- E. Be accompanied by certification from the appropriate political subdivisions that all the roads, water system, sanitary sewers, storm water facilities, and other public improvements, including lot improvements on the individual lots of the subdivision have been completed and accepted as required in these regulations, or that a guarantee (in conformance with [Chapter 5](#) of this title) has been submitted in the proper form.
- F. Include the final plat complying with the requirements set forth in the content of final plats section of this chapter. A digital copy of the final plat shall also be submitted in a format acceptable to the Assessor's Office. (Ord. 2006-06, 6-21-2006)

12-4-3: CONTENTS OF FINAL PLATS:

To be considered for approval by the Board, standard subdivision plats and minor subdivision plats must meet the form and content requirements specified in this section.

- A. Preparation Requirements; Survey And Monument Data:

1. The standard subdivision or minor subdivision plat shall be prepared by or under the direction of a professional land surveyor. The final plat must be based upon an accurate and complete survey of the land to be subdivided made in conformity with Title 50, Chapter 13, Idaho Code.
2. The survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines must be shown. Such data may include, but is not limited to, the bearings and distances of straight lines, and the lengths, radii, and delta for all curves and radial bearings for nontangent curves.
3. All monuments, property lines, centerlines of roads, alleys and easements adjoining or within the subdivision must be tied into the survey.
4. The location and description of all monuments found or placed in making the survey must be identified on the map.
5. The allowable error of closure on any portion of the standard subdivision plat or minor subdivision plat must not exceed 1/5,000 feet for field closures and 0.02 feet for calculated closures, or shall comply with the requirements of Idaho law applicable at the time of submittal.

B. Form Of Standard And Minor Subdivision Plats:

1. The standard or minor plat must be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in opaque black on polyester base film. Required certificates, statements and acknowledgments must be legibly stamped or printed on the map with opaque ink. The polyester base film must have a minimum thickness of three one-thousandths (0.003) of an inch. The ink surface must be coated with a suitable substance to assure permanent legibility.
2. The size of each sheet must be eighteen inches by twenty seven inches (18" x 27").
3. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of three and one-half inches (3 1/2") on the left side for binding and one-half inch (1/2") on all other edges.
4. The exterior boundary of the land included within the subdivision shall be indicated by distinctive bold lines. The bearings and distance around the boundary shall be bold and be the same as shown in the boundary description in the owner's certificate. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.
5. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end.
6. Each sheet must be numbered, the relation of one sheet to another clearly shown, and the total number of sheets used must be indicated on each sheet.

7. All mechanical lettering must be a minimum of one-tenth inch (1/10") in height and all freehand printing or lettering on the map must be of one-eighth inch (1/8") minimum height. All lettering must be opaque and of such shape and weight as to be readily legible on prints and other reproductions made from the original drawings.

8. A title block shall be shown on top of each sheet, consisting of the subdivision name and a subtitle giving a general description of the property by reference to the maps that have previously been filed and by reference to the plan of the United States survey. Reference to tracts and subdivisions in the description must be spelled out and worded identically with original records and references to book and page of record must be complete. The year of platting shall be immediately below and centered on the title block.

9. All abbreviations shall be shown in the legend.

10. The north arrow shall point to the top of the page, unless otherwise approved by the Administrator.

C. Title Sheet: The standard subdivision plat or minor subdivision plat must be accompanied by a title sheet containing the information prescribed in subsections C1 through C6 of this section. However, where the size of the subdivision permits, in lieu of a title sheet, the information may be shown on the same sheet as the standard subdivision plat or minor subdivision plat itself.

1. The title sheet must contain the title block, as described in subsection B8 of this section.

2. Below the title block, a subtitle must appear giving a general description of the property by reference to the maps, which have previously been filed or by reference to the plan of the United States survey. Reference to tracts and subdivisions in the description must be spelled out and worded identically with original records and references to book and page of record must be complete.

3. Statements, acknowledgments, endorsements, and acceptances of dedication required by subsection E of this section must appear on the title sheet.

4. The map sheet should show the basis of bearings unless it is shown elsewhere on the map.

5. A vicinity map must be included.

6. Name of owner and professional land surveyor and surveyor's address.

D. Content Of Standard Subdivision And Minor Subdivision Plats:

1. Property To Be Included On The Subdivision Plat: If subdividing land under one deed in phases, all land described by that deed shall be included in the boundaries of the preliminary plat and all land included within the phase being developed shall be shown on each final plat.

2. Lot Dimensions, Acreage, Numbers: Dimensions of parcels must be given as total dimensions, corner to corner, and must be shown in feet and hundredths of a foot. All lots must show total acreage to the nearest thousandth. Each block and lot must be numbered consecutively, beginning with the number one in each subdivision and continuing consecutively with no omissions or duplications. (Phased development lots shall be numbered as if all phases were on the original plat.)

3. Road Location, Widths, Names: The map must show the location of all existing and proposed roads, alleys or highways by clear delineation of the centerlines and sidelines of all road rights of way, the total width of such rights of way and the widths of each side of the centerline. The names of all existing and proposed roads (with the names to be or already approved by the committee designated by the Board for reviewing road names) within or adjoining the subdivision must be shown. Whether the roads are to be for private use or will be dedicated to the public must be clearly labeled.

4. Easements And Other Rights Of Way: The map must show the location of all easements of record, and easements to be recorded, to which the property is or will be subject. All easements other than for roads must be denoted by fine broken lines and the purpose specified. The map must also indicate whether the easement is to be for private use or will be dedicated to the public. Easement widths, and the lengths and bearings of the lines together with sufficient ties, must be indicated to definitely locate the easement with respect to the property. For easements already existing as of record, proper record reference must be given. If any easement is found to exist but cannot definitely be located as of record, a statement to that effect must be made on the map.

5. Adjoining Properties: The parcels and blocks of all adjoining subdivisions must be identified by subdivision name and by the book and page of the filed plat. If no such subdivision is adjoining, then the plat shall be marked "UNPLATTED" and the instrument number of the last recorded deed of record must be identified.

6. City Or County Boundaries: City or County boundaries that adjoin the subdivision must be clearly designated.

E. Statements: The following statements must appear on the title sheet. All required signatures must be opaque:

1. Owner's Statement; Offer Of Dedication: A statement, signed and acknowledged by all parties having any record title interest in the land being subdivided, consenting to the preparation and filing of the plat and offering for dedication to the public, in perpetuity, certain specific parcels of land or easements, except in the following circumstances:

a. A lien for state, county, municipal, or local taxes or special assessments, a trust interest under bond indentures, or mechanics' liens do not constitute a record title interest in land for the purpose of this chapter.

b. The signature of either the holder of beneficial interests under trust deeds and the trustee under the trust deeds may be omitted. The signature of either shall

constitute a full and complete subordination of the lien of the deed of trust to the map and any interest created by the map.

2. Surveyor's Statement: A statement by the surveyor responsible for the survey and final plat. The statement shall:

- a. Give the date of the survey;
- b. State that the survey and final plat were made by him or her or under his or her direction, and that the survey is true and complete as shown;
- c. State that all the monuments are of the character and occupy the positions indicated, or that they will be set in those positions on or before a specified later date; and
- d. State that the monuments are, or will be, sufficient to enable the survey to be retraced.

3. County Surveyor's Statement: The County Surveyor shall sign and state that:

- a. He or she has examined the map;
- b. The subdivision as shown is substantially the same as that approved in the subdivision permit application and any approved alterations thereof;
- c. All provisions of Title 50, Chapter 13 and Title 55, Chapter 16, Idaho Code relative to plats and surveys and applicable at the time of approval of the subdivision permit have been complied with; and
- d. He or she is satisfied that the map is technically correct.

4. Chair Of The Board Of County Commissioner's Statement: A statement for execution by the chair of the Board stating the date on which the Board approved the plat and stating that the Board accepted, accepted subject to improvement or rejected on behalf of the public, any real property offered for dedication for public use in conformity with the terms of the offer of dedication.

5. County Recorder's Statement: If the County Recorder accepts the standard subdivision plat or minor subdivision plat for filing, such acceptance shall be certified on the title sheet thereof. The map shall become a part of the official records of the County Recorder upon its acceptance by the County Recorder for filing.

6. County Assessor's Statement: A statement that the Assessor for County of Gem, State of Idaho, certifies the plat is acceptable for assessment purposes.

7. County Treasurer's Statement: A statement that the Treasurer for Gem County, State of Idaho, certifies and affirms that the property tax for the subdivision property is paid in full through the (applicable) tax year. The property tax levied for

the (applicable) tax year is a lien due and not yet payable. This certification is valid if recorded within thirty (30) days of certification.

8. County Engineer's Statement: With the exception of a minor subdivision plat, the engineer shall sign and state that:

- a. He or she has examined the map; and
- b. All provisions of Idaho Code relative to engineering of the subdivision have been complied with.

9. Health Department Statement: A statement from the applicable health department that addresses the status of sanitary restrictions for lots within the subdivision.

F. Additional Information:

1. The County may require additional information to be filed or recorded simultaneously with a standard subdivision plat or minor subdivision plat. The additional information may be in the form of a separate document or an additional map sheet which must indicate its relationship to the standard subdivision plat or minor subdivision plat, and must contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. The document or additional plat sheet may also contain a notation that the additional information is derived from public records or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the document or additional map sheet.

2. Additional survey and plat information may include, but need not be limited to, building setback lines, flood hazard zones, seismic lines and setbacks, septic drain field and expansion area, geologic mapping, and archaeological sites. (Ord. 2006-06, 6-21-2006)

12-4-4: ACCOMPANYING DATA AND REPORTS; FINAL PLATS:

A. Unless waived by the Administrator, when the applicant submits the final minor or standard subdivision plat to the department for review, it must be accompanied by the following data, plans, reports and documents in a form acceptable to the Administrator:

1. Improvement Plans: Improvement plans, along with supplementary calculations and estimates as set forth previously in this chapter.
2. Improvement Agreements And Security: Improvement agreements and security as required in [Chapter 5](#) of this title.
3. Soils Report: A soils report prepared in accordance with Southwest district health department minimum standards for geotechnical reports.

4. Title Guarantee: A title guarantee by a title company doing business in the County, showing the names of all persons whose consent is necessary to file the standard subdivision plat or minor subdivision plat and for any dedication to public use, and their respective interest in the property, certified for the benefit and protection of the County that the persons named are all of the persons necessary to give clear title to the roads and other easements to be offered for dedication.

5. Deeds For Off Site Easements Or Rights Of Way: Deeds for off site easements or rights of way required for roads, drainage, sanitary sewers, water supply, or other public purposes, which have not been dedicated on the standard subdivision plat or minor subdivision plat. Written evidence acceptable to the Administrator must be presented in the form of rights of entry or permanent easements across private property outside of the subdivision permitting or granting access to perform necessary construction work and permitting the maintenance of the proposed facilities.

6. Traverse Closures: Computer traverse closures showing the mathematical closure, within the allowable limits of error set forth previously in this chapter, of the exterior boundaries of the property in all cases, and of the exterior boundaries of all blocks and parcels.

7. Organizational Documents: A copy of all proposed covenants, conditions and restrictions, and all other organizational documents to be recorded for the subdivision. All such documents must be reviewed and approved by the Gem County Prosecuting Attorney.

8. Certificates Relative To Tax And Assessment Liens: Whenever any part of the subdivision is subject to a lien for taxes or special assessments which are not yet payable, the standard subdivision plat or minor subdivision plat shall not be recorded until the applicant files with the County Clerk all required certificates and security.

9. Indemnity/Hold Harmless Agreement:

a. The applicant must submit an indemnity/hold harmless agreement containing the following provisions:

(1) Applicant will defend, indemnify, and hold harmless Gem County, its agents, officers, and employees from any claim, action, or proceeding against Gem County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the subdivision by Gem County.

(2) Gem County will promptly notify the applicant of any claim, action, or proceeding and will cooperate fully in the defense of such claim, action or proceeding.

(3) Nothing contained in this agreement prohibits Gem County from participating in the defense of any claim, action, or proceeding, if Gem County bears its own attorney's fees and costs and defends the action in good faith.

(Ord. 2006-06, 6-21-2006)

12-4-5: CORRECTION AND AMENDMENT OF FINAL PLAT:

A. Amendments Permitted:

1. After a standard subdivision final plat or minor subdivision final plat is filed for record in the Office of the County Recorder, it may be amended by a certificate of correction or an amending map, for any of the following reasons:

- a. To correct an error in any course or distance shown on the map;
- b. To show any course or distance that was omitted from the map;
- c. To correct an error in the description of the real property shown on the map;
- d. To indicate monuments set after the death, disability or retirement from practice of the surveyor charged with the responsibility for setting monuments; or
- e. To show the proper location or character of any monument which has been changed in location or character, or which was originally shown at the wrong location or incorrectly as to its character;
- f. To correct any other type of map error or omission as approved by the Administrator, which does not affect any property right. Such errors and omissions may include, but are not limited to, parcel numbers, acreage, road names, and identification of adjacent record maps;
- g. To make modifications when there are changes in circumstances which make any or all of the conditions of the map no longer appropriate or necessary and the modifications do not impose any additional burden on the present fee owner of the property and do not alter any right, title or interest in the real property reflected on the recorded map.

2. As used in this section, "error" does not include changes in courses or distances from which an error is not ascertainable from the data shown on the standard map or parcel map.

B. Form And Contents Of Amending Map Or Certificate Of Correction: The amending map or certificate of correction must be prepared and signed by a professional land surveyor. An amending map must conform to the requirements of this title. The amending map or certificate of correction must show in detail the corrections made and the names of the present fee owners of the property affected by the corrections.

C. Submittal And Approval Of Amending Map Or Certificate Of Correction:

1. Where the certificate of correction or amendment of the standard map or parcel map is filed for any of the reasons listed in subsections A1a through A1f of this section, the amending map or certificate of correction must be submitted to the Administrator for review and approval. The Administrator will examine the amending map or certificate of correction and if the only changes made are those

described in subsections A1a through A1f of this section, the Administrator will certify to this fact on the amending map or certificate of correction.

2. Where the certificate of correction or amendment of the standard map or parcel map is filed for the reason described in subsection A1g of this section, the amending map or certificate of correction must be submitted for review and approval to the Board. A public hearing will be held on the proposed modification, with notice to be given in the manner prescribed in the minor or standard subdivision permit process, whichever is applicable. The hearing will be confined to consideration of and action on the proposed modification. The modification will not be approved if the required findings and conclusions set forth in the minor subdivision process or standard subdivision process cannot be made.

D. Filing An Amending Map Or Certificate Of Correction With The County Recorder: The amending map or certificate of correction, certified and approved in accordance with this section, shall be filed for record in the Office of the County Recorder. At that time, the original map will be deemed to have been conclusively corrected and will impart constructive notice of all such corrections in the same manner as though set forth upon the original map. Upon recordation of a certificate of correction, the County Recorder will transmit, within thirty (30) days of recording, a certified copy to the Administrator who shall maintain an index of recorded certificates of correction.

E. Fees And Costs For Processing Amending Map: A fee for the reviewing, processing, indexing and recording of an amending map or certificate of correction, in such amount as established from time to time by resolution of the Board, may be required at the time the map or certificate is submitted for review. (Ord. 2006-06, 6-21-2006)

12-4-6: REVIEW:

Upon submittal of the final plat to the Administrator, a staff review will be completed within thirty (30) days of acceptance. The review shall determine whether all conditions of the approved subdivision permit application have been completed and whether the final plat is consistent with the approved subdivision permit. Such review shall determine that:

A. The plat is in conformance with Idaho Code 50-1301 et seq., plats and vacations.

B. The plat layout conforms to that which was approved by the Board during the subdivision permit application review process, including compliance with all conditions of approval.

C. Language on the dedication section of the plat reflects what was approved in the subdivision permit review process and that any dedications are accurately described.

D. The appropriate signature blocks are on the plat and that signatures of the owner and owner's surveyor have been obtained.

E. Construction plans have been reviewed and approved by the County Engineer.

F. All required on site and off site improvements have been constructed and accepted by the County Engineer, or have been suitably guaranteed in accordance with [Chapter 5](#) of this title.

G. Any required mitigation has been satisfied or other suitable arrangements approved by the Board have been made. (Ord. 2006-06, 6-21-2006)

12-4-7: APPROVAL:

When staff review of the final plat is completed, all required terms and conditions of the subdivision permit are satisfied, and all required signatures obtained, the Administrator shall forward the plat to the County Clerk recommending that it be submitted to the Board for approval. The County Clerk shall place the request for plat approval on the next available Board agenda. The Board shall review the subdivision plat and, upon a finding that all of the requirements of the approved subdivision permit have been satisfied, shall finally approve the final plat and authorize the chairman of the Board to sign the final plat. (Ord. 2006-06, 6-21-2006)

12-4-8: RECORDATION:

After the plat is signed by the Board, the applicant shall have thirty (30) days to record the plat with the Gem County Recorder, and to provide the Recorder with a reproducible Mylar copy of the recorded plat. Upon recordation of the plat and receipt of a reproducible Mylar of the recorded plat, as well as compliance with all other standards for issuance of building permits, building permits may be issued for the lots created as part of the subdivision. However, if a guarantee is in place at the time of recordation, no building permits will be issued until requirements of the no-build agreement have been satisfied. (Ord. 2006-06, 6-21-2006)

12-4-9: APPLICABLE LAWS:

To obtain final plat approval, the applicant shall be in compliance with all federal, state and local laws applicable at the time that the final plat is reviewed for approval. The applicant shall be in compliance with all local laws and regulations applicable at the time the subdivision permit was approved by the Board. A final plat shall not be authorized for recordation if there exists a violation to relevant ordinances or statutes. (Ord. 2006-06, 6-21-2006)

CHAPTER 5

ASSURANCE OF COMPLETION AND MAINTENANCE OF IMPROVEMENTS

12-5-1: COMPLETION OF IMPROVEMENTS:

All required improvements shall be completed within one year of the date of final plat approval unless a different time period is approved by the Board. Before a plat is signed by the County Engineer, the applicant shall be required to complete all road, sanitary, and other public improvements, including lot improvements on individual lots as required in these regulations and as approved by the Board, or the applicant shall provide a suitable performance guarantee. No building shall be occupied, nor shall any use be established in a subdivision, until all necessary improvements have been installed and accepted for maintenance by the County or other public service providers. The purpose of this requirement is to ensure to the greatest extent possible that the health and safety of the public and the residents of new subdivisions are protected. (Ord. 2006-06, 6-21-2006)

12-5-2: PERFORMANCE GUARANTEE:

The applicant may guarantee to complete all of the agreed upon improvements within one year of the date of the final plat approval or within such alternative time period approved by the Board by providing to the Board one or more of the following instruments in an amount equal to at least one hundred fifty percent (150%) of the value of improvements to be guaranteed:

- A. Performance Bond: The applicant may provide a performance bond from a company qualified by law to act as a surety in Idaho. The bond shall be in the form approved by the Board and name the County as the obligee and the applicant as principal.
- B. Escrow: The applicant may deposit funds in an escrow with a bank or financial institution qualified by law to do business in Idaho. The disbursement of the escrow funds shall be governed by escrow instructions in a form approved by the Board.
- C. Irrevocable Letter Of Credit: The applicant may cause a bank or financial institution, qualified by law to do business in Idaho, to issue an Irrevocable Letter Of Credit in a form approved by the Board. (Ord. 2006-06, 6-21-2006)

12-5-3: GUARANTEE AMOUNT:

The performance guarantee amount shall be one hundred fifty percent (150%) of the estimated costs of all improvements, not including those to be constructed by

private utilities. The applicant's engineer shall have prepared, documented, and certified each cost estimate. The estimated costs shall be submitted by the applicant to the County Engineer for approval. The estimated cost of all improvements shall be the sum of the estimated cost approved by the County Engineer. (Ord. 2006-06, 6-21-2006)

12-5-4: RELEASE OF PERFORMANCE GUARANTEE:

As soon as any one of the following occurs, the Board may release any performance guarantee that has not been used or encumbered under provisions of this chapter:

- A. The final acceptance of all improvements and the posting of warranty guarantee as set forth in this chapter.
- B. The expiration of the warranty period as provided in this chapter. (Ord. 2006-06, 6-21-2006)

12-5-5: DEDICATIONS:

Acceptance of dedication of roads or other public areas or facilities shall be by the Board after review and recommendation by the County Engineer. Any dedications for property and/or public improvements shall be free and clear of all liens and encumbrances. (Ord. 2006-06, 6-21-2006)

12-5-6: MAINTENANCE:

The applicant shall perform capital maintenance of each required public improvement until the Board has expressly accepted the improvements. (Ord. 2006-06, 6-21-2006)

12-5-7: WARRANTY OF IMPROVEMENTS:

The applicant shall warrant the design, construction materials, and workmanship of the improvements installed pursuant to this title against any failure or defect in design, construction, material, or workmanship for a period of one year, except for sewer systems which shall be warranted until such time as the number of active users on the system reaches twenty percent (20%) of the approved user design capacity, but not less than one year nor more than three (3) years.

This warranty shall cover all direct and indirect costs of repair or replacement, and damage to the property, improvements, or facilities of the Board or any other person, caused by such failure or defect or in the course of repairs, any increase in cost to the County of operating and maintaining a county improvement resulting from such failures, defects, or damages.

The warranty shall not extend to any failure or defect caused solely by changes in design, construction, or materials required by the Board as a deviation from regular requirements established by this title. (Ord. 2006-06, 6-21-2006)

12-5-8: WARRANTY GUARANTEE:

To secure the applicant's performance of the warranty of improvements, the performance guarantee provided by the applicant pursuant to this chapter shall remain in effect until the end of the warranty period or the applicant shall provide a warranty guarantee by one or more of the instruments described above by the following table:

Actual Cost Of Improvements	Percent To Secure Warranty
Less than \$500,000.00	10 percent
\$500,000.00 to \$1,000,000.00	7.50 percent
Over \$1,000,000.00	5 percent

(Ord. 2006-06, 6-21-2006)

12-5-9: NO-BUILD AGREEMENT:

When a performance guarantee is used rather than completion of all required improvements, approval of the final plat shall be subject to a no-build agreement to be entered into between the applicant and the County. The intent of the no-build agreement is to restrict commencement of construction of buildings for human occupancy on individual lots until such time as the required improvements are installed to a level adequate to allow emergency services to respond to any lot in the subdivision. The no-build agreement shall be recorded in the Gem County Recorder's Office at the time the final plat is recorded. (Ord. 2006-06, 6-21-2006)

CHAPTER 6 SUBDIVISION DESIGN AND IMPROVEMENT STANDARDS

12-6-1: STANDARDS ENUMERATED:

All proposed subdivisions must comply with the following design and improvement standards where applicable. No waiver of any of these standards may be granted except pursuant to Section [12-1-12](#) of this title.

- A. Other Regulations: To the extent applicable, subdivision proposals shall comply with:
1. The following titles of this code (or those which supersede):
 - a. Any chapter of [Title 4](#), "Public Health And Safety";
 - b. Any chapter of [Title 8](#), "Sanitary Code";
 - c. Any chapter of [Title 9](#), "Building Regulations", with the recommendation or approval of the Building Official and Fire Official in an established district;
 - d. Any chapter of [Title 13](#), "Flood Control";
 - e. The adopted Comprehensive Plan.
 2. Adopted Idaho Transportation Department standards, if the applicant seeks a new or expanded access onto a state highway.
- B. Natural Feature Areas: Where practicable, the following specific areas regardless of location shall be left undeveloped and undisturbed:
1. Unique or fragile areas such as geologic features, floodways (as determined by [Title 13](#) of this code), and wetlands;
 2. Areas of natural vegetation, including unique landscapes, large individual trees, and stands of trees. A plan for landscape protection, tree preservation, and tree introduction may be required;
 3. Areas of significant value to wildlife;
 4. Historically significant structures or sites; and
 5. Natural drainage channels or watercourses.
- C. Utilities: Any new utilities proposed or required for a subdivision shall be installed by the applicant unless such subdivision contains rural lots of two acres or more.

In such a subdivision, the applicant must provide easements for future utilities. Such utilities must include underground service connections for (to) each platted lot. Service feeder lines into the subdivision from the exterior utility point of feed shall be installed underground, beginning at the subdivision boundary. Utilities can be overhead or underground to the subdivision boundary.

D. Water Supply:

1. General Requirements:

- a. All domestic water sources shall meet state and federal standards for drinking water, wells, separation from sewage disposal systems and any other related requirements.
- b. Fire protection systems shall meet local fire code requirements.
- c. All abandoned wells shall be sealed to prevent contamination of ground water.
- d. The requirements of Idaho Code Section 42-111 for domestic water limits and Section 50-1334 for subdivision water systems shall be satisfied.
- e. Domestic water shall be available in sufficient quantity to meet foreseeable demands. Where insufficient data is available to verify water quantity, an on site test well in the area of the proposed use shall be required.

2. Central Water Systems:

- a. Central or community water systems shall be required for subdivisions where any lot is one acre or less in size or in any subdivision located in an R-2 zone.
- b. The central water system requirement shall be met by establishment of one of the following:
 - (1) A water district formed under state law and acceptable to the Idaho Department of Environmental Quality ("DEQ"). A copy of the final DEQ approval shall be provided in writing to the County.
 - (2) A private user's agreement addressing the operation, maintenance and ongoing monitoring of the central water system. A copy of the final, signed agreement shall be provided in writing to the County.
- c. If deemed necessary by the County Engineer and/or the applicable fire district, circular or looped water supply systems may be required.
- d. The Board reserves the option to require central water systems for subdivisions where necessary to provide for the public health, safety or general welfare.
- e. Central or community water systems shall be designed by a registered engineer in Idaho and shall comply with the current requirements of Idaho Department of Environmental Quality Drinking Water Distribution Checklist.

f. Construction of central or community water systems shall be observed by a registered engineer in Idaho to the extent necessary for the observing engineer to make a written statement that the water system was constructed substantially as shown on the drawings.

3. Irrigation And Domestic System Requirements:

a. Existing on site surface and ground water rights shall be used for existing and proposed on site agricultural uses and domestic and landscape needs before additional domestic rights are sought.

b. Agricultural and domestic water delivery systems shall not be intermingled.

c. All subdivisions shall satisfy the requirements of Idaho Code Section 31-3805 for irrigation water delivery.

d. Where surface water irrigation rights are available, all subdivisions containing buildable lots less than one acre in size shall provide underground, pressurized irrigation water to every lot. The pressurized irrigation system shall be constructed and installed at the same time as the domestic water lines, but it shall not necessarily be in the same trench.

E. Sewage Disposal:

1. All sewage disposal systems shall meet DEQ standards as administered by the Southwest district health department ("SWDH") and as set forth in the Idaho Code.

2. A sewage district or other entity acceptable to DEQ shall be organized for the operation, maintenance and ongoing monitoring of any central sewage system. A copy of the final DEQ approval shall be provided in writing to the County.

F. Public And Private Road Improvements:

1. Road Classification: Road classifications shall be determined jointly by the Administrator, County Engineer and Gem County Road and Bridge Department, based upon Board approved criteria.

2. Road Location: Roads shall be located in accordance with the following guidelines:

a. Subdivision roads and right of way widths shall conform to the Gem County Functional Classification Map, as adopted by the Board. Minimum right of way widths for roads not identified on the Functional Classification Map shall be determined per Section F.1 above.

b. Frontage roads, landscaping or other design devices to screen or separate traffic shall be required where a subdivision abuts or contains an arterial or major thoroughfare for adequate protection of residential property and to separate through traffic from local traffic.

c. Roads for industrial and commercial subdivisions and accessory parking shall be planned to connect with arterial roads so as not to generate traffic on local or minor roads.

d. Alleys shall be provided in multiple dwelling, commercial or industrial subdivisions for service access or off road loading. Sharp turns or dead end alleys are prohibited.

e. Culverts or bridges shall be provided and installed by the applicant where drainage channels intersect any road rights of way. Culverts shall, at a minimum, extend across the entire width of the road and shoulder.

f. Roads shall be complementary to existing road patterns and tie into the existing system where stub roads indicate that intent. New stub roads and/or pedestrian walkways to adjacent, undeveloped parcels will be required to ensure interconnectivity and make provisions for the future extension of said roads into adjacent areas. Roads that are a continuation of established roads shall be aligned so that the centerlines coincide within no more than ten feet (10') of each other.

g. Reserve or no access strips controlling access to public roads shall be required along designated arterials and permitted along designated collectors provided that the control and disposition of that land is placed within the jurisdiction but not ownership of the County under conditions specified and shown on the final plat. Such strip may be used as the utility easement if appropriate.

h. Underground conduit for utilities shall be coordinated with all utility providers before they are completed to prevent future disruption for installation and to determine easement locations.

3. Public Road Dedication: Local, collector and arterial roads within a proposed subdivision shall be offered for dedication to the public. Dedication or other provision for future access to surrounding public land may be required. Private roads shall not be allowed where there is a need for public access to adjacent lands.

If the requirement by a governmental entity to dedicate public right-of way reduces the property to be developed in such a manner that lot layout, in minimum sizes as required by that zone, cannot be accomplished without creating one substandard sized lot, then one such lot may be created as long as its size is not less than eighty (80) percent of the size required in that zone. Such lot shall not be considered substandard and will be considered to meet minimum lot size for purposes of development.

a. Roads shall be arranged in proper relation to topography so as to result in usable lots, safe roads and acceptable gradients.

b. Local roads shall be arranged to discourage through traffic.

c. Dead end roads are prohibited. Stub roads with a temporary cul-de-sac may be permitted in anticipation of a future through road. When a temporary cul-de-sac is

removed by extension of the road, it shall be the responsibility of the party or parties extending said road to relocate the curbs, gutters, sidewalk and road , if any, to county standards. It shall also be the responsibility of said parties to restore that portion of lot or lots affected by said extension to a reasonable and usable condition.

d. Cul-de-sac roads shall be discouraged. However, when topography or planning considerations dictate their use, cul-de-sacs shall:

(1) Include a right of way measuring sixty feet (60') in radius at the terminus;

(2) If offered for dedication to the County, meet county road specifications and include an entirely paved terminus measuring fifty feet (50') in radius;

(3) Have the length be designed in accordance with the fire district specifications, but no more than one thousand feet (1,000') without a secondary means of vehicular access provided. All designs shall require approval of the local fire authority and additional conditions may be applied.

The Board shall have the explicit option of accepting or rejecting the road for dedication to the County.

a. Half roads shall be prohibited except where satisfactory assurance for dedication of the other half is provided. If a half road right of way is accepted, the road section shall be designed for two-way traffic and include all required drainage facilities for said road.

(4) If the requirement to dedicate public right-of way on roads classified as collector or arterial reduces the property to be developed in such a manner that lot layout, in sizes as required by that zone, cannot be accomplished without creating one substandard sized lot, then one such lot may be created as long as its size is not less than eighty (80) percent of the size required in that zone. Such lot shall not be considered substandard and will be considered to meet the minimum lot size for purposes of development.

4. Private Roads or Drives:

If a private drive serving two dwellings is required, the developer/subdivider will have responsibility for construction of the drive as a subdivision improvement.

Private roads proposed to serve new subdivisions will only be authorized if :

The proposed subdivision is not adjacent to any other parcels that may be subdivided to the minimum lot size of the existing zone and which requires vehicular access through the proposed subdivision in the future. This must be demonstrated through a legally recognized tool (e.g., a permanent conservation easement) or through topography and/or other natural barriers. If the parcel adjacent to the proposed subdivision cannot be subdivided in such a manner as to create more than a cumulative total of ten (10) building lots or parcels on the same private road (which includes all existing and potential building lots or parcels), then a private road may be authorized to serve the new subdivision.

(The intent of this section is to preserve a potential access corridor and not to require the improvement of said corridor if a subdivision does not create the need for the road.)

If the above criteria is met, then the following shall also apply before a private road will be authorized:

- a. The proposed subdivision does not have legal frontage on a public road and utilizes an existing private road or road easement for access. Under this circumstance, the subdivider shall obtain written consent from the road easement grantor approving of the proposed subdivision and expanded use of the easement. In addition, the subdivider must provide an updated maintenance agreement or user's association document with the subdivision application that clearly demonstrates the private road will be adequately maintained; or
- b. The proposed subdivision has legal frontage on a public road and cannot be subdivided in such a manner as to create more than a cumulative total of ten (10) building lots or parcels on the same private road (which includes all existing and potential building lots or parcels).

If a private road is authorized under the above criteria, the following conditions shall apply:

- a. A private road name application must be submitted at the time of subdivision application (for new private roads);
- b. The private road may serve no more than ten (10) building parcels and/or lots;
- c. If the private road is more than one thousand (1,000) feet in length (measured from the right of way line of the connecting public road to the center of the turnaround or other approved terminus), a secondary emergency access must be provided to the subdivision. All designs shall require approval of the local fire authority and additional conditions may be applied.
- d. The road shall be constructed by the developer/subdivider to comply with the type B private road standards adopted in the zoning ordinance. If an existing, nonconforming private road is being utilized, the developer shall bring said road into conformance with type B standards at the time of subdivision construction;
- e. Private roads on properties inside an area of city impact shall be constructed to the city's public street standard for an urban local road and serves development with a maximum density of three (3) dwelling units per acre;
- f. The private road shall connect directly to an existing public road ; and
- g. No new private road or extension of an existing private road shall alter the alignment of any portion of said road more than forty five degrees (45°).

G. Intersection Location And Specifications: Intersections shall conform to the following:

1. No more than two (2) roads shall intersect at one point.
2. Local road centerlines shall be offset by at least one hundred twenty five feet (125').
3. Roads shall intersect at ninety degrees (90°) or as closely thereto as possible, and in no case shall roads intersect at less than seventy degrees (70°).

(Ord. 2007-02, 3-12-2007)

H. Road Specifications: The following road specifications, in addition to the Local Highway Technical Assistance Council (LHTAC) and the Idaho State Public Works Code (ISPWC) requirements, adopted herein by reference, shall apply:

1. Road Construction: Road construction shall comply with the current adopted standards of the Gem County Road and Bridge Department. If any road within the Area of City Impact is designed to connect with any road within any city limits, such road shall meet the design requirements of that city.

2. Road Names: All new road names shall be approved by a committee formed by the Board for reviewing road names. Proposed road names shall not duplicate or be sufficiently similar in sound or spelling to cause confusion with existing road names. Road names on new roads that are aligned with existing roads shall have the same name as the existing roads, where the committee determines that it is in the best interest of the public health, safety, and welfare. Road name signs and all other traffic control signs or devices as required by the Board shall be installed by the applicant.

3. Road Design: All roads shall be designed by a licensed professional civil engineer. The plans and specifications for such roads shall be approved by the County prior to acceptance of the final plat. The design engineer shall certify that the road construction meets the applicable specifications prior to the County accepting new road dedication.

I. Unsuitable Land: Land with conditions that may be detrimental to the health, safety or general welfare of existing or future residents because of potential hazards such as landslides, subsidence, high water table, high pressure gas lines, power transmission lines, or other features with severe development limitations shall not be subdivided for building or residential purposes unless the hazards or other features are eliminated by lawful permit or overcome by approved design and construction plans.

J. Applicant Or Landowner: If the applicant or landowner with respect to an application for a subdivision under this title is the State of Idaho, or any agency, board, department, institution, or district thereof, the Commission or the Board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code Section 67-6528.

K. Lots:

1. Each lot shall contain a satisfactory building site that is properly related to topography.
 2. Corner lots shall be a sufficient area without obstructive landscaping to provide acceptable visibility for traffic safety.
 3. Each lot shall have access to an internal road or drive, where practicable.
 4. Calculation of lot area shall not include land that is below the "natural or ordinary high water mark" of navigable streams (as defined by Idaho Code Section 36-1601), and therefore subject to the public trust doctrine.
 5. If the average lot size in a residential subdivision is more than double the minimum acreage required for a residential zone, equal to or exceeds the minimum acreage required in the residential/agricultural zone (A-2 or A-3) or is within an area of city impact, applicants may be required to arrange lots in anticipation of future resubdivision and provide for future roads where necessary to serve potential lots.
 6. Lot sizes, uses and the location of uses shall satisfy any zoning regulations and other applicable sections of this code.
 7. No single lot shall be divided by a road, existing right of way or other lot.
 8. No single lot shall be divided by a municipal or county boundary line.
 9. No residential building or structure for human habitation shall be located within one hundred fifty feet (150') of the centerline of a power transmission line.
 10. Flag Lots: Flag lots will be allowed under the following conditions:
 - 1) The pole portion of the lot which touches the public or private access is at least forty (40) feet in width on lots forty (40) acres or less in size, or at least sixty (60) feet in width on lots more than forty (40) acres in size or at least fifty (50) feet in width on any lot within the Emmett area of city impact.
 - 2) The length of the pole portion of the lot does not exceed fire department regulations.
 - 3) All other portions of this code apply to the lot bulk and placement.
 - 4) Required setbacks shall be measured from the non-pole portion of the lot.
- L. Remainder Parcels/Lots: If subdividing land under one deed in phases, all land described by that deed shall be included in the boundaries of the preliminary plat and all land included in the phase being developed will be included in the final plat. Any land within the plat reserved for future division shall be platted as lots that meet the minimum dimensional standards for the zone in which they are located, and meet all other applicable land use ordinances.

M. Blocks:

1. The length, widths, and shapes of blocks shall be determined with due regard to:

a. Provision of adequate building sites suitable to the special needs of the type of use contemplated including the base district requirements as to property sizes and dimensions.

b. Avoiding double front lots. If unavoidable, one of the frontages shall be restricted from vehicular access.

c. Needs for convenient access, circulation, control, and safety of road traffic. The number of intersecting roads with arterials of all classes shall be held to a minimum.

d. The limitations and opportunities of topography.

2. Any residential block length greater than 1,200 feet in length shall provide the necessary mitigation as required by the fire authority having jurisdiction. Emergency access mitigation options shall be identified and presented in writing at the time of subdivision application. Final mitigation requirements shall be determined during the Board review and made conditions of approval.

3. Pedestrian access rights of way not less than ten feet (10') wide may be required for walkways through or across a block when deemed desirable to provide circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities. Said access right of way shall be a separate platted lot.

The Board may review and modify block sizes.

N. Utilities: The applicant shall:

1. Grant a public and private utility easement of an adequate width (typically 5 to 10 feet) to comply with all utility companies and other potential easement users in all required locations on the plat (see subsection R of this section for additional easement requirements); and

2. Install utilities prior to road surfacing; and

3. Obtain services of a qualified testing firm to pressure test all central or community water and sewer main lines and TV inspect all sewer main lines. Paving of roads will not be done until testing and inspection of the water and sewer main lines show they meet requirements of the Idaho Standards for Public Works Construction.

O. Drainage:

1. The applicant shall provide suitable drainage facilities for any surface runoff from within or upstream of the subdivision. On-site natural drainage channels, gullies, ditches and ravines shall be used whenever possible. To avoid soil

erosion and manage nutrients, sediment catchment basins may be required. The applicant shall follow the stormwater, erosion and drainage requirements of Section 11-6-11 of the County zoning ordinance as adopted by the County

2. Where a subdivision contains a stream, watercourse, drainage way, channel or ditch, an easement shall be provided adequate to contain that watercourse and any further width necessary for maintenance or reconstruction.

3. Drainage systems shall not discharge into any sanitary sewer facility.

4. When the proposed subdivision or any part thereof falls within the boundaries of a mosquito abatement district, all drainage plans and systems shall follow the guidelines of such district.

P. Park Or School Site Dedication: Based on a recommendation regarding the suitability of the site from the recreation or school district, an applicant may be required to provide either land or a financial contribution or both for playgrounds, recreation space or a school site based on a rationally related formula determined by a resolution or ordinance of the Board.

Q. Public Access Easements: The Board may require an access easement to publicly administered land, streams, rivers, lakes and reservoirs. An applicant shall clearly delineate for the public the location of any access easement by appropriate signage and rail fencing, and create an obligation by the homeowners' or lot owners' association to maintain unrestricted passage by the public. The Board may require an easement for a future trail system connection.

R. Easements: It shall be the responsibility of the applicant to provide on the final plat such easements required for utilities, drainage, access, irrigation, waterways or other public facilities. The widths of such easements shall be adequate for the facilities planned or proposed. In subdivisions with lots of one (1) acre or smaller, utility easements will be provided on all lot lines. In subdivisions with lots of over an acre utility easements may be shown along lot lines required to install proposed utilities. Prior to filing the final plat, the applicant shall have submitted the plat to the person(s) authorized to perform plat review for the utility interests. Prior to final plat review by the Administrator, a letter shall have been received from the interested utilities signifying that easements shown on the plat are complete and satisfactory for utility purposes. Where a subdivision is transversed by a watercourse, appropriate easements shall be provided.

S. Design Of Subdivisions Within Or Adjacent To Lands Zoned A-1:

1. The subdivision shall be designed and residential structures located to minimize the impact on agricultural land, farming operations, and sensitive environmental features. The Board shall consider, without limitation, the following design criteria:

a. Locating residential structures as far from neighboring agricultural lands as possible;

- b. Grouping land uses as much as practical, such that agricultural lands abut neighboring agricultural lands and residential structures are located contiguous with other residential uses;
- c. Locating structures on the least productive agricultural land and in such a manner as to have little impact on any environmental, agricultural or open space resources; and
- d. Placing residential structures nearest to utilities and roads to minimize the amount of construction and the loss of agricultural land. (Ord. 2006-06, 6-21-2006)

CHAPTER 7

SPECIAL DEVELOPMENT SUBDIVISIONS

12-7-1: PURPOSE; APPLICABILITY:

The purpose of this chapter is to identify various types of developments that normally pose special concerns to the Commission and elected officials when reviewing and acting upon subdivision requests. This chapter outlines the plan submittal requirements and design standards that shall be taken into consideration when acting on special developments. The provisions of this chapter are in addition to the plan requirements, design standards and improvement standards that are required as set forth in this title.

Where applicable, all subdivisions must, in addition to the subdivision design and improvement standards, comply with the following provisions relating to special development subdivisions. (Ord. 2006-06, 6-21-2006)

12-7-2: HILLSIDE SUBDIVISION:

A. Appearance And Preservation: In order to preserve, retain, enhance and promote the existing and future appearance, natural topographic features, qualities and resources of hillsides, special consideration shall be given to the following:

1. Skyline and ridge tops;
2. Rolling grassy landforms, including knolls, ridges and meadows;
3. Tree and shrub masses, grass, wildflowers and topsoil;
4. Rock outcroppings;
5. Streambeds, draw and drainage swells, especially where tree and plant formations occur; and
6. Characteristic vistas and scenic panoramas.

B. Hillside Development Evaluation:

1. All development proposals must take into account and may be judged by the way in which land use planning, soil mechanics, engineering, geology, hydrology, civil engineering, environmental and civic design, architectural and landscape design are applied in hillside areas at the discretion of the Commission and/or Board including, but not limited to:

a. Planning of development to fit the topography, soil, geology, hydrology and other conditions existing on the proposed site;

- b. Orientation of development on the site so that grading and other site preparation is kept to an absolute minimum;
 - c. Shaping of essential grading to blend with natural landforms to minimize the necessity of padding and/or terracing of building sites;
 - d. Division of large tracts into smaller workable units on which construction can be completed within one construction season so that large areas are not left bare and exposed during the winter-spring runoff period;
 - e. Completion of paving as rapidly as possible after grading;
 - f. Allocations of areas not well suited for development because of soil, geology or hydrology limitations for open space and recreation uses, including well lots if applicable;
 - g. Minimizing disruption of existing plant and animal life;
 - h. Consideration of the view from and of the hills;
 - i. A portion of a hillside subdivision having a slope of less than ten percent (10%) may, with the permission of the Commission and/or Board, be dealt with in a separate phase or phases and is not subject to the special provisions under this chapter.
- C. Engineering Plans: The applicant shall retain a professional engineer(s) to obtain the following information. Full engineering may not be required if plat designates building envelopes outside of area of concern.
- 1. Soil Report: For any proposed hillside development a soils engineering report shall be submitted with the subdivision permit application. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures, and opinions and recommendations covering the adequacy of sites to be developed.
 - 2. Geology Report:
 - a. For any proposed hillside development a geology report shall be submitted with the subdivision permit application. This report shall include an adequate description of site geology and an evaluation of the relationship between the proposed development and the underlying geology and recommendations for remedial remedies; and
 - b. The investigation and subsequent report shall be completed by a professional geologist registered in the State of Idaho.
 - 3. Hydrology Report:

- a. For any proposed hillside development a hydrology report shall be submitted with the subdivision permit application. This report shall include an adequate description of the hydrology, conclusions and recommendations regarding the effect of the hydrologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed; and
- b. Flood frequency curves shall be provided for the area proposed for development.

D. Grading Plan:

1. A preliminary grading plan shall be submitted with each hillside subdivision permit application proposal and shall include the following information:
 - a. Approximate limiting dimensions, elevations or finish contours to be achieved by the grading, including all cut and fill slopes, proposed drainage channels and related construction;
 - b. Preliminary plans and approximate locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed; and
 - c. A description of methods to be employed in disposing of soil and other materials that are removed from the grading site, including the location of the disposal site.
2. A final grading plan shall be submitted with each final plat and shall include the following information:
 - a. Limiting dimensions, elevations or finish contours to be achieved by the grading, including all proposed cut and fill slopes and proposed drainage channels and related construction;
 - b. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed; and
 - c. A schedule showing when each stage of the project will be completed, including the total area of soil surface which is to be disturbed during each stage, together with estimated starting and completion dates. In no event shall the existing natural vegetative ground cover be destroyed, removed or disturbed more than fifteen (15) days prior to grading.

E. Development Standards:

1. Soils:
 - a. Fill areas shall be prepared by removing organic materials such as vegetation and rubbish, and any other material which is determined by the soils engineer to be detrimental to proper compaction or otherwise not conducive to stability; no

rock or similar irreducible material with a maximum dimension greater than eight inches (8") shall be used as fill material in fills that are intended to provide structural strength.

b. Fill shall be compacted to at least ninety five percent (95%) of maximum density, as determined by AASHO T99 and ASTM D 698.

c. Cut slopes shall be no steeper than two (2) horizontal to one vertical; subsurface drainage shall be provided as necessary for stability.

d. Fill slopes shall be no steeper than two (2) horizontal to one vertical; fill slopes shall not be located on natural slopes, two to one (2:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top of an existing or planned cut slope.

e. Tops and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3') plus one-fifth (1/5) of the height of the cut or fill but need not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures a distance of six feet (6') plus one-fifth (1/5) the height of the cut or fill, but need not exceed ten feet (10').

f. The maximum horizontal distance of disturbed soil surface shall not exceed seventy five feet (75').

2. Roadways:

a. Road alignment should follow natural terrain and no unnecessary cuts or fills shall be allowed in order to create additional lots or building sites.

b. One-way roads shall be permitted and encouraged where appropriate for the terrain and where public safety would not be jeopardized. Width shall be twenty four feet (24'), measured back of curb to back of curb.

c. The width of the graded section shall extend three feet (3') beyond the curb back or edge of pavement on both the cut and fill sides of the roadway. If sidewalk is to be installed parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus one foot (1') beyond the curb back.

d. Concrete curb and gutter shall be installed along both sides of all paved roadways.

e. A pedestrian walkway plan may be required.

3. Driveways And Parking: Combinations of collective private driveways, cluster parking areas and on road parallel parking bays shall be used to attempt to optimize the objectives of minimum soil disturbance, minimum impervious cover, excellence of design and aesthetic sensitivity.

F. Vegetation And Revegetation:

1. The applicant shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation to be removed and the method of disposal, the vegetation to be planted and slope stabilization measures to be installed. The plan shall include an analysis of the environmental effect of such operation, including the effects of slope stability, soil erosion, water quality and fish and wildlife.

2. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas as each stage of grading is completed. Areas not contained within lot boundaries shall be protected with perennial vegetal cover after all construction is completed. Efforts shall be made to plant those species that tend to recover from fire damage and do not contribute to a rapid rate of fire spread.

3. The applicant shall be fully responsible for any destruction of native vegetation proposed for retention. The applicant shall carry the responsibility for its own employees and for all subcontractors from the first day of construction until the notice of completion is filed. The applicant shall be responsible for replacing such destroyed vegetation.

G. Maintenance: The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved or a building permit granted under the provisions of this title shall continuously maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures or means, and other protective devices, planting and ground cover installed or completed. (Ord. 2006-06, 6-21-2006)

12-7-3: PLANNED UNIT AND CONDOMINIUM SUBDIVISION:

A. General: Planned unit and condominium developments shall be subject to requirements set forth in the zoning ordinance and also subject to all provisions within this title.

B. Minimum Area: A planned unit development for the following principal uses shall contain an area of not less than:

1. Three (3) acres for residential use, except for a mobile home subdivision;
2. Five (5) acres for residential use with subordinate commercial use;
3. Ten (10) acres for commercial use; and
4. Ten (10) acres for industrial use.

C. Site Development Plan: The applicant shall provide the Commission with a colored rendering of adequate scale to show the completed development that will include at least the following:

1. Architectural style and building design;
2. Building materials and color;

3. Landscaping;
 4. Screening;
 5. Garbage areas;
 6. Parking; and
 7. Open space.
- D. Private Roads: Private road construction standards must comply with the Gem County zoning ordinance. Adequate construction standards may vary depending on the size of the development and the demands placed on such improvements.
- E. Homeowners' Association: The homeowners' association bylaws and other similar deed restrictions, which provide for the control and maintenance of all common areas, recreation facilities or open space, shall meet with the approval of the Commission and/or Board.
- F. Storage Areas: Storage areas shall be provided for the anticipated needs of boats, campers and trailers. For typical residential development, one adequate space shall be provided for every two (2) living units. This may be reduced by the Board if there is a showing that the needs of a particular development are less.
- G. Parking Space: One additional parking space beyond that which is required by the zoning ordinance may be required for every three (3) dwelling units to accommodate visitor parking.
- H. Maintenance Building: A maintenance building shall be provided, size and location to be suitable for the service needs that are necessary for the repair and maintenance of all common areas.
- I. Open Space: The location of open space shall be appropriate to the development and shall be of such shape and area to be usable and convenient to the residents of the development.
- J. Control During Development: Single ownership or control during development shall be required and a time limit may be imposed to guarantee the development is built and constructed as planned. (Ord. 2006-06, 6-21-2006)

12-7-4: MANUFACTURED HOME PARKS:

- A. General: Manufactured home parks shall be subject to any requirements set forth in the zoning ordinance.
- B. Special Requirements: Manufactured home parks shall be subject to the following special requirement:

1. Developed as a planned unit development with a minimum lot area for the planned development of three (3) acres. (Ord. 2006-06, 6-21-2006)

12-7-5: LARGE SCALE DEVELOPMENT SUBDIVISION:

A. Required Information: Due to the impact that a large scale development would have on public utilities and services, the applicant shall submit the following information along with the subdivision permit application:

1. Identification of all public services that would be provided to the development (i.e., fire protection, police protection, water, sewer, road construction, parks and open space, recreation, maintenance, schools and solid waste collection);

2. Estimate the public service costs to provide adequate service to the development; and

3. Estimate the tax revenue that will be generated from the development. (Ord. 2006-06, 6-21-2006)

12-7-6: CEMETERY SUBDIVISION:

A. Function: The applicant shall provide written documentation that will sufficiently explain the functions of the proposed cemetery for either human or animal remains.

B. Compliance With Idaho Code: The applicant shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural management requirements that are outlined in Title 27, Idaho Code. (Ord. 2006-06, 6-21-2006)

12-7-7: SUBDIVISION WITHIN A FLOODPLAIN:

A. Flood Areas: For any proposed subdivision that is located within a floodplain, the applicant shall provide a development plan of adequate scale and supporting documentation that will show and explain at least the following:

1. Location of all planned improvements;

2. The location of the floodway and the floodway fringe per engineering practices as specified by the army corps of engineers;

3. The location of the present water channel;

4. Any planned rerouting of waterways or floodways;

5. All major drainage ways;

6. Areas of frequent flooding;

7. Means of flood proofing buildings; and

8. Means of insuring loans for improvements within the floodplain.

New construction and substantial improvements of residential and nonresidential structures within the floodplain shall comply with Section [13-5-2-1](#) of this code.

- B. Justification For Development: Upon the determination that buildings are planned within the floodplain or that alterations of any kind are anticipated within the floodplain area that will alter the flow of water, the applicant shall demonstrate conclusively to the Commission that such development will not present a hazard to life, limb or property, will not have adverse effects on the safety, use or stability of a public way or drainage channel or the natural environment.

No subdivision or part thereof shall be approved if levees, fills, structures or other features within the proposed subdivision will individually or collectively significantly increase the flood flows, heights or damages. If only part of a proposed subdivision can be safely developed, the Board shall limit development to that part and shall require that development proceed consistent with that determination.

The proposed subdivision shall be reviewed to assure that:

1. All such proposals are consistent with the need to minimize the flood damage;
2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages; and
3. Adequate drainage is provided so as to reduce exposure to flood hazards.

New or replacement water supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and require on site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Ord. 2006-06, 6-21-2006)